Thursday 1 November 2018

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

WATER AND SEWERAGE LEGISLATION (CORPORATE GOVERNANCE AND PRICING) AMENDMENT BILL 2018 (No. 53)

ELECTRICITY SUPPLY INDUSTRY AMENDMENT (PRICE CAP) BILL 2018 (No. 13)

LEGAL PROFESSION AMENDMENT BILL 2018 (No. 36)

Third Reading

Bills read the third time.

FAMILY VIOLENCE REFORMS BILL 2018 (No. 39)

Second Reading

Resumed from 31 October 2018 (page 44)

[11.05 a.m.]

Ms FORREST (Murchison) - Mr President -

> On average at least one woman is killed every week at the hands of a current or former partner in Australia. Last month the numbers were even more alarming. Nine women were killed in October - seven allegedly in the context of a current or former intimate relationship, the other two also suspected to have died at the hands of male perpetrators.

What are we doing? We are trying to do some more here. That was a quote from today's edition of *The Conversation*. It goes on -

> While these deaths are a disturbing reflection of the pervasive nature of violence against women in Australia, they have largely gone unnoticed. Aside from a small number of female journalists who called on Australia's leaders to address the crisis, the media more broadly, as well as governments and the wider public, have mostly remained silent.

I know much more public attention has been paid to this issue in recent years particularly since the absolutely tragic death of Luke Batty, and Rosie Batty, his mother, being awarded Australian of the Year. That is some years ago now and we are still seeing at least one woman a week killed in Australia by a former or current intimate partner. Last month we saw nine in one month and they are the ones we know about. There is much more that needs to be done.

I will address my mind to the bill, but this is important too in the context of the reason I will be supporting this legislation.

The article in *The Conversation* goes on -

> Research suggests that campaigns aimed at raising awareness about domestic violence, such as the federal government's Let's Stop it at the Start campaign, can increase public understanding of gendered violence and types of support available for those affected. Evidence of this can be seen in the substantial increase in calls to police and applications for domestic violence protection orders, following the roll-out of awareness campaigns in recent years.

We are definitely seeing that is the case in Tasmania; since Tasmania, in many respects, led the way with our family violence laws, we have seen many more reports. I suggest that does not mean there are more instances. In many respects, there may be, but it is hard to tell. Women are now feeling more empowered to come forward and report it - and men too, but we are talking here predominantly about women being the victims of family violence.

The article goes on -

> However, efforts to change public attitudes towards domestic violence, especially attitudes ascribing blame to victims, have been less successful. The National Community Attitudes Survey shows persistent victim-blaming attitudes in society when it comes to this issue. This is concerning because research shows a clear link between victim-blaming attitudes and the perpetration, as well as tolerance, of domestic violence.
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> …
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> Campaigns need to go beyond communicating what constitutes domestic violence in intimate relationships and where to get help.

We have done a good job communicating what family violence is. Again, Tasmania has acted proactively in this space with economic and emotional abuse and intimidation being recognised. I know that is not the case in many jurisdictions. We have been good at describing what family violence is and what constitutes family violence and where to get help.

I have recently been assisting a young woman who lives in Hobart. She came to see me as a result of her father, who is a constituent of mine, contacting me. She knows where to get help; she has accessed many avenues of help, but her life is potentially still at risk. I cannot imagine for a moment what it would be like to live in her body. She has had to create a secure room in her own home into which she can lock herself and her children to avoid being killed. Imagine living like that. Can any of us imagine what it is like living like that unless you have lived it yourself? I have not, thankfully. I cannot even begin to imagine the constant fear she lives with. She knows where to get help, she has taken measures to try to secure her safety and the safety of her children, but the fear is always there and she is always looking over her shoulder.

The article goes on, talking about the campaigns that are currently being run -

> They need to explain how and why this type of violence can affect anyone. And they need to illustrate how perpetrators control their victims and manipulate those around them.

Mr President, it is important to realise that perpetrators control their victims and also manipulate those around them. They fool others into believing they are wonderful, upstanding citizens - the perfect husband, father, partner, whatever they are.

The article goes on -

> By failing to do so, we allow domestic violence to remain an issue solely of concern to victims, making it less worthy of public concern.

I think we have moved a little further from that comment -

> A narrow focus on victim experiences and awareness creates a false and dangerous sense of security among the general public. It also perpetuates the assumption that domestic violence only impacts those who make 'poor relationship choices'.

We hear that in the community, 'Oh, she always chooses partners who beat her up. It is her fault really, she should pick blokes that will not bash her up.' You do hear it; you hear it time and time again - victim blaming; it is not okay -

> And it implies that a woman's choice in partner or her behaviour in a relationship plays a role in the domestic violence she experiences.

Again, you will hear these comments, such as if she did what most other women do, if she did not demand to go out with her girlfriends once every weekend or whatever she might be 'demanding', it would not happen to her. No, it is never okay.

The article goes on -

> Research clearly shows the behaviour of victims has little bearing on the likelihood of domestic violence in intimate relationships. Domestic violence can happen to anyone, regardless of age, race or socioeconomic status.

We know this. Sometimes I think we can risk forgetting it and putting victims of family violence into a particular box to suit our comfort levels -

> Highlighting how perpetrators manipulate their victims can be effective in bringing this to light. Perpetrators tend to be charming, manipulative and extremely skilled at image management. They are rarely openly abusive from the start. By the time their abusive behaviours become obvious, they have frequently isolated their victims and manipulated others into perceiving them as a good partner.

They are very skilled at this sort of behaviour.

The article then has a heading: 'What can we do better?' It says -

> Awareness campaigns should reinforce why domestic violence is everyone's business, not just a problem for those directly affected.

