

Wednesday 19 September 2018

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

TABLED PAPER

Government Administration Committee B - Report on Blueberry Rust in Tasmania

[11.02 a.m.]

Mr Dean presented the Government Administration Committee B Report on Blueberry Rust in Tasmania.

Report received and printed.

RESIDENTIAL TENANCY AMENDMENT BILL 2018 (No. 32)

**AUSTRALIAN CRIME COMMISSION LEGISLATION (MISCELLANEOUS
AMENDMENTS) BILL 2018 (No. 31)**

First Reading

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

SUSPENSION OF SITTING

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

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

This is for the purpose of briefings.

Sitting suspended from 11.04 a.m. to 12.05 p.m.

**RECOGNITION OF VISITORS
Scotch Oakburn College Students**

Mr PRESIDENT - Honourable members, I welcome the Scotch Oakburn College years 9 to 12. They won the parliamentary debating shield debate for northern Tasmania, so congratulations and welcome. Maybe you can step into the members' seats and show us how you go. You can see how this lot go and whether you would give them the shield.

**NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE
(COMMONWEALTH POWERS) BILL 2018 (No. 28)**

Second Reading

Resumed from 18 September 2018 (page 51)

[12.06 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, unfortunately I will not be able to show my debating skills. I have finished my contribution.

Ms FORREST (Murchison) - Mr President, I am pleased we are moving down this path. Every time I think about the whole situation I become very tense and upset, because of the blatant disregard of our children in the past. It is still happening around the world and, unfortunately, around our country.

The victims of this appalling continuation of sexual abuse, covered up repeatedly by the churches and institutions, will never recover. They will never be able to forget it, no matter how much money we give them. Many are no longer alive. Many of them took their own lives because they could not cope with what happened to them.

There are friends, people in our families who are victims. If you do not know someone personally, you probably just do not know you do. It is a sad indictment on our society and we as humans that this could have happened for so long and been covered up. You do not have to listen or read very much to see how many of the churches' priests and clergy were moved from parish to parish, to perpetuate and continue the abuse in full knowledge of church leaders.

It is such a terrible thing and we need to remind ourselves as to why we are here. We are here because of the enormous pain and suffering inflicted on innocent children.

It is great we are moving forward with a national redress scheme; however, it is abhorrent we did not adopt the Royal Commission into Institutional Responses to Child Sexual Abuse's approach to properly addressing this. It all comes down to money. Having said that no amount of money will make this right, nothing will make this right. If we could make every perpetrator pay, maybe there would be some justice. Many of them are dead too. Many of them do not have any money to pay because they have already been sued.

The royal commission findings - there were over 400 recommendations - and the report made it really clear that impact is not directly related to the level of exposure. One young person could be extremely traumatised by an exposure - seeing a priest or someone like that expose themselves - but not have abusive contact or penetrative abuse. Another child might suffer abusive contact or penetrative abuse and not be as emotionally damaged. That would probably not be the norm but it could happen. The scheme that has been designed and this legislation do not recognise that sometimes the impact of the event is not limited to whether it was penetrative contact or exposure. Exposure could mean a child was forced to watch a priest rape another child.

Mr Gaffney - Or anybody in the institution.

Ms FORREST - Yes, that is another level. The institutional abuse is another aspect. I am sure members have seen Steve Fisher on the news recently; he is a well-known campaigner for redress for children abused in state and other care and is not likely to get anything from this. He was abused within the Anglican Church, and I know the Anglican Church has been working with Steve Fisher to deal with this.

I met with Bishop Condie last week to talk about this because the Anglican Church is really upset about this. They wanted to see the royal commission matrix used, not the matrix being enshrined in this legislation or the existing Commonwealth legislation that this legislation joins us to. From what Bishop Condie said to me, I understand the Anglican Church is still going to maintain some of its scheme to assist people such as Mr Fisher and others who were abused within the Anglican Church to access compensation through their program, which is great. This should be covering everybody. It may give some comfort to people who were abused who may not meet the threshold of the matrix set with this, but it does not help the others who were abused in other churches. It is good to see, but it is important to remember it is not what was ultimately recommended.

The states all signed up to it, and the briefing was very helpful. I hope the Leader has more information to impart regarding the process that saw Tasmania sign up to this. If we do not pass this legislation, we are not in the scheme and everyone loses. We cannot change it to require the assessment matrix recommended by the royal commission. It would be almost impossible to change that.

These questions were posed to the Leader yesterday. I assume she has some answers about how the decision was made and if changes need to be made. It is clear there are many people like Steve Fisher who are missing out, who still have all the psychological needs and who need counselling and support. Those needs are still there, as is the case for a child who may have suffered some abuse and had the same level of trauma but fits into the matrix the way it is designed in this redress scheme. It may become evident there are many of these people and we are letting them all down. We are traumatising them all over again because we are pretending we are helping them, but for those people we are not.

I have not met with Steve Fisher. I spoke to Bishop Condie about his meeting with him, but for Steve it is almost like another slap in the face.

Mr President, I will not oppose this legislation - we need to be in the scheme. I believe this is the only chance I will get to say how disappointed I am that there was this great announcement we were going to adopt the recommendations of the royal commission, but only to this level. That is the whole country, it is not just Tasmania, as I understand it.

I know from speaking to Bishop Condie that there was a lot of discussion and heated debate at some stage about the matrix. When it was presented, it was seen as manifestly unfair and not meeting the expectations of the outcomes of the royal commission.

It is important, when talking about the matrix and how the funding is assessed, that an explanatory statement issued by the Minister for Social Services is available on the federal government website. It relates to the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 and the National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018.

I understand the framework was not made public until much more recently. This is where the matrix appears in the framework. I believe the framework with the matrix in it was not available to the attorneys-general when they signed up to the redress scheme. I would like to have it confirmed whether that is the case or not.

Mrs Hiscutt - It is not.

Ms FORREST - They did have it? They were very well aware what they were signing up to?

Mrs Hiscutt - It is complicated. We will get an answer.

Ms FORREST - Obviously, they were not delivered together. The act was dealt with separately to the framework, as I understand it. I am not in the federal parliament, so I was not there to watch all this take place.

In the explanation of the provision, it is important to understand what contact abuse and exposure abuse is defined as.

Relevant sexual abuse of a person is contact abuse if:

- (a) any of that abuse involved physical contact with the person by someone else or by an object used by someone else (even if the rest of that abuse did not); and
- (b) none of that abuse involved penetration of the person.

That is the difference between exposure and contact. I think we understand what penetrative abuse is. Exposure abuse is defined as -

relevant sexual abuse of a person is exposure abuse if none of that abuse involved physical contact with the person (whether involving penetration of the person or not) by someone else or an object used by someone else.

We need to be very clear about what we understand here, and why it is so important there is an understanding of what sort of abuse occurred, but also the level of impact on the individual. Every child is different; every person is different. The impact is not always proportionate to the offence. That is where I believe this Commonwealth scheme falls down. I am sure, if the Commonwealth act had been implemented with the matrix as recommended by the royal commission, it would have cost a lot more money - I have no doubt about that. That is why I say it comes down to money.

I will not oppose the bill, but it is important we understand we are not doing the best we could for these victims. We could do much better. To reiterate the royal commissioners' comments in their report on determining the need to fully consider the impact, it was noted that -

... the consequences for people who are abused may not be proportionate to the severity of their abuse. For some survivors, what may be considered to be a relatively modest level of abuse may have severe or even catastrophic consequences.

We saw that in some people for whom we might think it was not as serious an episode of abuse as some other children faced, but those people found they were unable to continue and suicided. It goes on to say -

The appropriate response through a monetary penalty under redress must be determined having regard to both the severity and the consequences of abuse for the individual.

We have not done that. We have something, which is better than nothing, but it is not ideal.

[12.21 p.m.]

Mr VALENTINE (Hobart) - Mr President, I have shared with this House that I was abused as a child by someone outside my family but not within an institution. This clearly deals with institutions and that is a good thing. Everyone would agree this is another step in a journey toward effective redress. It might not be of great benefit to those who were not abused in institutions, but it is being dealt with. The royal commission has been so important in bringing those stories forward and laying bare the situation. I will certainly not benefit from something like this; I want to make that clear in terms of any conflict of interest people might perceive.

What we all want to see is that those who have been abused within institutions are fairly dealt with. The member for Murchison pointed out her concerns with the matrix and I share those concerns. I heard the Anglican Church expressed concern about the matrix and how it comes down to money and what price we put on somebody's stability in life and whether they feel they have seen justice delivered.

It concerns me that the matrix may not have been through a process that shows it is democratic as opposed to the Government simply deciding this is the way it should be because of some dollar value it has to stick to. That would concern me and I will listen to any information the Leader provides. We need to respect those who have been through abuse and do the best we can to have them placed in a good frame of mind, knowing their concerns are being dealt with.

I have one question arising from the Leader's speech, which notes that -

A person is eligible for redress if they have been sexually abused within the scope of the scheme, one or more participating institutions is responsible for the abuse, and the person is an Australian citizen or permanent resident.

If a student in an international school is abused, is there no way that student has some form of redress, given they were a student at that school at the time? You say they are not an Australian citizen, therefore we cannot deal with them, but is there not some way? If their classmates are able to access redress, but they are not simply because they were not an Australian citizen, that would seem to be a lack of justice. There might be a legal reason why that cannot occur but I would like to have that explained.

We should remember those who, sadly, have passed away, as the member for Murchison alluded to in her second reading speech. There were some who did not handle it, and each of us may know some of those people. I want us to reflect on those who did not make it. I am sure the royal commission heard many stories of those who did suffer. There will be many who simply could not handle the abuse and felt in some way they were responsible, that they were inadequate, that they were simply a bad person because they could not handle it, and ended up being so mentally

affected by it that they took their own lives. It is very sad when you think that people, through no fault of their own, have been through that terrible journey, and I reflect on those as we debate this bill. It will not help them, but it will help those very strong characters who have managed to survive. As has been pointed out, experiences and levels of abuse can be entirely different in terms of the impact it can have on the individual.