> Men play a crucial role. While men living in Australia are far less likely to be killed by an intimate partner, especially if they have never been abusive to that partner, women have a one in four chance of experiencing emotional, physical and/or sexual violence in at least one of their intimate relationships.
>
> Instead of responding to awareness campaigns with questions about why male victims are overlooked by society, men need to become a voice in this fight.

I have heard it in this place many times and I almost feel obliged myself to say, 'Oh, and men are victims too'. That is distracting and diverting from the real underlying problem that men need to be a voice in this fight and step up.

Victoria has a website called 'Respect Victoria' and I encourage members, if they have not already, to have a look. It gives some really good information about how men can play a role in addressing this. I went to the website; the home page has a great deal of information, including videos and suchlike, but it says many people are surprised to learn how prevalent family violence is in our communities. One in three women has experienced physical violence and 90 per cent of Australian women with an intellectual disability have experienced sexual abuse. I am not sure if everyone was listening then, but 90 per cent of Australian women with an intellectual disability have experienced sexual abuse. How appalling. What is wrong with us that we do not even know about it? I did not know that figure. I did not know that 90 per cent of women with an intellectual disability had been sexually abused. That is appalling and disgraceful.

One in four women and one in seven men are experiencing emotional abuse by a current or former partner. One in four women. There are more than four women in this place. At the moment, we have a number of women in the back corner there. The number of women in this Chamber at the moment - one in four - look around, it must be happening to some of us, if not a number of us. That is the statistic.

So why is this happening? I quote from the website -

> You may also be surprised to learn the main drivers of family violence are gender inequality, discrimination and marginalisation. That means things like sexist jokes, racist comments, homophobic attitudes, discrimination and financially controlling another person drive family violence. These behaviours don't necessarily make a person violent but they do create a culture that enables and supports violence. Respect Victoria acknowledges the important work of the sector in addressing this culture and reflects on the delivery of recommendations arising from the Royal Commission into Family Violence.

It is well worth going to the website, sharing it with all our friends and family and, particularly, the men in our lives. We need men to take the lead on this. We need men to stand up and call it out. I think every man - and women to some extent, but certainly every man - who has allowed a sexist, a racist, a homophobic or sexually inappropriate comment to pass without calling it out needs to look themselves in the mirror and think, 'I should have done better on that'. Stand up, call it out. Until that happens we are not going to make the progress we need. It is hard reading and challenging, but we all have a responsibility. I look at myself in the mirror and I have let things go by. You think, 'Oh I probably should not create a scene here. That person is a different generation - I suppose he thinks it is okay to say that.' No, it is not. I made a decision some time ago I would stand up and call things out. It does not always make you popular but my intention is not to be

popular, it is to try and face up and address this challenge. Some people will not like it because it shines a light on their behaviour, but we need to do it and men need to do it. Men need to do it in locker rooms at sports clubs. They need to do it in pubs. They need to do it at boardroom tables.

I was listening to a woman the other day at a women's leadership function and I heard an incredible story of a woman who is very competent and capable presenting as part of a board with international representation. A relatively young woman, she required a hysterectomy and told another member of the board the reason she had some time off was because of surgery. There was some comment made about her being not quite as lively and energetic, because she was still recovering. It takes quite a while - usually about six weeks - to recover from such surgery. One of the other men said, 'Oh, it doesn't matter. She's had an operation. She is just like one of us now.' Can you believe that was said? None of the other men sitting around the table called that out. They just, 'Ha, ha, ha', laughed about it, moved on. We are talking here about the top of the corporate world. It is everywhere - it is everywhere. Let us all take responsibility, and I call on my male colleagues, particularly, to do their bit and call it out.

Mr President, that is the reason I feel so passionate about this. Really much more work needs to be done. We have done many really great things in this space. We have focused on what it is and where the support is rather than prevention. This bill is all about dealing with it after the fact in many cases. It is not the role of legislation necessarily to deal with prevention as such, but it shines a light on the fact that family violence is not a one-off occasion, and that is an important aspect here - it often involves many different forms of abuse and violence.

In many cases, victims of family violence find it very difficult to stand up to their partner. The research is very clear that the riskiest time for a woman in terms of whether she may be killed by an intimate partner is when she decides to and then when she leaves. It is two times - when she makes the decision to leave, she becomes particularly vulnerable, and when she actually leaves, she is extremely vulnerable. When women are pregnant, their risk increases, which is odd in a way - you would think that their male partner would wish to protect them and their own baby at that time but that is not the case.

This bill is to create a new offence of persistent family violence. While, yes, many other offences fit into family violence legislation - as I said, we also have economic and emotional abuse and intimidation included in our legislation, which is a very positive step - many of these things occur concurrently and it picks up a pattern of behaviour. So a woman does not have to go and press one charge or one event, they can demonstrate abuse over a period of time and then that person can be charged under this new offence which recognises the ongoing corrosive nature of family violence.

Mr President, a person charged with this offence of an unlawful family violence act will go before the court and a judge and jury. It is a serious offence. I know the Law Society of Tasmania raised particular concern that when the definition is linked back to the Family Violence Act, because of the serious nature of the outcome of this offence, it would pick up some of what I would hesitate to call 'minor breaches' of family violence orders or police family violence orders because the orders are there for a reason. But for the purpose of this discussion about the Law Society's concerns for more minor breaches where there may have been a mutual discussion between the two parties and one asked the other to come and collect children or do something that does breach the order but there was no harm intended, there was no intention to assault the other person or to threaten or coerce them, or abuse them in some other way, economically or emotionally or to damage the property of the person when they arrive there, for example.