I believe I have dealt okay with my situation over the years but there would be a number who may not have. We have to recognise that and that is why getting the matrix right is important. I have some concerns with that matrix. There are a couple of points I wanted to make and I congratulate those who have worked so hard to bring it to this point, especially those in the royal commission. I take my hat off to them. We have all been through some intense inquiries, such as forestry and similar issues, but I cannot imagine what it would have been like to have gone through this, to have sat there listening day after day after day to these -

Ms Forrest - They needed counselling.

Mr VALENTINE - They probably did. They have done society a great service in sticking with it and publishing their findings and recommendations. The least we can do is see this come into law in Tasmania, to be a part of it.

I am concerned about the matrix, how effective that might be, and that it is as focused on the dollar as I think it might be. I would rather it were focused on the individual and how they might be coping in life.

[12.30 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I agree with the previous two speakers. Child sexual abuse is abhorrent, whoever commits the abuse. This is particularly so for these vulnerable children in institutions. Obviously the National Redress Scheme is a key recommendation of the royal commission. I agree with the member for Murchison: it is disappointing more of the recommendations were not taken up. However, I will certainly support this bill. It is very pleasing to see there is something in place and it will certainly help.

In December last year, the royal commission released 409 recommendations, which will impact many areas of institutional regulation and practice. The final report recommendations aim to prevent abuse - or, at the very least, to identify it as early as possible; improve the way perpetrators are investigated, prosecuted and sentenced; and improve survivors' access to justice and ongoing support. As other members have said, it is important for people who have survived. We all know someone. I know a couple of people in their 60s; one has coped better than the other. They both gave evidence to the royal commission. Meeting one, you would not know they had been abused; meeting the other person - it is almost the first thing he tells you. Even if you have never met him before, he goes into the circumstance of abuse at the hands of a priest. There are very different circumstances.

The member for Murchison mentioned how it can affect people differently. This is certainly a good move. Obviously, more could have been done, but I appreciate it comes down to money. What does not come down to money? Money may not solve the problem. The bill allows both the state and non-government institutions to formally participate in the national scheme. While we can never undo the suffering experienced by so many, it certainly is a start.

It has been addressed by the Government, and Labor possibly mentioned it in the other House, that people abused as children were more likely to commit offences as adults in the general population. The exclusion of criminals from seeking redress under the scheme was not one of the royal commission's recommendations regarding institutional child sexual abuse. It is conflicting - people who have been abused are more likely to commit crimes, yet they are excluded. The Attorney-General has said abuse victims who did have serious criminal convictions would still be able to apply and would be considered on a case-by-case basis with additional assessment processes. It is conflicting and unfortunate that people who are abused are more likely to commit crimes and may not necessarily be likely to get compensation. Being assessed, they may not be accepted.

I have covered most of the things I wanted to cover. They have been covered certainly by the member for Murchison and the member for Hobart. I support the bill.

[12.33 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I intend to make a brief offering to this bill and indicate my support. I also acknowledge the contribution by the member for Murchison in highlighting the area where the matrix was not followed. While all states and territories around the Commonwealth have signed up, it will not potentially address all the issues raised. I acknowledge the member for Hobart's contribution in recognising those who have gone through the royal commission process.

Yes, we sit on various committees, but nothing would ever equal the difficult stories presented to the commission. I acknowledge this has been a two-year process for the people assisting the Leader today. The work they have done in creating this must have been quite a task at various occasions. It is a one of a number of significant steps the Government will take to support and provide justice for people impacted by abuse.

I noted from the second reading speech that there will be a review process. It said that a person who has applied for redress may apply for internal review of a determination, which I believe is by the board. Could I have that confirmed? How will that process unfold and who is involved? I hope the Leader can provide an answer to that question.

With 409 recommendations, it was always going to be a challenge to address all those recommendations. I am encouraged by our Government, which has said this is one of a number of significant steps. It mentions some of the next steps - create a new criminal offence for failing to report serious crimes; strengthen existing criminal offences; strengthen alternative processes for taking evidence from vulnerable witnesses to reduce re-traumatisation; and a direct personal response for participating institutions or institutions responsible to the extent requested.

I look forward to what is brought forward that will build on this process. This may go some way to assisting people who are significantly damaged and possibly finding it difficult to deal with day-to-day life to feel that what they have been through is recognised and acknowledged. I support the bill.

[12.38 p.m.]

Mr WILLIE (Elwick) - Mr President, I recognise the survivors of child sexual abuse, wherever that has occurred, including in institutional settings. The trauma suffered by individuals has an immense ripple effect. The royal commission uncovered a lot of that, including the failure of institutions to respond. There have been lifelong impacts and, sadly, as the member for Hobart said, there are people who are no longer with us because of that. We think about them today, too.

It is not easy to implement a scheme like this. I acknowledge the work of the federal government and the state Government. My colleagues have raised concerns about a number of measures. I intend to do the same and I hope there is enough flexibility and scope within this legislation and the federal legislation to work through some of those issues. I know my federal colleagues are committed to doing that. Others have talked about the matrix.

I think there is also an issue with the cap: the royal commission recommended a cap of \$200 000 and we have a cap of \$150 000. It is not the time to find savings, I imagine. If you put the question to the Australian people and asked if the cap should be \$200 000 or \$150 000, you would nearly get a unanimous vote saying \$200 000, as per the royal commission's recommendation. I do not understand that. It is not the sort of issue in which to do those sorts of things. That concerns me deeply. I know my federal colleagues are concerned about that and I hope, if they win the next election, they will address that.

From the briefing, I understand this decision would have to go through and be approved by a board. This legislation allows state parliaments to refer matters to the Commonwealth parliament and there are strict processes around that. I acknowledge the difficult work. We have some public servants with us in the Chamber and I know they would have dedicated much of their time working through this, so thank you. It is an important issue; it is not an easy scheme to implement by any stretch.

As the member for Launceston quite rightly said, in the other Chamber we raised the inequity of prisoners who have served more than five years being ineligible. I do not understand the reasoning for that. Someone who has suffered trauma might never have committed those crimes in different circumstances.

Ms Armitage - It could be the very reason they committed the crime.

Mr WILLIE - It could be the very reason they committed crime. We know that our jails are full of people who suffered abuse and neglect as children, and that it is cyclical. I do not understand the reasoning behind that provision. I raise my concerns in this place, as has the shadow attorney-general in the other place.

Also on that matter, a Senate inquiry that predated the royal commission heard a great deal of evidence on that very issue: the prevalence of people who had suffered from child abuse who go on to commit crime. The evidence is clear, yet we are ignoring that with this scheme.

I have some specifically Tasmanian concerns, too. A strong part of this scheme is making sure services such as counselling are available. The counselling arrangement is for \$5000. That does not seem like to me sufficient for someone to work through their issues. It might take a lot more than that.

I also question whether Tasmania is positioned to provide services to people in regional areas who have suffered child abuse. We have a number of great organisations that are well placed to provide these services, but in a regional place like Tasmania, do they have the capacity to provide those services? Has the state Government had a strong look at that and made sure that as a state we are ready to help when those requests come, and that these services are accessible?

I share the concerns about the matrix and people missing out on the scheme who quite rightly deserve to have redress. No amount of money will ever compensate for the trauma inflicted on people's lives. It is a small token to acknowledge their suffering.

Ms Forrest - It will help fund some of the care they need as a result of that.

Mr WILLIE - Yes. It will fund some of the care they need and deliver some of the justice that would help with their care as well, you hope, in most instances. For some people justice may never be delivered. Some of the perpetrators are no longer with us, either. Some of the organisations no longer exist. There is another concern there: where an organisation no longer exists, and a government was not directly responsible, other people could miss out as well.

Mr President, today is an important day: it is when the Tasmanian Parliament acknowledges the suffering that has gone on for too long. I encourage other state parliaments to sign up to the scheme if they have not done so already. I hope that will be sooner rather than later. I acknowledge that it is a difficult scheme to implement. It is not perfect; there are many issues that still need to be worked through.

I acknowledge my federal colleagues who committed to this in 2015 and who are committed to working through some of these issues if they are fortunate enough to win the next federal election. I encourage the state Government to keep working through these issues. This is an historic moment. Labor supports the bill.

[12.45 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I thank the members for their points of view. There are so many individual scenarios, it is not possible to encapsulate them all in a bill. The evidence has not been ignored. They have come back to the Australian people with what they think is the best option. We cannot mend, we cannot change and we cannot but support this bill. This has been taken through every state and territory; while some would say it does not matter how much money there is, they came up with a figure of \$150 000.

I have heard all that members have said and take their comments on board, but at least we live in a country trying to do the right thing for 25.5 million people. While this should have never happened and there were cover-ups and there is not enough money, at least I live in a nation where we can accept there has been injustice and we are trying do something about it.

There will always be individuals outside the line in the sand; hopefully something can be done later to be able to help them. I congratulate those who have worked tirelessly at the federal and state levels, those from institutions who have given evidence, and all the individuals who have had the courage to stand up and tell their stories. I take comfort and pride in the fact that we are a country that actually does this and makes a change to some people's lives. I fully support the bill and congratulate those who have been involved with its making.

[12.47 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President I thank members for their contributions on this very sensitive topic. As the member for Mersey said, at least in this country we are able to move forward.

I have some lengthy answers for members and will start working through them. These answers cut across a few different members. In answer to questions from the member for Murchison and

the member for Mersey about the process by which we came to join the scheme and how it was developed: consultation with the Commonwealth Government on the National Redress Scheme and on options for nationally consistent legislation began around the end of 2015; this has been a long time in the making.

In November 2016, the Commonwealth committed to establish a national redress scheme and a task force to engage in intensive consultation with governments and non-government institutions. The Commonwealth also established an independent advisory council to provide advice on key design elements of the National Redress Scheme. The Independent Advisory Council on Redress consisted of broad representation from survivor advocacy groups, academics and non-government institution leaders, including the Catholic Church. The advisory council was tasked with providing independent advice to the minister on policies and processes necessary to design and implement the Commonwealth redress scheme and to ensure the scheme was implemented with the needs of survivors at front and centre.

The interjurisdictional committees were chaired by the federal Department of Social Services during the development of the scheme, and they met regularly throughout 2017-18. There were separate committees for government and non-government institutions. It is important to note the Commonwealth Government announced the establishment of a Commonwealth redress scheme. The scheme was to operate only for Commonwealth institutions, unless other governments and non-government institutions accepted the offer of the Commonwealth to join.

The Commonwealth's redress scheme announcement included a number of parameters, including the maximum of a \$150 000 monetary payment, that were not the subject of consultation.

The scheme became a national scheme when the New South Wales and Victorian governments indicated they intended to join. At that time the design, including eligibility and clear elements of the scheme, had been determined by the Commonwealth. To be clear, to participate in the National Redress Scheme, states and territory governments and non-government institutions had no capacity to join on different terms.

One of the key recommendations of the royal commission was to provide equal access for institutions, government and non-government. That equal access cannot be achieved without different rules for different institutions, whether they are states or organisations.

The member for Murchison asked whether Tasmania had agreed to the payment matrix before opting into the National Redress Scheme. The answer is: it is important to remember that the scheme was developed after many months of complex interjurisdictional discussion. As members would recall, the Government was criticised over delay into opting into the scheme, but we had to ensure we achieved the best possible outcomes for Tasmanian survivors.

As the Attorney-General publicly acknowledged, the final design may not satisfy everyone, but it represents a critical and significant response to the royal commission, which has been widely welcomed by survivors across Australia.

Along with all the jurisdictions, non-government institutions and the Independent Advisory Council on Redress, the state Government was consulted on the monetary payment matrix. The Commonwealth Government was responsible for those consultations.

A question was also asked about whether the Attorney-General had seen the monetary payment matrix at the time of agreeing to participate. It was presented with a trial draft by the Commonwealth, but there was no capacity at that time to change it or apply a different matrix to the state. It is the same for all jurisdictions, whether government, non-government or institutions.

There was another question from the member for Murchison about the changes to the National Redress Scheme. Participation in the National Redress Scheme requires acceptance of the design elements. There is no capacity to join the National Redress Scheme on different terms to other participating institutions, government or non-government.

This legislation and the National Redress Scheme for Institutional Child Sexual Abuse Act 2018, the Commonwealth act, note mechanisms for agreement by participating jurisdictions but do not legislate the manner in which the legislation can be amended. To do so would be ineffectual unless underpinned by an intergovernmental agreement. The Commonwealth could amend the legislation to change the requirements for agreement. These arrangements are governed by the intergovernmental agreement, and governance arrangements are outlined in the IGA, including significant voting mechanisms on key issues of scope and eligibility under the scheme. If the state is concerned that the operation of the National Redress Scheme does not serve Tasmanians' interests, the state may revoke the referral of power and withdraw from the scheme.

The member for Murchison also asked about changing the bill and the development of the Tasmanian referral bill. This bill effects the referral of power necessary for the Tasmanian Government and Tasmanian non-government institutions to participate in the scheme. This bill does not and cannot change the parameters of the scheme. This bill was developed consistent with the referral bills of all Australian states. While not model legislation, this state cannot legislate different conditions from those underpinned by the intergovernmental agreement and the Commonwealth legislation establishing the scheme. The bill has been reviewed and tweaked by the Commonwealth Attorney-General's constitutional legislative team to guarantee that the constitutional referral of power will operate as intended.

The member for Hobart asked a question about the policy reason behind the requirement for Australian residency or citizenship. We note the concern but reiterate the final decision regarding the scope of the scheme was a matter for the Commonwealth. States could not join the scheme on different terms. States do not have the capacity to alter the final design of the scheme.

The member for Launceston and the member for Elwick asked about criminal convictions. How the scheme deals with people with serious criminal convictions was an issue subject to lengthy intergovernmental discussions. It took up a lot of time in the discussion. As outlined by the minister, Mr Tehan, in his second reading speech for the national bill and noted by the member for Elwick, the current outcome ensures the scheme retains flexibility to determine circumstances on a case-by-case basis. The additional assessment process will be conducted in consultation with attorneys-general from relevant jurisdictions.

Other matters relevant to the decision will include the nature of the offending, the length of time since the offending occurred, the rehabilitation of the offender and any other matters the scheme operator thinks relevant. Those with serious criminal convictions are not prevented from applying to the scheme and should not be discouraged from submitting an application to the scheme. Each case will be considered individually and in relation to their own circumstances. There is a way forward, but it may be more complicated.

The member for McIntyre asked about the internal review of the assessment for monetary payment. It is provided in section 75 of the national redress bill - it will be reviewed by the scheme operator or by delegation to the chief independent decision-maker, or by an alternative independent decision-maker if the chief made the initial decision.

The member for Elwick asked about delivery of counselling. Participating state governments must decide whether to deliver or facilitate delivery of counselling within their state. New South Wales and Victoria will deliver counselling administered through their respective victim services organisations. I assure members that the Tasmanian Government recognises the importance of delivering counselling to the survivors. The Tasmanian Government is carefully considering how best to provide access to counselling for people receiving redress who reside in Tasmania. This includes whether there are sufficient providers, required expertise and location. Tasmanians now living in other states and territories will access counselling according to the arrangements of that jurisdiction.

Mr Willie - I asked about accessibility in regional areas.

Mrs HISCUTT - It all has to be looked at. I would not like to put a name to those institutions, but some spring to mind. I would not like to do that without talking to the Government.

I think that addresses everyone's questions. This is a harrowing and emotional thing to be dealing with. I am glad the Tasmanian Government has joined the National Redress Scheme. We have to work our way through this as best we can. I have had constituents in my own electorate who have come to my office to discuss this - some are in desperate situations with desperate stories. I am glad we have joined the National Redress Scheme and I hope things will continue to get better for these people, although there is nothing, I should imagine, that would ever make it better. This will be a little comfort for them as they go through life. We hope for the best for the survivors. Thank you, Mr President.

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

QUESTIONS

Roadworks - Prossers Road, Nunamara - Exchange

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

[2.32 p.m.]

In asking these questions of the Leader, I hope the department is not of the view I am harassing them about this matter on Prossers Road. The community is inviting me to talk about it.

Mrs Hiscutt - No.

Mr DEAN - Thank you. My questions follow on from the answers provided on the 19 August to questions relative to Prossers Road and ongoing discussions with the Nunamara community. Will the honourable Leader please advise -

- (1) As the negotiation for the exchange of Prossers Road has been evident for many years, when will the exchange be completed?
- (2) Will the \$2 million committed in this year's Budget - i.e. 2019 - be expended on the staged sealing program this financial year?
- (3) If not, when is it expected that these works will commence?
- (4) Will funding be provided each financial year until sealing is complete for the staged sealing of Prossers Road?
- (5) Has a plan been completed for the staged sealing of the road; if so, is it available for release to the Prossers Road/Nunamara community and the Nunamara Progress Association?

ANSWER

Mr President, I thank the member for Windermere for his questions. Please be assured we do presume it is coming through from your constituents.

The Tasmanian Government has commenced the road exchange process with the City of Launceston. The transfer will be completed when the deed of transfer has been signed by both parties and a proclamation declaring Prossers Road to be a state road is gazetted in coming months.

The \$2 million funded in the state Budget is currently programmed from 2020 onward, with the work to commence to progressively seal Prossers Road. The Government is considering all options, within a complex program of over 120 road projects across the state, to potentially bring forward the first stage of sealing work on Prossers Road to start earlier and as soon as possible. The Department of State Growth will work with the Launceston City Council and the Nunamara community to determine priority sections of the road and will ensure local residents are properly informed throughout the process.

Mr Dean - That is good. Thank you.

Family Violence Victims - Support Services - Conflict of Interest

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

[2.34 p.m.]

With regard to support services available to victims of family violence -

- (1) What avenues are available for victims of family violence when the perpetrator is a police officer or an emergency services worker?
- (2) How are such cases handled, given the potential for conflict of interest and genuine concerns regarding confidentiality of the victim?
- (3) How is confidentiality of the victim ensured?

ANSWER

Mr President, I thank the member for Murchison for her questions, the answers to which are -

- (1) Where police officers reasonably suspect family violence has or is likely to be committed, Tasmania Police has a pro-intervention policy and will ensure the safety of the victim and any affected children.
- (2) Tasmania Police will hold any perpetrator of family violence accountable for their actions. If a report of family violence involving a member of Tasmania Police is received, comprehensive instructions issued by the Commissioner of Police must be followed. An inspector of police oversees any report and investigation relating to the reported family violence.

Depending on the type and nature of family violence reported, Professional Standards is advised and, in some cases, will take carriage of the investigation. All alleged family violence incidents involving police officers are reported to and monitored by the Deputy Commissioner of Police.

If the alleged family violence perpetrator is a police officer, victims are still encouraged to make reports through normal reporting channels, as this ensures proper response and safety protocols are implemented. The same applies to victims of emergency service workers; however, it is acknowledged that in some circumstances victims might not be comfortable making reports to police if the alleged perpetrator is a police officer.

In such cases, there are other avenues through which victims can seek assistance that do not involve reporting directly to police. Initially information and advice can be sought by telephone from such support services as 1800RESPECT, the national sexual assault, domestic and family violence counselling and information referral service; the Tasmanian Family Violence Response and Referral Line at 1800 602 122; or SHE (Support, Help, Empowerment) on 6278 9090.

Support services such as these offer trained counsellors who will listen and support victims and provide assistance and information for the victims in their decision-making in regards to their individual circumstances. The national sexual assault, domestic and family violence counselling and information referral service will connect victims with organisations operating within their respective state or territory, which can assist them in reporting alleged violence to police and provide access to a range of local services.