The Director of Public Prosecutions has a requirement in the act to consider each charge the police wish to bring under this provision, where a prosecution for an offence against this section cannot be commenced without the written authority of the DPP. We also know the DPP will prepare guidelines. We know he has a draft set of guidelines, and I thank the Leader's office for providing a copy of that. It was helpful because it did address one of the major concerns of the Law Society that where there was a breach of a family violence order, but there was no intent to perpetuate the harm, that could see someone with a very serious charge before the Supreme Court. They thought that was an overreach.

The draft guidelines are still to be consulted on and the Law Society may have comments to make on them, as will others. It is clear from what it says here that the intention is that this offence will only be considered where there is serious criminal conduct. The briefing from the DPP yesterday was also much appreciated, Leader -

> The Director will only consider consent where there are at least three occasions of serious indictable offences. Where there are allegations of assault, a determination must be made whether the matter would ordinarily be charged summarily on complaint (contrary to s35 of the Police Offences Act) or charged on indictment (contrary to s184 of the Criminal Code) [see the Assault Charging guidelines].
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> Matters that would ordinarily be charged summarily on complaint will not be relied upon as an occasion, unless there are already three occasions that amount to an indictable offence.

It is very clear from the DPP's comments that his expectation is they will be serious offences and that the consideration of the circumstances in which the offences were perpetrated will be considered.

I mentioned the article from *The Conversation* and that some of these men are particularly good at image management - and some women can do that as well. It makes it seem like there was nothing in this - 'She asked me to come around and I was just responding to her call.'

The family violence order is there for a reason. She may feel so lacking in self-confidence and so damaged by the harm she has been subjected to that she may not have the courage to say no, for fear of what else might happen.

While I respect the Law Society's view on this and I understand its concern, the legislation as it is meets the standard, particularly with the role of the DPP in that process and the draft guidelines, which I assume will not be significantly changed during the consultation process.

I accept that guidelines can be changed. They do not have a legislative power as such. They are made under the DPP's relevant legislation, so there is a legislative instrument sitting above that and they can be changed. If that were to be the case, the Law Society would probably come out strongly if it watered it down, using those terms, to an occasion where things that perhaps should not be treated as such a serious offence are being caught up in it. I am happy to proceed with that section as it is.

I note the Law Society raised as well that the bill is a bit circular in the definitions where 'family relationship has the same meaning as in the Family Violence Act 2004'. When you go to the Family Violence Act 2004, it refers you to the Relationships Act, which is a bit circular.

It is probably an Office of Parliamentary Counsel drafting style, but why not simply put it up as the Relationships Act? It means you have to look at three acts rather than two if you are trying to clarify it. If you could address that in your reply, that would be helpful.

Mrs Hiscutt - I can reply now. It is OPC's way of doing things, so it is drafting. That is just the way they do it.

Ms FORREST - I guess it is to link it clearly with the Family Violence Act. That was my assumption but I was interested in why you would not go to the act that it ultimately refers to.

The other matter raised as a concern was the issue of the extraterritorial rights. The Law Society raised some concerns about being able to prove an extraterritorial offence as being relevant in the case. I said earlier in my contribution that Tasmania has some effective and strong laws in this area. Many other countries do not have anywhere near the protection for women as we do in our country, which we can only be grateful for.

Culturally things are different. We are aware of the way women are treated in Saudi Arabia and are not respected anywhere near the way women are in Australia. It has been under the spotlight lately for a completely different reason with the murder of a Turkish journalist. In countries like that women are given very little respect and basically have no rights. An example in the media recently is they can now drive, something we have taken for granted for a very long time. It is okay for a man to rape his wife, and economically and emotionally abuse her. People say it is part of their culture. Yes, but it does not mean we should accept this when they come to Australia.

Our culture in Australia is to respect women, to treat women in high regard and to all be equal. We are not quite there yet on some fronts.

Mrs Hiscutt - I was thinking of a marriage service, the old term, 'Who presents this woman to be married to this man?' It is not law any more to ask this question, but traditionally speaking you did. It is because women were the goods and chattels of their fathers and were passed to their husbands.

Ms FORREST - It was basically a property settlement.

Mrs Hiscutt - Yes.

Ms FORREST - It was a settlement of property. Wives were the property of their husbands and it was about securing the neighbouring property. Dad says, 'You can marry that fellow because then I can take over that farm'. It was all about property and power. Thankfully those things have changed, but in some countries it is not the case.

The extraterritorial power was interesting to work through and the second reading speech was instructive in this, but also the way the bill is written - it has a protective factor, so this cannot form part of a charge for someone who is in Australia now who may have lived or holidayed overseas, if the conduct they undertook in the other country was legal there or not unlawful, which is a double negative. If it is legal in that country or is not against the law to do a certain thing, like rape your

wife, that cannot be held as one of those cases in the three occurrences of unlawful family violence acts to achieve that. That behaviour is illegal in our country. If they did it three times in our country, I understand they absolutely could be picked up under this on three separate occasions.

Usually it is not one particular offence; it is perhaps a sexual assault, but there may be some evidence of economic abuse, threats and intimidation and stalking, and all those things on different occasions can make up the charge.

We heard from the department and Chris Gunson, President of the Tasmanian Bar, and he described the protective nature well. It is easy for people from Tasmania to go on a holiday to Victoria, Queensland or anywhere else around the country and to continue to perpetrate violence against their partner, which is part of the pattern. If it is not able to be part of this, it can make it more difficult for a victim to make a claim.