In addition victims can go directly to local support services that can assist in organising a safe place to stay, acting as an advocate in accessing other assistance such as housing or Centrelink, providing information and support to family and friends and acting as a support person if the victim wishes to make a formal report to police. Any victim who reports family violence becomes a client of Safe at Home, the Tasmanian whole-of-government integrated criminal justice response to family violence.

This service system began in 2005 and aims to improve safety and security for adult and child victims of family violence in the short and long term; ensure perpetrators are held accountable for family violence as a public crime and change their offending behaviour; reduce the incidence and severity of family violence in the longer term; and minimise the negative impacts of contact with the criminal justice system on adults and children.

Safe at Home is funded for a number of victim-specific services such as counselling and court support. In 2015, further victim services were funded under the Government's Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-20.

- (3) Tasmania Police considers the confidentiality of any victims of the utmost importance. In addition it ensures reports from alleged family violence involving police officers are managed in a confidential manner. The Department of Police, Fire and Emergency Management Future Focus 2017-20 document cites its core values as including integrity and honest, professional, transparent and ethical behaviour in all aspects of its business.

Tasmania Police considers it a serious breach of confidentiality and trust for any employee to access and/or disclose any information not directly related to a work purpose. It is unacceptable and potentially unlawful to access information without a work-related purpose. Any breach of trust and confidentiality is treated seriously, and results in strong disciplinary action which may include termination of employment and/or prosecution.

Systems are in place to enable access audits and random audits of access to information by police officers and State Service employees of the department. The Department of Police, Fire and Emergency Management provides a range of confidential psychological and welfare support services for its employees, including those who may be victims of family violence. Those services extend to spouses, partners and children of employees.

NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE (COMMONWEALTH POWERS) BILL 2018 (No. 28)

Second Reading

Bill read the second time.

NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE (COMMONWEALTH POWERS) BILL 2018 (No. 28)

In Committee

[2.42 p.m.]

Clauses 1 to 6 agreed to.

Clause 7 -

State redress mechanisms

Ms RATTRAY - Madam Chair, in the second reading debate I asked a question about a person who has applied for redress. It said they may apply for an internal review of a determination. The Leader provided a response and referred me to the national law, section 75, I believe. I am not sure whether this is the right place to ask, but could I have some further clarification of who would be undertaking the review process? You talked about sending it to a body, I recall, but it does not really say where the body was. Does it come back to Tasmania? Is it a Tasmanian body? Or is it a national body that someone in Tasmania may have to make contact with? How does that process work?

Again, I apologise for not being sure if I am in the right area, but I did not want to get through the bill before I knew where to get up. I am interested in how that process unfolds and who is going to undertake the review.

Mrs HISCUTT - The scheme operator is the Secretary of the federal Department of Social Services and they would delegate independent decision-makers. I cannot tell you who they are because they have not been appointed yet, but they will be people independent of this system; they are separate from the department and they will be peer-reviewed.

Ms RATTRAY - Thank you. I appreciate some of the detail is yet to be settled. Would a Tasmanian applicant who has sought a review of a determination be dealt with by a Tasmanian person with all those necessary requirements? These people have already been through a traumatic process following their ordeal. Would it be done by an email or by a written form, or would they need to present in person? How difficult a process is it likely to be for someone to challenge or seek a review of a determination? I would not like to see them have to go through any unnecessary angst if they have to fly to Canberra or somewhere else to put their case forward.

Mrs HISCUTT - The scheme operation I set out in the last answer is nationwide. There is no particular person in every state. If an applicant were from Tasmania, that person would not have to go through the process of giving evidence again, because it is in the papers already presented.

Ms Rattray - It will be done from afar, if you like.

Mrs HISCUTT - Yes. That person does not have to go through the whole process again because it is already there and they can review it.

Ms RATTRAY - Is there no opportunity to challenge the determination by giving some additional personal information? Would the person reviewing the determination ask for further information or clarification, or will they simply look at what is in front of them and agree or disagree with the determination? Is it as cut and dried as that?

Mrs HISCUTT - The scheme is proactive before it reaches the point of making the decision. The information may have already been sought. The victim, for want of a better word, has had plenty of contact and opportunity before it reaches that stage. Had there been any deficiencies in the application, it would have been remedied at an earlier stage.

Ms Rattray - What I am looking for is a fair process for a determination to be reviewed. Can you assure me this will be a fair process?

Mrs HISCUTT - It is an internal review process, but it is a process that is open to all the usual procedures of a review. We can presume and hope it will be fair.

Ms Rattray - If it is not, they will be hearing from us.

Mrs HISCUTT - I should imagine.

Clause 7 agreed to.

Clauses 8 to 14 agreed to and bill taken through the remainder of the Committee stage.

**CONSTITUTION AMENDMENT (HOUSE OF ASSEMBLY ELECTORAL
BOUNDARIES) BILL 2018 (No. 4)**

Second Reading

[2.52 p.m.]

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

That the bill be now read the second time.

The Commonwealth recently reviewed the House of Representatives boundaries in Tasmania. This review was part of an independent redistribution of federal electoral boundaries, required under the Commonwealth Electoral Act 1918.

The previous redistribution of the federal electoral boundaries in Tasmania was completed in 2009.

The redistribution of electoral boundaries usually reflects population changes to ensure an even and fair allocation of voters among the electorates. Having even electorates is an important element of retaining 'fairness' in our voting system and indeed our democracy.

On 14 November 2017, the Commonwealth-augmented Electoral Commission for Tasmania announced new boundaries for the federal electorates in Tasmania. The augmented commission consisted of the three members of the Australian Electoral Commission; the Australian Electoral Officer for Tasmania, Mr David Molnar; the Surveyor-General of Tasmania, Mr Michael Giudici; and the Auditor-General of Tasmania, Mr Rod Whitehead.

The augmented commission also announced that the division of Denison be renamed the division of 'Clark'. This name change recognises the role of Andrew Inglis Clark in the creation of the Australian Federation.

The new name and boundary changes will apply from the next federal election. However, these Commonwealth changes do not automatically apply as state electoral boundaries in Tasmania.

In the past, the Tasmanian Parliament has chosen to adopt the Commonwealth House of Representatives boundaries for the purposes of House of Assembly divisions by amending the Constitution Act 1934 to ensure they coincide.

Therefore, to avoid any confusion to Tasmanians who are accustomed to voting in the same division at state and federal elections, it is both desirable and practical that identical divisional boundaries continue. The amendments to Schedule 4 of the act do this.

I will now summarise the changes to the boundaries of the five divisions.

The division of Bass gained the entirety of the municipality of West Tamar from Lyons. Bass therefore contains the City of Launceston and the municipalities of Dorset, Flinders, George Town and West Tamar.

The division of Braddon gained the entirety of the municipality of Latrobe from Lyons. Braddon therefore contains the cities of Burnie and Devonport and the municipalities of Central Coast, Circular Head, King Island, Latrobe, Waratah-Wynyard and West Coast.

The division of Denison was renamed the division of Clark, and the south-western boundary of Denison has moved to the Huon Highway. Clark therefore contains the cities of Glenorchy and Hobart, and part of the municipality of Kingborough.

In relation to the division of Franklin, areas of the municipality of the City of Clarence, including Richmond, have transferred from Franklin to Lyons and the area north of the Huon Highway within the municipality of Kingborough has transferred from Franklin to Clark. Franklin therefore contains part of the City of Clarence, the municipality of Huon Valley, part of the municipality of Kingborough, and Macquarie Island.

The division of Lyons gained the entirety of the municipalities of Meander Valley from Bass and Brighton from Franklin. The municipality of West Tamar has transferred from Lyons to Bass, and the municipality of Latrobe has transferred from Lyons to Braddon. Lyons therefore contains part of the City of Clarence and the municipalities of Break O'Day, Brighton, Central Highlands, Derwent Valley, Glamorgan Spring Bay, Kentish, Meander Valley, Northern Midlands, Sorell, Southern Midlands and Tasman.

As a result of these changes, some voters are currently enrolled in a House of Assembly division that is different to their federal division.

The Commonwealth electoral roll is already maintained on the basis of the new boundaries. The state electoral roll can be similarly maintained as soon as the Constitution Amendment (House of Assembly Electoral Boundaries) Bill 2018 is enacted.

Mr President, at the commencement of a new parliamentary year, the minister felt it important to progress these amendments as a matter of priority to provide clarity to Tasmanians about which electorate they belong to.

I commend the bill to the House.

Bill read the second time.

CONSTITUTION AMENDMENT (HOUSE OF ASSEMBLY ELECTORAL BOUNDARIES) BILL 2018 (No. 4)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -

Section 22 amended (Constitution of the Assembly)

Ms RATTRAY - Thank you, Madam Chair, who knows a lot about redistribution of boundaries. Hence, I am the sole member for McIntyre.

My question is about advising constituents of these new electorates. As I indicated in my contribution yesterday, I attended an event at Parkham on Sunday. It is a new part of the electorate and people had no idea I was their new member. I am certain they received something by snail mail to indicate they were in a new electorate and that, from whatever date, I, Tania Rattray, was their new Legislative Council member. The bulk of the people there had no idea. Thankfully, the minister, Mr Barnett, was there and acknowledged me so they knew I was the member.

What is undertaken? It seems to me you need registered mail. People have to sign for it; they might open it because they will think it is important and learn that they belong to a new electorate. How and when will that process take place? We will have a federal election sometime in 2019.

Mr Dean - May, I think.

Ms RATTRAY - This is in place for a federal election. We do not have another state election for a number of years unless something else happens in another place. A name change also seems to cause a bit of confusion.

Mrs HISCUTT - Yes, it certainly does. A letter will be received by every person in an electorate that has moved. That letter will come from the Australian and Tasmanian electoral commissions. There will be a mail-out. There are 52 000 letters ready to go as soon as this bill achieves royal assent. There will be more television advertisements and mail-outs to inform people of their responsibilities in the lead-up to the next federal election or other elections.

As the member for Montgomery, in the same boat with an electoral change as a lot of us were, I found that most people had read their letters when I was doorknocking in the new areas. It was a different experience from that of the member for McIntyre.

The Tasmanian Electoral Commission - TEC - can only do the best it can. With the 50 000 letters coming out in addition to what will happen in the lead-up to the next election, hopefully everybody will be aware of their responsibilities and the division they will be in.

Ms RATTRAY - How much feedback does the electoral commission receive from people who call to ask what is going on in regard to boundary changes or an electorate name change?

Mrs HISCUTT - I am advised the commission does not receive an awful lot of phone calls. If it does, it advises that everything is on its website and that website will show people how to find their new member. They can direct themselves to their new member.

Mr Dean - What did you say?

Mrs HISCUTT - The TEC does not receive many phone calls asking about the things the member was discussing a moment ago. If it does, it advises people to go to the website, which can then direct them as to who their member is and they can go from there.

Mr DEAN - Is it simply the commissioner making the decision to change the name? Why does it occur? Is it their consideration or the board's consideration if there is no feedback from the area or the people? I would have thought the people of Tasmania really ought to make these decisions or at least have a say in these sorts of decisions, to name the electorates in this state. I would not have thought it is for the commission; if it is, I believe it is wrong.

Mrs HISCUTT - The name change came about through the Commonwealth tribunal. That was where it was being looked at. It was the outcome of the consultation process. Evidently there is no change unless there is a lot of feedback from the consultation process looking for a change of name. Who was consulted? I do not think we have that list here; I will seek some advice.

Hearings were held. It was advertised in the paper looking for submissions. Twenty-one submissions were received. Advice was taken from people who put submissions in. They are all here, but I will not go through them because there are 21 of them; they are on a website somewhere if you want to look at them.

Mr Dean - Do I need to stand again to ask the question: what did those submissions support? What is the position of those?

Mrs HISCUTT - There would be no change of name unless it was supported by the bulk of the submissions. I have not read the submissions, so I cannot say who said what.

Mr Dean - The greater majority of submissions supported the name change?

Mrs HISCUTT - On that particular issue. Again, 23 submissions were received -

Madam CHAIR - Order, if you want to ask a question, you have three calls.

Mr DEAN - Thank you, Madam Chair. However, the Leader was still on her feet and answering the question, so I was asking the question. I did not think there was anything wrong with that; it has previously happened, and it has happened in this place in the last 15 years that I have been here.

Madam CHAIR - Order, do you have a question?

Mr DEAN - My question is: was the change of name made on those 23 submissions or was there other evidence supporting the name change? I will stay here at this present time.

Madam CHAIR - The Leader needs to stand to give you an answer. If you sit down, the Leader can answer your question.

Mr DEAN - I want to know all the other persons who would have been involved in this, the specific reasons behind this coming up, and whether at the end of the whole process that change of name was circulated throughout the Denison electorate.

Mrs HISCUTT - It was a Commonwealth process. We are not privy to the ins and the outs of the process. There were 21 submissions made. The name change was mooted during those submissions. It was taken on board by the Commonwealth. I cannot answer what was said in those submissions because it was done by the Commonwealth and we have to implement it to get on the same page.

Mr VALENTINE - Madam Chair, I apologise, this is a question that I should have raised during the second reading. Is there any increase in people not voting following a boundary adjustment like this? Are there any numbers on how prevalent it is for people not to vote after a boundary change because they simply do not realise?

Ms Rattray - I hope not.

Mrs HISCUTT - We can only speak from the state point of view, but where there have been recent changes with councils, there was no obvious spike in non-voters.

Clause 4 agreed to.

Clauses 5 and 6 agreed to and bill taken through the remainder of the Committee stage.

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

Second Reading

[3.11 p.m.]

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

That the bill be now read the second time.

The purpose of this bill is to make amendments to the Listening Devices Act 1991 and the Police Powers (Surveillance Devices) Act 2006 to allow for the use of body worn and hand-held cameras by police officers while on duty.

In May 2017, the state Government announced funding of \$3.4 million over four years for Tasmania Police to roll out body worn cameras to frontline members. Body worn cameras have been adopted, or are in the process of being adopted, by the majority of Australian policing jurisdictions.

The rollout of the body worn cameras for Tasmania Police will have several benefits for the service and the community as a whole, including -

- moderating the behaviour of people present at incidents, thereby improving safety for the public and responding police
- improved and more accurate collection of evidence
- the opportunity to review and improve police practices
- improved officer conduct and professionalism
- a reduction in vexatious complaints against police.

To provide for the adoption of the body worn cameras within Tasmania, legislative reform was considered necessary to ensure their use in a range of policing contexts is lawful.

Body worn cameras are designed to digitally record visual images and sounds from a first-person perspective. Body worn cameras are worn predominantly on the clothing or are otherwise secured on the body of a person. However, there will be situations where police may alternatively

use a hand-held camera, such as frequently occurs currently in the execution of search warrants, or for a body worn camera to be hand-held to better record some incidents.

Rather than specifying the use of a 'body worn camera', the bill provides a definition of a 'personal camera', which is a device capable of recording visual images or sound, or both, and is normally used by being held in a person's hand, or worn on the body. The definition of personal camera is intended to provide greater flexibility and would, for example, permit a police officer to make a recording using a mobile phone, if necessary. It is not intended the bill provide for the use of any other type of camera not directly operated by a police officer who is present at an incident.

The Listening Devices Act 1991 currently prohibits the recording of private conversations, and in certain circumstances, and the amendments made by this bill ensure the overt use of body worn and hand-held cameras by police is lawful in a range of policing contexts.

The amendments to the Listening Devices Act 1991 prohibit exemptions to prohibitions on recording of private conversations, and to the subsequent use of those recordings, where they are obtained in accordance with requirements for the use of personal cameras by police that will be set out in amendments to the Police Powers (Surveillance Devices) Act 2006.

The Police Powers (Surveillance Devices) Act 2006 was created to provide for the installation, use, maintenance and retrieval of surveillance devices in criminal investigations. The act does not prohibit the use of surveillance devices, but instead grants police officers power to install, maintain and retrieve surveillance devices pursuant to warrants issued under that act.

The bill will amend this act to provide that the use of overt use of personal cameras by police is permitted, without the need to obtain a warrant. In providing this authorisation, it will also stipulate requirements for the use of personal cameras by police, including where a police officer is on duty that the presence of the camera is overt, and where the personal camera is being used to record a private conversation to which the police officer is a party, that they are -

- in uniform; or
- have informed all parties to the private conversation they are using the personal camera; or
- the circumstances are such the parties ought reasonably expect the private conversation is being recorded.

The bill also expands the definition of protected information within the Police Powers (Surveillance Devices) Act 2006 to include information obtained by the use of a personal camera by a police officer when in compliance with the new provisions.

By doing so, use and disclosure of the recordings will be limited to specific circumstances as outlined in section 33 of the Police Powers (Surveillance Devices) Act 2006, such as the investigation of offences, the making of a decision whether or not to bring a prosecution, or where the use or communication is necessary to prevent or reduce the risk of serious violence to a person.

The bill also permits the use, by a police officer, of protected information that does not contain a private conversation to provide for circumstances such as the recording of graduation ceremonies and for corporate and non-investigative purposes.

This bill further expands the ability to use, communicate or publish protected information under section 33 to include the training of police officers. The use of protected information for the training of police officers is a valuable tool in the education of their members.

As two of the driving forces for Tasmania Police in adopting body worn cameras are transparency and accountability, the bill has provided the Right to Information Act 2009 and Personal Information Protection Act 2004 apply to information obtained by police officers from the personal cameras, but only in circumstances where the use of that information would be permitted by police. This protects recordings made by the cameras not relevant to the reasons for which they have been deployed.

During drafting, a pre-existing error in the Police Powers (Surveillance Devices) Act 2006 was identified. Section 33(4)(a) allows for the use of protected information for the investigation of a relevant offence under a corresponding law, but not for its use in the investigation of a relevant offence in Tasmania. An amendment in the bill ensures the protected information can be used, communicated or published for the purpose of investigating a relevant offence in Tasmania. This change is consistent with the other permitted uses in the subsection, and with the model provisions on which the act was based. This amendment has also been made retrospective to the commencement of the act to preserve the integrity of prior investigation and court decisions.

Following consultation, it was also identified the existing wording of section 33(4) of the Police Powers (Surveillance Devices) Act 2006 was problematic in that it limited the authorised uses of information to 'if it is necessary to do so'. Due to the use of the phrase inviting legal argument as to the necessity, it has been removed, noting the permitted uses are already narrow.

The measures contained within this bill will ensure Tasmania Police have the equipment they need to continue fulfilling their important role within the community.

The bill will take effect upon the day it receives the royal assent and I commend the bill to the House.

[3.20 p.m.]

Mr VALENTINE (Hobart) - Madam Deputy President, first I thank the Leader for the briefing. The officers who gave the briefing thoroughly covered the operation of these cameras. I always like to drill down into some of the technicalities of devices like this to make sure everything is safe and secure in the computing environment. There are many circumstances in which information gets into the wrong hands.

It seems to me from the way it was described to us that what the cameras record is uploaded onto the device in an encrypted format. I was concerned about continuity - that the officer who may be wearing the camera may be of a mind to try not to record certain aspects of an encounter at an event. Perhaps they could turn it off and on again. For the benefit of a prosecution of some sort, I am told the cameras log every time the device is touched. It would be clear if there were an attempt to do something untoward, which gave me a degree of comfort. Fairness is important.

This is only dealing with footage police are recording. It is not to say other members of the public might not be recording the same incident, whether it is for their purposes or not. If such footage reaches a court, it would be dealt with by the magistrate or the judge as to whether it is admissible evidence. All we have here is an opportunity for the truth to be displayed, if I can put it

that way, and I imagine it could save a lot of court time with the he-said, she-said scenarios that might arise. It can only be of benefit.