The other important inclusion in this bill was the section where it is clear if, for whatever reason, a persistent family violence case cannot be prosecuted, or is put up, but then the judge and jury decide three circumstances were not met or there was some doubt about whether there were only two, not three, they do not have to agree on which particular three, it just has to be three. If the three cannot be determined as having occurred, they can prosecute on a number of other offences like assault of a pregnant woman, abduction, rape, stalking, indecent assault, wounding or causing grievous bodily harm, sexual intercourse with a person with a mental impairment, an offence under section 8 of the Family Violence Act, and an offence under section 9 of the Family Violence Act. There are sections relating to economic abuse, emotional abuse and intimidation. That is really important because if a prosecutor decides to go with persistent family violence and that is it, if they lose that and have no option to do this, all is lost. At least there is still that provision. It is a very sensible and important inclusion in the bill.

Mr President, the proving of three occasions of an offence is important. There was some discussion earlier on - and I think the Law Society might have raised this too - about the continuing impact of a long-term relationship, and this is similar to the maintaining a sexual relationship with a child provision, which is basically taken from there to there.

When I first met with the Law Society, they raised concerns that if this is about children, and it is, children have less capacity to remember events -

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Recognition of Visitors
Goodwood Primary School Students

Mr PRESIDENT - I do not want to spoil the member for Murchison's train of thought, but I would like to welcome to the Chamber the Goodwood Primary School, grades 5 and 6. Welcome to the Chamber, welcome to parliament. I hope you have had an interesting time here and continue to be interested in politics. All the best.

Members - Hear, hear.

Ms FORREST - Mr President, it was about maintaining a sexual relationship with a child and these provisions were basically taken from that.

The Law Society initially raised some concerns with me about the fact that children can have real challenges in remembering specific locations and dates, and I accept that. We are dealing with adults here, not children, but I absolutely support the notion that the victim does not have to remember exactly dates, times and locations. Victims can be taken in the dead of night to places; they can be thrown into the boot of a car; they can be in a situation where the trauma is so great that they can only remember the trauma, not the circumstances around it. They may remember specific events because they knew they had gone away on holidays or it was related to their mother's birthday party, or whatever it was, and the trauma happened after that. Sometimes they can nail specific events down to a particular time, but many times they cannot.

This is completely extraterritorial, Mr President, but the whole appointment of Judge Kavanaugh in the United States, when a key witness could not recall exactly the location, the dates, the time. She could remember certain aspects of the trauma she experienced, but she was publicly ridiculed by the President of the United States, Mr Trump, because she could not remember those details. She was discredited because she could not remember those details. Someone so extremely traumatised by a particular event often cannot remember them. I do not have any issue with that aspect of it. Unless someone has experienced a severe trauma like that, I do not think they can appreciate the difficulty people can have in actually remembering all the circumstances. If you have to prove the location and you get that wrong, the case is out of the window. If you have to prove the exact date and you get that wrong, the case is out of the window. It needs to have a decent and sensible approach and I believe this has that.

Incidentally, the Law Society did not raise that in the briefing we had with them; they raised it when I met privately with them earlier. For me, I think of Judge Kavanaugh's appointment and I think, 'No, trauma is trauma and it can have that sort of impact on people'.

Mr President, I commend the Government on taking this matter so seriously and looking to bring this more serious offence that does recognise and acknowledge the long-term nature of many incidences of family violence. It goes on and on for years, and it takes many forms. It takes great courage and often the great support of family and friends for women to come forward sometimes because their self-esteem and their self-confidence has been so eroded that they can see no other way out. Particularly when they are being economically abused, they have no financial wherewithal to get out so they rely on family, friends and women's shelters. We know there is a real challenge in accessing women's shelters in this state and that can make it even harder. We also know they are much more at risk of being killed by their partner when they make the decision to leave and when they leave.

I would like to see no more women killed at the hands of an intimate partner. Surely we have to turn it around from nine in a month. One a week is way too many. One a month is too many. One a year is too many. Let us do what we can.

[11.41 a.m.]

Mr GAFFNEY (Mersey) - Mr President, I thank the member for Murchison for her words and the Leader for the second reading speech. I thank the Leader for tabling the Family Violence Reforms Bill 2018 in the Chamber yesterday. Family violence is an area of particular concern. I look forward to ensuring that the final bill provides the best possible reforms we can offer. I am

confident that members will agree when I say that family violence is an ongoing problem and one that is difficult to resolve. I therefore welcome any attempt at reform in this area.

First, I wish to bring members' attention to some statistics that I believe illustrate the gravity of what we are here to discuss and to address the problem of violence generally. My hope is that these statistics will assist to inform our discussion regarding family violence.

The statistics are provided by the Australian Bureau of Statistics - ABS - from its Personal Safety Survey of 2016. The survey tracks violence in the Australian community by surveying individuals about their own experiences with violence. The Personal Safety Survey informs us that violence is more widespread than many of us may appreciate. For example, two in five people aged 18 and older reported they had experienced violence at some point since they had turned 15. While we have certainly achieved a lot in terms of reducing violence, we still have a long way to go. I quote -

> The proportion of Australians experiencing violence in the last 12 months has declined over the last decade, decreasing from 8.3% in 2005 to 5.4% in 2016. This decline was driven a drop in experiences of physical violence, falling from 7.5% in 2005 to 4.5% in 2016.

There has been some improvement. While this is a welcome statistic, there is more work to be done. This is particularly the case with regard to family violence. Overwhelmingly, violence is perpetrated by men. While I would not in any way discount or ignore the fact that there are male victims, ABS data indicates that violence generally, and certainly family violence, is a gendered problem. With regard to partner violence, the Personal Safety Survey reveals the following three points -

> Women were nearly three times more likely to have experienced partner violence than men, with approximately one in six women (17% or 1.6 million) and one in sixteen men (6.1% or 547,600) having experienced partner violence since the age of 15.
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> One in six women … and one in seventeen men … experienced physical violence by a partner.
>
> Women were eight times more likely to experience sexual violence by a partner than men (… 480,200 women compared to … 53,000 men).