There might be those who say that it gives the police an advantage. It is simply recording what is happening and that can only be a good thing, from both perspectives. If a defence team feels it needs the footage, one of the concerns I had was whether it could access that under right to information legislation et cetera. They can. Are they allowed to access that information prior to a plea being entered? Could the Leader please clarify that? People might be charged for a certain offence and where the police have recorded the incident, is it the case that the defence would be able to gain a copy of that footage prior to somebody entering a plea? I imagine that would be the case, but I would like to have that placed on the record.

I also questioned whether it could place police officers themselves in harm's way, given the fact that people might realise they are being recorded. They might attempt to either grab the camera and somehow destroy it or take it from the officer. Would that put an officer more overtly in harm's way because of the camera? As officers are seldom on their own, there would be other cameras operating. We are led to believe that up to four cameras can be viewed in concert, which is an interesting bit of technology. Apparently the Police Association did not have any concerns about the safety of their officers using these. It was one of my concerns.

I always wonder if it disadvantages others. I guess if people are acting inside the law, they have nothing to fear. I consider that it is footage capturing the whole scene - those cameras have 143 degrees of vision, which is quite a significant field of vision. It is only telling the truth of whatever is in front of the camera. What is happening behind may not be recorded but other officers might be there and members of the public might be recording. It all goes to court and it is up to the judge concerned to sit in judgment on what that footage adds to the case.

I go to the second page of the Leader's second reading speech -

As two of the driving forces for Tasmania Police in adopting body worn cameras are transparency and accountability, the bill has provided that the Right to Information Act 2009 and Personal Information Protection Act 2004 apply to information obtained by police officers from the personal cameras, but only in circumstances where the use of that information would be permitted by police.

There is a stricture on that. Even though I was saying earlier that the right to information applies, it is under certain circumstances, and those circumstances can only apply to matters that are being prosecuted. I do not want to see people being unfairly disadvantaged, which is always a concern with these sorts of things.

Hobart City Council's parking and information officers use these cameras and I believe they have been proven useful. It is bringing us up to speed with some other jurisdictions that already have this technology. If it means we have a more efficient police force as a result of these cameras, I cannot see many downsides. I say that and somebody will come out tomorrow and say it is a terrible thing. I have not been lobbied by anyone or by any organisation saying that it is unfair or otherwise. I take it as I read it. It seems to be reasonable infrastructure to put in place. It seems the information collected on them is being dealt with in a fair and reasonable way under the Archives Act. I support the bill.

[3.30 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I support the bill. This is another tool in the toolkit for effective community policing.

Mr Dean - I am not quite sure where they are going to find parts on their body to stick these things.

Ms RATTRAY - It did seem cumbersome when we saw the photos of the vest the police officers wear at the briefing this morning. Most police officers are fit and they are probably able to carry those devices.

Mr Dean - Apart from that, they have firearms that are not attached to the vest. They have their baton; they have capsicum spray - so much of it.

Ms RATTRAY - They have peak hats now, which must be easier to run in when they have to take off after somebody.

Mr PRESIDENT - It is a bit different to when the member for Windermere was there and used to walk around the streets with his bare hands.

Mr Dean - You are right, absolutely right.

Ms RATTRAY - The member for Windermere may provide a contribution that outlines the ways of normal policing practice way back.

From reading the second reading speech and from the enlightening briefing this morning, it seemed to be a practical approach with the technology available. I said in jest this morning, I had seen some of these appliances on the NYPD show I have the opportunity to watch sometimes. We were told this happens in other states and in the London police department.

Mr Gaffney - Is that why you watch the show - for the appliances?

Ms RATTRAY - Sometimes it is nice, light relief from what we do in our working life. I like the policing shows. The English shows are always quite good. I found it interesting that they are already being used.

Mr President, we were both interested in the cost. It was in the budget papers. I wrote down \$3 million, it might have been \$3.4 million over four years. It is going to take some time for them to be rolled out to all operational police officers. The docking stations are interesting. They will pick them up with their gun when they log on.

Mr Dean - It is interesting if you go to the station and look at how their log in is done.

Ms RATTRAY - I will be interested to see what sort of log-in stations they are going to have with the facilities at St Helens when the new police station is built. It is on the radar of the Police minister. It might be difficult to put anything in the St Helens station. It is not fit for purpose as a working environment. I have talked about that a number of times but it is not part of this bill. I always take the opportunity to promote good working spaces for our police officers.

I was also encouraged by the reduction in administration time. The member for Hobart talked about less court time because it is not he-said, she-said because the evidence is right there. That has to be a positive, given court time is precious and often under stress around the state.

We were informed the device needed to meet 200 requirements in the tender. Being waterproof is one, and the fact you can turn the light off when you need to for police protection or undertaking a surveillance exercise.

The Police department has undertaken an extensive exercise issuing body worn cameras across the state for operational police officers. It is another positive tool for policing around our state, for our communities to feel safe. I support the bill.

[3.37 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I thank all the other members for their contributions. Like the member for Hobart, I did not hear one person from my community say it was a silly idea; in fact they thought it was about time and a good idea. The legislation brings community safety to the forefront.

There are some measures on the table to assist the police with identification; they will come at a later time. Not one person said it was not a good idea. Police are sometimes in delicate and hostile situations.

Situation events can go from one circumstance to another and exacerbate. Being able recollect what happened initially, what they saw there compared to what happened over here might be very different. When police report on what they saw, it is what they could remember and put in some sort of sequence.

This will help them especially in situations where they are unsure whether that happened first or this person passed something over there. Now with a camera, it will make it safer and easier to do their job. We all support that. It is a pity these cameras had not come out some years ago when they closed the Avoca station. You could have stuck one on the wall there for the traffic. Honourable member, you would have been able to fight for that.

Ms Rattray - I am still fighting for it.

Mr GAFFNEY - I thought you might. I am pleased to see the police going out in pairs more often. While it is a sign that life is more volatile, we need to protect those protecting the community. To have an extra pair of eyes watching what is happening assists in recording the facts. The courts will find this to be an advantage. I support this tool for police. We might be having similar conversations in the future about the use of drones and other types of machines to record activities legally without putting people's privacy at risk. That is the next step if it is not in place already. I support the bill and congratulate the department for going down this path.

[3.40 p.m.]

Ms ARMITAGE (Launceston) - Mr President, this is a very good move for officers; as mentioned by the member for McIntyre, it is one more tool in the toolkit. While some cameras are in use, we believe it will be around 24 months before they are rolled out Tasmania-wide.

While it is primarily for the safety of officers, it is also for the safety of the public. It is hoped these cameras will deter people from attacking officers, given it will all be captured on film. I recall

reading in the media that when officers go to domestic violence and other incidents, it will avoid some of those people having to give evidence or to go through the horror of what they have experienced again. Capturing it on film is a very good move.

The film is retained for a minimum of seven years under the Archives Act, irrespective of whether people charged due to footage taken are found guilty or not. The camera sees what the eye can see. It is important the cameras only see what the officer can see, so that something else is not being shown when the film comes back, which the officer might have missed because it may have been outside his peripheral vision.

It prerecords for 30 seconds. It is always recording that 30-second run and when the start button is pressed, it has recorded the previous 30 seconds. So often with cameras, you see something and by the time the camera starts, you have missed it. The camera is a very good one to record the 30 seconds beforehand.

I note the camera can be connected to a smartphone via Bluetooth for ease of cataloguing incidents and inputting data for later access. I am pleased to see that officers are allowed to carry phones. I believe officers were not encouraged to carry their private phones at one stage. This is a good move. They need to have their mobile phones. You can imagine how long it would take if they have to take their camera, sit down, work out and type everything into a catalogue afterward, whereas they can Bluetooth it to a phone and do it straightaway while it is fresh in their memory. It is a much better method.

The introduction of video interviews has saved time because there are fewer pleas of not guilty due to film evidence. People can no longer say they did not say something when it is on film. This will apply to the cameras as well. I do not know how many films I am on in the work I do with the police as an independent person. I must look like I belong to a lot of children, but they are filmed. I have found in those cases that the people I sit with as the independent person are generally happy to say what is happening because it is filmed and there is no dispute as to what the evidence was. It is an important move if it saves police time because we all know the police have enough work to do. Hopefully, this will lessen pleas of not guilty and be of real benefit. It should eliminate disputes about what has happened when you have the film and can look at it.

It is a shame it is not happening for plain-clothes officers now, but that will happen in future. I accept it is for uniformed officers on the front line, but it would be a very handy tool for the plain-clothes officers. While I accept they have two hands and they might carry a gun in one hand and a camera in the other - they might be out in the bush and they might be looking for drug hauls or whatever on some occasions - but it would be a really good move for them to have free hands and to have the camera -

Mrs Hiscutt - Like a miner's light?

Ms ARMITAGE - Yes, a bit like a miner's light. They could have a camera on their heads but one on the chest is as good. I look forward, once it is rolled out across Tasmania, to looking at this for the plain-clothes officers. I support the bill.

[3.44 p.m.]

Mr DEAN (Windermere) - Mr President, I support the bill. We are talking about a police bill today, a police camera bill, at a time police have suffered another loss in their service. I want to mention Senior Sergeant Paul Reynolds' death on Thursday. I should have been at the funeral

service today. He was a very good friend of mine. I worked with Paul and was his boss for a number of years. He was a great servant to this state. I offer my condolences to his family in this situation, a tragic situation.

I thank the police for the briefing this morning. I thank the police for the private briefing I had a couple of weeks ago. I appreciate that very much. I was able to go through the bill very closely with them, ask a number of questions and have those questions answered. I raised some issues I thought might need considering, but I was satisfied following that briefing and further information. It is a good bill as it is currently presented.