I mentioned before that rates of violence have declined over the past decade or so. While this is good news, the ABS also informs us that for men the proportionate experience in physical violence in the last 12 months has almost halved since 2005, decreasing from 10 per cent in 2005 to 5.4 per cent in 2016. For women, the proportion has fallen from 4.7 per cent in 2005 to 3.5 per cent in 2016. Furthermore, over a shorter time period since 2012, the proportion of men experiencing physical violence in the last 12 months decreased, falling from 8.5 per cent in 2012 to 5.4 per cent in 2016. The proportion of women experiencing physical violence in the last 12 months decreased from 4.6 per cent in 2012 to 3.5 per cent in 2016.

It is disappointing that while the rate of violence against men appears to have been in rapid decline, the rate of violence against women has not followed such a steep trend. I am aware of the responsibility that we members have to provide change in this area, and such an opportunity for

change has presented itself today with this bill. My desire is not to impede change, but to ensure that any change generated by this parliament is the most useful change that we have to offer.

My fellow members recognise that family violence is a problem and that we have a responsibility not to underestimate the impacts of violence. I am also aware that not all violence can be eliminated, but I state emphatically that every instance of family violence that we fail to prevent is a tragedy in its own right.

Mr President, at this point I acknowledge the hard work of the current Government and previous governments. Tasmania is a national leader when it comes to family violence prevention, something of which we can be immensely proud.

To illustrate this point, I wish to briefly highlight two particularly significant measures. The first of these is the Family Violence Act 2004, the main objects of which are found in section 3 -

> In the administration of this Act, the safety, psychological wellbeing and interests of people affected by family violence are the paramount considerations.

The rest of the Family Violence Act is informed by these objectives. For example, perhaps the crowning achievement of this legislation is in its broad definition of family violence. This can be found in section 7.

In this Act -

family violence means -

(a) any of the following types of conduct committed by a person, directly or indirectly, against that person's spouse or partner:

(i) assault, including sexual assault;
(ii) threats, coercion, intimidation or verbal abuse;
(ii) abduction;
(iv) stalking within the meaning of section 192 of the Criminal Code;
(v) attempting or threatening to commit conduct referred to in subparagraph (i), (ii), (iii) or (iv); or

(b) any of the following:

(i) economic abuse;
(ii) emotional abuse or intimidation;
(iii) contravening an external family violence order, an interim FVO, an FVO or a PFVO; or

(c) any damage caused by a person, directly or indirectly, to any property -

(i) jointly owned by that person and his or her spouse or partner; or
(ii) owned by that person's spouse or partner; or
(iii) owned by an affected child.

I consider this approach to family violence to be holistic and progressive and I am extremely supportive of it.

The second aspect of Tasmania's approach to family violence I wish to highlight is the Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020. The key achievement here has been the adoption of an interagency approach to family violence. In the document the Premier wrote -

> Everyone has the right to live their life free from violence. Despite this, levels of family violence are disturbingly high. The impact of family violence is particularly devastating. It damages the physical and mental health of the people who experience it and it has significant short and long term negative impacts on children.
>
> The Tasmanian Government is serious about our responsibility and will prioritise the safety and wellbeing of those affected by family violence, particularly women and children. We will invest in family violence prevention and early intervention, as well as holding perpetrators to account.

Mr President, I commend the Government for continuing to follow through on this promise.

Today we are presented with an opportunity to consolidate our position as a national leader in family violence legislation. I will now briefly turn my attention to the bill itself, and thank the member for Murchison for her extensive assessment of the bill.

Mr President, clause 4 inserts a new offence into the Criminal Code. Proposed new section 170A will punish individuals who persistently commit acts of family violence - 'I empathise with the intention behind creating this new offence', the minister stated in the second reading speech.

It is often difficult for victims of family violence to recall in specific detail each individual occasion where they were subjected to a family violence offence. Victims of family violence may spend months, even years, under the control of a violent or abusive partner and be subjected to a range of offences such as assault or any serious sexual assault. This may result in victims only being able to provide general evidence, which may cause difficulties in proving individual family violence offences and can result in the number of charges being greatly reduced.

I appreciate the complexity of prosecuting family violence cases, Mr President. My approach with any legislation is to ascertain whether it achieves its stated objective.

I note that the present bill addresses problems outlined by the minister in two key ways. First, there will be no requirement under proposed section 170A that the prosecution prove where and when the alleged family violence acts occurred. Second, each member of the jury need not agree on which unlawful family violence acts constitute persistent family violence relationship.

It is understandable victims may not be able to specify the time and place each alleged family incident occurred. For this reason, I consider proposed section 170A to be a proportionate response to the problem it is designed to solve. This is especially the case in light of the statistics I provided earlier.

It is important, where a bill purports to remove certain elements of the criminal process, that we exercise some level of caution. For example, it would naturally be very difficult to establish a legal defence to a charge for an act that occurred at an unspecified time in an unspecified place. It would not be possible to give an alibi.

The offence is very broad in scope. In this regard, the Law Society said the following -

> Family violence is defined within the Family Violence Act as encompassing a broad range of conduct as a 'family violence offence'. Given that this new crime only requires 3 occasions of 'unlawful family violence', it will encompass a very broad range of conduct including what might be considered relatively minor acts such as: (i) meeting with the person to be protected in the absence of an agreed third party but by consent (ii) the myriad of breaches that come before the court which are as a result of a lack of understanding of the operative effect of the orders by both parties concerned and (iii) technical contraventions such as exercising contact with children outside of an agreed contact arrangement or order of the Family Court. The breadth of the definition of unlawful family violence makes the proposed amendments generally and the new crimes specifically, bad law.