I thank Acting Commander Gary Williams, from Launceston, who invited me to the station last week to look at the cameras and the logging area where the cameras are held and controlled. It was interesting. It would be good for members to view that when they have an opportunity. The police are always willing to have people visit stations.

Ms Rattray - Only visiting.

Mr DEAN - I can remember that to get into a police station, for anybody other than police and unless you were being arrested, was near impossible. It was not the open process it now is. People are invited to look through and to take part, provided activity is not occurring - police private activities, arrest activities, and so on. I thank the police for all of that.

I was asked earlier about what I carried when I first started in the police service. All I remember carrying was a baton. That was it.

Ms Rattray - Your bare fists and your boot.

Mr DEAN - It was a big, heavy boot, I might add. That is all I carried. Firearms came in at a later stage and we moved forward with some other things. I had handcuffs and a baton. It was not difficult to carry those items but police carry a lot of equipment now. It is apportioned properly on the body. When I was there, there were some issues with some of our female members carrying all their equipment. It was something that had to be addressed because females are built differently to the guys.

This legislation that provides for the wearing of cameras, hand-held or attached to the body, will undoubtedly provide a safer work environment for police and will also provide a higher level of assurance of professionalism and good behaviour towards a second party. The recording will protect the second party and be a protection for police. You only have to be in court to understand what happens. Mr President, you would understand the situation well in your position. As a police prosecutor of some eight to 10 years, as well of giving evidence, I found that stories seldom matched up. In many instances, it was the police version versus the version of the other person. There was a big difference in the positions provided by both parties. That is what magistrates and judges are there to sort out and to work out what they believe has happened. This video evidence will show the events police are attending in real time and in a real situation, and that will benefit all people.

Sadly, police are continuously forced into situations in which force is necessary. As I have said in this place many times, uniformed, operational police officers confront aggressive situations almost daily or weekly. Therefore they need all the protection they can possibly get to pacify a situation. I do not know whether, in the briefing this morning, you were given the example I was when I had the private briefing - the example of the RSPCA officer's situation. That example really

identifies the value of these cameras. The RSPCA were dealing with a matter - they have had these or similar cameras for a long time - and the camera footage has been used in evidence. On this occasion, the camera revealed the true position of this person when he drove his vehicle into a laneway, and his aggressive attitude until he realised he was being filmed. As I understand it, the lawyer acting for that person could not believe what they were being told could have ever happened. They just could not accept that a person could drive that way and do that, get into the driveway and the rest. As the police mentioned this morning, once the information from the camera was divulged to the lawyer, they saw it and changed their attitude totally. Plea bargaining occurred after that. That is a good example of what these cameras are about and what they will reveal.

There are some areas where there will still be arguments. I do not think we can sit back and say that these cameras will satisfy all these situations and that there will not be evidence or arguments provided that the information has not all been captured on camera. I go back to a good example of a female police officer I was in charge of when a complaint was made to me. The vehicle's driver said the look in the police officer's eyes and her aggressive facial expression concerned him - she did not say anything, but her look was enough to tell him he was in great trouble. I do not think the cameras will pick that up in this instance. It will be what the eyes see. The camera will not be able to pick up the facial expressions of the police officer or mouthing perhaps. It will not be able to pick up some things. I can see some issues will be raised from time to time. I do not think they are the be-all and the end-all of the situation, but they will be a great device; there is no doubt about that.

I originally had concerns with clause 15 of the bill, inserting section 44A, but I am now reasonably satisfied about that. It sets out the circumstances under which a personal camera can be operated. It makes reference to when a police officer is on duty. It does not refer to rostered duty. A police officer could put themselves back on duty, grab a camera and go out and use it in those circumstances. Detectives, as we know, put themselves back on duty at any time. That is a requirement of their work. That is obviously provided they are on duty.

There is no doubt things have changed since mobile phones have been with us and the capacity they have to record situations. Today, there is very little that you can do that is not being filmed by somebody somewhere. Police can give you many examples. Some situations have arisen on the mainland - I do not think there are any here at this stage that I am aware of - where police have been acting very aggressively. There were some of those in America as some of you have seen on TV many times, where the police have been filmed by a person standing somewhere around that event at the time. Mobile phones have really changed the way we do business and we need to be wary of the fact they are out there. On Sunday I went into the police station in Launceston to report a crime. I went out to get on my road bike - quite an expensive road bike, I might add - and it was not where I put it so I came back in and, as I normally do, got stuck into my wife, 'What the hell have you done with my bike, why did you move it?' -

Ms Rattray - She sold it.

Mr DEAN - She promptly told me she had not. It had been stolen, so I went into the police station and one of the very first questions they asked me was whether I had video surveillance. Did I have film of the area where the bike was? I had to tell them that sadly I did not. It normally would be, but I was at home at the time with the garage doors up and somebody had seen it, had come in and taken the bike away.

Ms Forrest - You are lucky it was only the bike they took then.

Mr DEAN - I am lucky but the bike might not have been the only thing stolen; I have some other things I need to check up on.

Mr Gaffney - Was your garage unlocked?

Mr DEAN - My garage door was up. We were home at the time and the garage door was up. It just goes to show what some people are like.

Mr Gaffney - And they were looking for a bike with training wheels -

Mr DEAN - Good one.

Ms Rattray - I thought mine was better - that Anne had sold it.

Mr DEAN - Yes. With video surveillance now, we know if police are investigating a crime - it does not matter where it is, particularly in built-up areas - one of the very first questions asked is: where are the cameras in this area? They go back to the footage for evidence to support the event. It is a very important issue.

I raised the body worn camera policy of police this morning. When I had the briefing with the police, I raised the policy, knowing very well that the police have very strong policies on just about everything. I was interested to know more about it and what was in that policy. We have been provided with some information in that area and were told that we were able to make some comment on it, but needed to be a little careful with where we went with it.

I want to raise just a couple of issues. The policy document is a good document that sets out very clearly what is expected of police when they are wearing these body cameras. It identifies when they are to be on and how they are to protect them. It was made very clear in this document. Some of you might have noticed this. We often talk here about the words 'must', 'may', 'should' and 'could'; the police have defined 'must' and 'should' in this policy document.

Ms Rattray - What about 'may', have they defined 'may'?

Mr DEAN - No, it says "'must" indicates a mandatory action'; "'should" indicates a recommended action to be followed unless there are sound reasons for taking a different course of action', and I have often said that. You should do it, but if you do not do it, you need to be able to explain your situation and your position, and that is the same as complying with a policy. Policies are not law, other than the fact that if you do not do as a policy requires or asks you to do, you must explain yourself well or you could be in trouble.

Buffering is referred to in this policy document, as is prerecord. I quote -

BWC devices must always be carried and operated in buffering mode when not recording. Buffering mode allows for the back-capture of an instant once a member commences recording.

It must be in that mode, as I understand it, for a 30-second recording to commence. Maybe the Leader will cover that in her closing of the second reading -

7.3 The function described in 7.2 will back-capture 30 seconds ...

I have referred to that. General instructions is an interesting one -

When not present at an operational incident or otherwise exercising a police power, the BWC **must** not be used to capture recordings of private conversations.

There is an area here covering where a police officer wearing a camera will not, according to the policy, be able to go back to a police station and record the situation involving other police. If they had been spoken to by their superior or another officer, the camera will not be able to be used in that instance. It will be interesting to see how this ends. A police officer may want to have their camera on if they are being counselled. It will be interesting to see what happens if breaches occur.

This covers State Service personnel. A police officer wearing the body worn camera will not be able to use it for the purposes of talking with State Service staff. It raises other questions: If a police officer is in a building like this and he is talking to us, would the cameras be able to be on? Is that a private discussion? I would say it is not - if a police officer is in uniform and talking to us, it would be a public discussion. How would the situation apply in those situations? The Leader might be able to address this.

In the policy document, if a police officer does not have the camera switched on when perhaps they should, they have to make a record in their notebooks. They have to show reasons for not having it on or not using it. The body worn camera is additional and does not replace existing requirements, procedures or policies in respect of recording admissions et cetera. It does not take the place of these; it simply gives additional information and evidence.

This is strongly advocated throughout the policy document.

I first raised these body worn cameras about three years ago or longer. I continued to ask questions of the Government about when we were going to get them. I am very pleased to see them here at long last. Some other states have had them in place for some time and they have done extremely well with them. There has been no real problem and we have learned from that. New Zealand still does not have them, but is now closely looking at using them. I think they will soon. Clearly, it is going to happen throughout the world; it is a thing of the present and the future, and we will have them with this legislation.

As we were told at the briefing following a question asked by the member for Mersey, many people are unaware about the right to film activity in public places. I will not make them aware of it today either. It was interesting as to your use and your capacity and ability to be able photograph and record what is happening publicly. I will certainly be supporting the bill.

[4.04 p.m.]

Ms FORREST (Murchison) - Mr President, I will be supporting the legislation because it gives certainty about the use of the information that can be recorded.

I was trying to remember during the briefing whether it was two years ago when Mr Hidding was minister for police and emergency services. He brought along one of these cameras to our budget Estimates committee meeting. It was similar to the one that has been decided upon - it was bigger and heavier but had the same sort of design.

There was this great announcement of what we were going to do. It was at least two years ago. Some things take a while to happen. It was a big budgetary expenditure and the commitment made by the Government to invest in this should be acknowledged. In many aspects it will save money. There is an up-front expenditure but less court time. It might not be saved in the Police budget, but it may be saved in the Justice budget, with fewer vexatious complaints and things like that. While it affords police a level of protection, there is a potential level of threat if someone decides they want to remove the camera from the police officer's person. When you weigh it all up, the benefits far outweigh the risks.

As you said in the briefing, Mr President, once video recording of interviews is brought into play, it reduces the number of pleas of not guilty. The evidence is clear that it happened and it is indisputable because it has been properly recorded, properly stored and properly used. That is what this legislation is about: to ensure the information can be properly used and is not subject to question.