While I share some of the concerns of the Law Society regarding to proposed section 170A, these reforms are still a necessary step towards addressing family violence.

The minister stated in the other place that the prosecution guidelines have been drafted, as discussed this morning by the member for Murchison. It would have been helpful to have had those guidelines earlier. I understand the reasons, but it should have been sent to us earlier.

I would welcome any information the Government can provide to clarify how proposed section 170A will operate.

Regarding amendments to the Criminal Code, the Law Society informed us the new offence mirrors the existing offence of maintaining a relationship with a young person in section 125A. Their concerns are that section 125A has a practical purpose because it relates to young witnesses. The Law Society states that section 125A was introduced to deal with cases involving historical matters and young witnesses, who would have difficulty articulating with precision the allegations that form the basis of a traditional indictment.

There is no compelling evidence to support placing family violence complainants into the same category; however, the trauma suffered by victims of family violence and the evidentiary issues the minister outlined provided sufficient evidentiary basis for the creation of this new offence. The Law Society also endorses the amendment to section 125A.

Family violence is a problem that impacts a large section of our community. I intend to vote in favour of the Family Violence Reforms Bill and congratulate those who have been involved in its drafting.

[11.53 a.m.]

Ms RATTRAY (McIntyre) - Mr President, I certainly appreciate both contributions made in this area. It is an area the Government has taken a serious approach to. I add my congratulations to the Government for putting the focus on this area of family violence.

I also express my thanks to all those who provided us with extensive briefings yesterday. It certainly made it much easier for me to get my head around the proposed reforms. We had a letter from the Law Society at an earlier time regarding its views, and I acknowledge they provided us with an amendment they managed to draft overnight. That was very helpful.

It has taken a little bit of advice in regard to the proposed amendment and it is not necessary to do that. I am not sure if anyone is going to put forward the Law Society's amendment to clause 4, but I will not be supporting it. I appreciate the work they did for us.

I, thankfully, have not been involved in any family violence but have supported people from time to time who have been in that situation, as anyone would. The sheer terror of hearing it, let alone being involved in it, is quite confronting when you offer support to people in that situation. I know of a lady who spoke at a couple of functions I went to through an organisation I am involved in and she moved states to get away from family violence and to protect her children. Just imagine not only having to leave your home, but probably having to leave the support network around you - your friends and your family - just to flee the situation. That in itself must have been horrific. She speaks openly about that journey to share with other people. I take my hat off to her. I have heard her speak a couple of times and you want to get up to give her a hug in the middle of her contribution, just wrap yourself around her for her bravery.

We have some wonderful people who are role models in our community for having the strength to make those changes they need to.

Mr Finch - It has always befuddled me and amazed me that children who develop in those abusive situations where they see that violence taking place then grow up with that ideation and do it themselves. You would think, because they have suffered through the experience of it, that the last thing they would do would be to perpetrate those same actions on their own partners and their own family. It always amazes me.

Ms RATTRAY - I do not have any answers for the honourable member. I am sure we all shake our heads in bewilderment at the thought that this is what occurs, and we know it does. We hear on many occasions those stories, as the member for Rosevears articulated, by interjection, that it does happen. The only thing I can offer up is perhaps they have very little contact with other families and think that is the norm and that is how family life is: that to give mum a bit of touch-up or whatever, is just pulling her into line. I have no idea.

Mr Dean - It is a learned behaviour for quite a lot of them; they have lived with it.

Ms RATTRAY - Yes. It is even difficult to talk about, isn't it? It is hard to talk about it and not feel emotional about it.

Going back to the bill, I am 100 per cent supportive of whatever I can do as a member of this House to support the process of bringing people to account for acts of family violence. I will be supporting this bill into the Committee stage and beyond. I would be astounded if it did not pass. We have an obligation to support our communities and this is one way. That is a really confronting statistic the member for Murchison provided that one in four women are victims of family violence. She is right, if you look around this Chamber, we certainly have a number of women here and we must have them in our circles and perhaps we do not even know they are victims of family violence.

This is a tool in the toolkit for addressing this terrible scourge on our society, and I fully support the bill.

[12.00 p.m.]

Mr DEAN (Windermere) - Mr President, indeed this is a very touching subject which impacts on all of us. None of us in this Chamber could say it does not impact in a bad way.

For 35 years, I worked in the area of domestic violence and was involved in some atrocious cases where some victims were beaten to a pulp - to death in some cases - and many were left with lasting injuries, many with broken bones and cuts. That is the result of domestic violence.

I recall a case at Devonport where a young lady in a relationship was assaulted and stabbed to death. That often comes back to me. That was the ultimate family violence situation, ending in death. What makes me remember that case more than many of the others, and there are many of them, is that the perpetrator was charged, but was found not guilty of the offence. I do not want to go into the background because it would take me a long time to explain, but it hurt me, the other police involved and many other people. This had a tremendous impact on a number of people.

In those earlier times, sadly, women were reluctant to report their beatings because of many reasons and that is still the case today. In many cases, they put up with domestic violence because they had nowhere else to go. They had no support and could not support themselves; they had children to care for, feed and house. They felt a certain amount of embarrassment and stigma. It was seen as a sign of weakness to take the matter on. They would only get bashed again; that was a very common response from victims - 'I cannot take it any further, I will get bashed again and I am not going to do it'. It is extremely sad.

The thought of court was also a deterrent to many of them. Many victims could not confront a court situation. They saw that as a real issue for them - having to relive the whole thing again; having to give their evidence, in many cases in front of the offender. They could not handle the situation. The process was quite horrible and belittling, not to mention the stigma, and many sadly would say to police 'I probably deserved it; I probably caused it'. I suggest they say that today - it was a common theme.

Ms Rattray - 'I probably asked for it'.

Mr DEAN - Yes, 'I probably asked for it'. The number of women who withdrew their complaints was quite high. In many instances it was done because they had made up with their partner - 'We've made up; we're right again' - but the police knew very well that in a few weeks time they would be back again with a similar complaint. It was common.

Mr Valentine - It is unbelievable, isn't it?

Mr DEAN - It is absolutely unbelievable. In some cases they clearly had been threatened to withdraw, but did not raise that because if they did not, there would be repercussions. I think that when that happens now, the courts challenge it - and I hope that they do - and want to know why the matters are not proceeded with. I think that is very important. If it does not happen, it should.

Mr Valentine - In some circumstances someone - a woman for the most part - realises that the breadwinner is about to go to jail and they think, 'I am better off having him at home than I am having him inside'.

Mr DEAN - That is one reason.

Mr Valentine - Those sorts of reasons?

Mr DEAN - That is one reason. I understand that in some cases the police or the prosecution brings the complainant in so the court has the opportunity to ask some questions if it needs to. I think that might happen. If it does not, it ought to because in my view, when a complaint has been made and it is clear from the evidence that there has been family violence, and the matter is brought to court, it ought not be allowed to be let go without some strong actions being taken.

None of us in this place could say in all honesty that we have not had a difference of opinion with our partners, our wives or husbands. We have all gone through it at some stage, but our upbringing - this was raised previously - caused us to be able to respond to that dispute in the right way, to control ourselves and the situation, and move on with our lives.

As I said by way of interjection, for many people involved in domestic violence, it is a learned behaviour. They have lived with it all their lives and have gone on to behave in a similar way. That has been a common theme in a lot of these issues.

Mr Valentine - Is that the perpetrators you are talking about?

Mr DEAN - Yes, the perpetrators. They have been brought up in a family where they have witnessed family violence, where they have seen it happening daily, weekly. Every time the father or partner has come home impacted by alcohol - and in many cases alcohol is behind it - they witnessed their mother being beaten and they have gone on to live in that way themselves.

It is an abhorrent crime, a cowardly crime, committed by offenders with no compunction at all and no concern for the victims or children, in nearly all cases. However, we should not put everybody in that position, because there are family violence cases where the offender has deeply regretted the situation. I relate a recent case in Launceston - I will not give sufficient information to identify the person - where a person came to me for some support, help or advice on where he should go. He worked in a very professional position. I probably should not identify that, but he was in a very high position in his workforce. If what he said to me was right - and I have no reason to disbelieve it - you had feelings for him, strong feelings in fact for what had happened. He said there had been a history of his partner's drinking; he came home one night and she was impacted by alcohol to some degree. She became aggressive and upset, started throwing things around in the house. He said there was evidence of that, the police could get that evidence. There were broken things in the house; he reacted and pushed her over and she received an injury as a result of that push. At the end, a police family violence order was issued against him. I am not sure where that matter is now. It was still before the courts here recently. That is one thing that can happen.

Clearly whatever we are doing - and I should say many changes have occurred in this area in an effort to reduce family violence - has not returned the results we have been seeking. Last financial year, we saw family violence figures increase from 3155 to 3385, up 230, and family arguments increased by another 161 offences. If we used the figures in the 2016-17 annual report, that would be an increase of 287 for family violence. Add them together, over this last financial year there has been an increase of more than one family violence incident each day of the year.

There comes a time when we have to challenge the statement made by police in trying to defend this position - 'The increase is probably not a bad thing because it could be more people are now

reporting family violence'. Codswallop. How long do we rely on that? This has been going on for about a decade. If you go back to when this statement was first made, it is over a long time. How long can we accept that as a possible explanation for the increase we are seeing in the number of reported matters of family violence and family arguments?

Mr Gaffney - I am interested because of your experience - aren't the police implying that this is about people not wanting to report incidents because they were embarrassed or whatever? Aren't they saying that by putting it out there, we are saying to people, 'This is reportable; you have some protection. If you are in a violent situation, please report it'? I do not think the police are saying they are pleased the numbers have gone up. I think the police are saying they are pleased people now have the confidence to report them.

Mr DEAN - You are right and I agree with that. They are saying that is probably the cause of it as well. They have not said that is 100 per cent the reason for it; it is just more reporting. I want to be fair to police on this. Making it easier and better for victims to come forward - those changes were made several years ago and, the member is right, many victims would still be learning from that. As time goes on they would feel more comfortable coming in and reporting the matters. I cannot be convinced that satisfies the increase we are seeing. That would be the case in some cases, absolutely.

While nobody wants to hear or know that family violence is not decreasing, we need to face reality: reporting over the past years identifies what is most likely an increase in this crime and that is something we cannot accept. We have to act very strongly about this. I commend the Government and I commend the previous government for the actions they have taken in this area. I am not saying governments have not taken action because they have. I am not sure we have it right yet. There is much more to do in this area and this is another way we are seeing today with this bill. We need to start by referring to domestic violence in the way it should be, and that is as a crime. It is a crime, it is not an offence to bash your partner - it is a criminal matter and that is how we should treat this.

I keep saying this about shoplifting. There is no such thing as shoplifting and nobody should refer to it as shoplifting, it is stealing - absolutely stealing. People use that term to soften it. That is exactly what they do - 'I am not a criminal, I only shoplifted'. 'I didn't steal, I only shoplifted'. It is the same thing here.