We were informed in the second reading speech about the section of the current act that allows for -

... the use of protected information for the investigation of a relevant offence under a corresponding law, but not for its use in the investigation of a relevant offence in Tasmania.

The second reading speech, and it was discussed in the briefing, went on to say that -

An amendment in the bill ensures the protected information can be used, communicated or published for the purpose of investigating a relevant offence in Tasmania. This change is consistent with the other permitted uses in the subsection, and with the model provisions on which the act was based. This amendment has also been made retrospective to the commencement of the act to preserve the integrity of prior investigation and court decisions.

How long is that period? Is it the full 12 years? Have there been problems with this? It is a real concern when we are putting retrospective legislation in place if people then find their case is compromised or their conviction may have been unlawful.

It goes on to say -

Following consultation, it was also identified that the existing wording of section 33(4) of the Police Powers (Surveillance Devices) Act 2006 was problematic in that it limited the authorised uses of information to 'if it is necessary to do so'.

I understand why that is the case. I am interested in the implications of the retrospective nature of this. Twelve years is a long time for this protected information to potentially be used in pursuing an offence in Tasmania, but the power was not there to do it. I need a little more detail on that.

Overall, it provides an environment - and we do not usually see police officers out on single-officer patrols or going to incidents as a single officer - where police will usually have at least two cameras activated if a camera requires activation. We were shown in the briefing that the camera was easy to activate and gives the field of vision most of us would have - what we could see with our eyes. You cannot have the police officer accused of something being filmed that they could not

possibly have seen because it was behind them. Four cameras in the vicinity, each knowing the other is there, can be used to record information; if a police officer was acting inappropriately, that could be picked up by another camera. It will help police officers ensure their behaviour is appropriate. We have seen in other jurisdictions where that has not been the case. We are very lucky with Tasmania Police. We do not get very many complaints about the behaviour of police. There are some, but perhaps that is because those people are on the wrong side of them.

We need to be really cautious because police have enormous powers and general respect within our community. It is important that no police officer ever misuse that power. If a claim happens, having evidence to show what occurred will be helpful to the police. It could be detrimental to them if they have done the wrong thing. As the member for Hobart said, people who are doing the right thing have nothing to fear.

Overall, the benefits outweigh the risks of introducing the use of these cameras. I would like to better understand the retrospective nature of the changes required for the use of the protected information. Implications could arise from that and some people could find their individual situations slightly different to what they had originally thought.

[4.10 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank all members for their input. I have quite a few answers here, starting with the member for Hobart. The question was: what is the security surrounding the data? All data is encrypted on the cameras and can only be extracted from them via the specific docks installed in the police stations, as we saw this morning. They are configured to a specific Tasmania Police system. Data cannot be removed from a device without the docking system. All activities on the camera and associated systems are recorded in detailed audit logs and footage viewed is watermarked with the viewer's details.

Someone asked: what was the security assessment conducted by Tasmania Police about this product? A quantitative risk assessment was conducted by the department's information security team using a process based on the Australian standard for risk management principles and supporting risk management guidelines. The risk exposure for the project and selected product was deemed low to very low and represented an acceptable level of risk. The data management practices align with Australian government requirements under the protective security policy framework.

I was asked if a police officer can choose not to record. The policy of Tasmania Police is that police officers must record incidents unless there is a genuine reason not to. If they decide not to record an incident, the officer must record the reason in their official notebook or other record of the incident. An example of a situation in which a police officer may decide not to record an incident is one in which they are attending a complaint in a public change room or something of that nature. The Tasmania Police manual contains a commissioner's direction mandating body worn camera recordings in line with the policy. If a commissioner's order is breached, it may constitute a breach of the Police Code of Conduct and result in disciplinary action.

The member for Hobart asked whether the footage will be available to the public and the prosecution. The bill classifies recordings as protected information, restricting when they can be used, communicated and published. This is to ensure privacy is respected. Recordings can only be used for limited purposes, including the investigation of offending and associated prosecutions and investigating complaints of police misconduct. In circumstances where the footage falls into one

of these categories, both the Personal Information Protection Act 2004 and the Right to Information Act 2009 will apply. This allows public access within the respective frameworks of these acts.

Footage will also be made available to defendants and their legal representatives as part of disclosure. This can occur prior to the defendant entering a plea in line with current disclosure practises. Disclosure is also a matter currently under review by the Attorney-General. It is likely legislated disclosure provisions in the state will be expanded in the future.

The member for Windermere asked a question: the cameras are always carried by police in buffering mode. This allows the back-capture of 30 seconds of footage prior to the recording function being activated.

Another question from the member for Windermere was: will there be areas where cameras cannot be used? I think he particularly mentioned someone talking to you -

Mr Dean - It was not quite the question.

Mrs HISCUTT - I think you mentioned particularly someone talking to you in parliament.

Mr Dean - Yes, public servants.

Mrs HISCUTT - There will be situations police attend where it is already legislated cameras cannot be used; for example, inside a sitting court. There are other areas where it may be inappropriate to do so, or where a person could be expected to be afforded a certain level of privacy. Examples of this include public toilets, public change rooms, childcare centres and schools, emergency rooms at hospital, military establishments and parliamentary premises.

Mr Dean - In relation to not being able to use them in a court, I would suspect - I do not know - that obviously there has to be something to cover an incident that arises in a court, such as we had in Hobart when there was an attack on a lawyer and a prosecutor, for the activation of cameras in an emergency situation.

Mrs HISCUTT - Are you asking if there are surveillance cameras in courthouses as we speak?

Mr Dean - There would have to be, I think. I would be surprised if there were not.

Ms Forrest - In a courtroom?

Mr Dean - In a courtroom. I gave the example from a few years ago when a lady attacked a lawyer and a prosecutor inside the Supreme Court. I would have thought there would be something to cover a police officer in such an emergency.

Mrs HISCUTT - From a policing point of view, courthouses are not under the jurisdiction of the police; they are under the jurisdiction of the magistrates and the courts. Police would not be able to do this. Whether there are cameras in a courthouse, I am not sure.

The last question was from the member for Murchison. Yes, it is retrospective, but to the commencement of the 2006 act. Although the error has existed in the act for this length of time, it has never been picked up or challenged. It is a very technical amendment because it only deals

with the use of investigative purposes. It does not affect the use in court, which has always been appropriately provided for.

Bill read the second time.

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

In Committee

Clauses 1 to 13 agreed to.

Clause 14 -

Section 33 amended (Prohibition on communication or publication of protected information)

Mr DEAN - Clause 14(d) reads -

by inserting the following ...

(4A) Protected information may be used, communicated, or published, if -

(a) the protected information is information obtained by the use of a personal camera, in accordance with section 44A, by a police officer; and

(b) the information does not contain a record of a private conversation.

Can we have an explanation of this and what it relates to? Does it relate to a conversation outside police operations at the time? I am trying to visualise whether a member of the public being spoken to by police in uniform is not a private conversation. If police in uniform are talking to somebody, it is a conversation that can be recorded. Can I be given some explanation as to exactly what it means?

Mrs HISCUTT - Because the provisions also apply to hand-held cameras, this allows the release of footage that does not contain conversations, for example, recording a graduation parade or a public education video.

Clause 14 agreed to.

Clause 15 -

Section 44A inserted

44A. Use of personal cameras, &c.

Mr DEAN - I have raised this issue with police on a number of occasions. If you look at -

(1) The use of a personal camera is in accordance with this section if -

and it goes through a number of areas there but then if we go down to (c), it says -

where the personal camera is being used to record a private conversation to which the police officer is a party -

- (i) he or she is in uniform; or
- (ii) he or she has informed each other party to the conversation that he or she is using a personal camera ...

I have raised this because there would be situations where police would not be in a position to inform a person they are using a camera. That could happen where police are attending a disturbance that is getting out of hand - they have to act quickly and do not have the time to stop to say, 'You are being recorded.' What is there to ensure this is properly covered? My concern is: does this protect police officers' evidence that would be gathered by those cameras in a situation where police officers do not have the time available to tell these people the camera is on and they are being recorded?

If you go to -

- (iii) the circumstances are such that the person being recorded ought reasonably to be expected to be aware that the private conversation is being recorded.

If I can put the example of a person who is drunk - probably paralytic - or the mental status or state of mind of a person through something that might have occurred, they could not reasonably be expected to believe a camera might be operating at the time. If I could be given an explanation for *Hansard*, because I originally thought you needed an amendment, but am satisfied we do not.

Mrs HISCUTT - The section about police telling people they are being recorded: police officers are encouraged during training to advise members of the public they are being recorded. This practice contributes towards overt recording and may also help to calm volatile situations. The legislation only requires a police officer to inform a person they are being recorded in limited circumstances - for example, where the police officer is not in uniform and they are recording a private conversation. Uniformed police are not generally required by the legislation to inform people they are being recorded because the use of a camera is overt with a flashing red ring and a tone sounding during recordings. This reflects the policy position that a police officer acting overtly is not acting privately. They are acting as an agent of the state and even without the camera, the police officer could give oral evidence in court of everything they saw or heard. However, this legislation does not override the provision of the Evidence Act 2001 that requires a police officer, before questioning a suspect for an offence, to caution them they are not obliged to say or do anything and that anything they do or say may be recorded.

With regard to (iii), this does not apply for police in uniform, as people should expect interactions with operational police are not private and covered in (i) - 'he or she is in uniform'.

Mr Dean - I wonder why there was not inserted in this area, plain clothes or like, to make this clear. It is clear he or she is in uniform or it relates to police officers outside of uniform.

Mrs HISCUTT - That is why (i) says 'he or she is in uniform; or'; had they put 'plain clothes; or', something else would have had to be defined. You can assume if you are not in uniform, you are out of uniform.

Clause 15 agreed to.

Clauses 16 to 17 agreed to and bill taken through the remainder of the Committee stage.

ADJOURNMENT

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

That at its rising the Council adjourn until 12 noon on Thursday 20 September
2019.

The Council adjourned at 4.31 p.m.