As I have said here before, I have known of serial offenders in a relationship who bash and mistreat their partners, wives, husbands - no, normally wives and female partners - many times until finally they move out, or are put out or removed from the relationship. Then they go into the next relationship and exactly the same thing occurs again. We see it happening all the time; the police see it happening time and time again. This is what this legislation is about. This legislation will hopefully be able to address many of the issues we are currently seeing.

The issue I raised yesterday was the serial offender who assaults their partner once or twice and moves on, and does the same again and moves on again. This legislation will not pick them up. As the DPP said yesterday, 'But there are other avenues', and we know there are avenues to pick this up under other legislation. It cannot be absolutely picked up under this legislation - three offences must relate to the one person and/or at least three or four on that victim, three or four on this one, three or four on this one and then it is satisfied and they could proceed under this legislation. We will, in most cases, pick up the serial offender.

I want to comment on the briefing sessions, and I thank the Government for providing those briefings and the way in which they were delivered. They were delivered openly and frankly. Questions were taken in the right way and answered in the right way by everyone who briefed us yesterday, which I appreciate.

I hear what the Law Society is saying but I do not necessarily accept their position. I made that fairly clear in the briefing yesterday. When we look at this, who is best to know what is required to provide improved protection to would-be victims if it is not the Department of Justice, the police, and the other bodies who have a direct involvement in sorting out these bloody and violent situations, sometimes several times in each day.

As I said earlier, police in this state are having to deal with over nine family violence/family issues per day. That is what they have to deal with. That is a lot of family violence issues. If not all incidents are being reported and if police are right in what they are saying, it is not more offences being committed, it is simply more reports being made. We can probably say there are probably 15, 20 or more occurring daily. That is a harsh situation to have to live with and understand. Families and kids are involved in many of these relationships and they suffer as much, if not more, than the direct victim.

The Law Society referred to offences committed in other jurisdictions and other countries. There was much discussion on this in the briefing yesterday. I do not accept their position on that. It is interesting that we were told later in the government briefing that the Law Society had originally supported that. As was said yesterday, they can certainly change their mind. No doubt they have looked at it more closely. It was clear from the evidence and from the section in the bill that relates to this very area, that proposed section 170A(6)(a) covers this very well. Chris Gunson from the Tasmanian Bar said words to the effect that this was good legislation and it covered many areas and angles.

As was made clear yesterday, the conduct relied on in another country must have been an offence in that country as well as constituting an offence in this state if it is being relied on. In some Arabic countries pushing and assaulting women is condoned. In that instance, a situation like that could not be accepted here as forming part of an offence in this state under this legislation.

Mr Valentine - Doesn't there only have to be one offence in Tasmania?

Mr DEAN - There has to be one offence in Tasmania, sure.

The situation involving retrospectivity was covered well by the DPP. The DPP's position is very strongly that there is no retrospectivity with this legislation. The offence must have been an offence capable of being charged in that other country or other state. He clarified that sufficiently for me to accept that retrospectivity, as put forward by the Law Society, is not quite right.

The Law Society gave us an example I would challenge them on, where parents had taken out a family violence order against their son. Later, there had been contact with the son because he did not have anywhere to stay on a particular night, and the parents allowed him to come home and stay in the family home.

Mr Valentine - I think it was actually the parents who stayed with their son.

Mr DEAN - Was it? Right. To put that up as a minor offence, I cannot accept that. If parents are so impacted, frightened or whatever it was that they take out a family violence order against their son, it has to be a serious situation. No parent is going to do that unless it was absolutely necessary to try to get some control.

That situation could not be classified as a minor offence. It was a serious offence, and if they aided that offence, they ought to suffer the consequences of the law. An example was given by the member for Hobart where the police were involved in a situation where there could have been a breach. Obviously, if the member says the police acted in that situation irresponsibly, I have no reason to dispute that, and, in my view, they did not act responsibly.

Chris Gunson from the Tasmanian Bar said, 'There is no such thing as a minor breach'. He was very clear. He was also very clear on the fact the legislation was good legislation. Clearly, he and his colleagues in the Tasmanian Bar have looked at this legislation closely and are of the view it is good, necessary legislation that will do a lot of good in this state.

Much discretion in this bill is given both to the police and the DPP, and that discretion will always be acted upon appropriately and carefully.

Chris Gunson made another good point where - I think I also raised it - it would be difficult to prove an offence in another country. It would not be an easy thing to occur, but, as Mr Gunson said, because a matter might be hard to prove, is no reason not to support the legislation. He is absolutely right. You can never take that into account if you were thinking of not supporting this legislation, but without doubt this bill will have unanimous support. I do not think there is any doubt.

There was some talk about the guidelines we were issued. Mr Gunson, or somebody, commented yesterday about the fact that guidelines can be ignored. We do not have to comply with guidelines and it is not legislated information or detail. As I have often said in this place, the same with policy - it is not legislated. The police have very strong policy conditions and laws, but it not unusual to act outside of the policy. There were many occasions where I acted outside of the policy, but in those situations you are required to explain why you did not act within the guidelines set by the police department. I suspect the same would happen here. If it were necessary to move outside of these guidelines, an explanation would be provided in most cases.

I raised a matter with the DPP that has been mentioned by the member for Murchison and other members - there must be three separate occasions of family violence offences. The DPP said yesterday that those incidences would need to be separated by at least a day. He said that if the three instances happened on the one day - one in the morning, one in the afternoon and one in the evening - it would not be sufficient for him to accept the three separate occasions. I understand that in a lot of domestic violence matters, violence can go on over 24 hours. There is continual heckling by offender, a male in most cases, pushing and all of that, and this can go on and on until such time as one or the other leaves the home. I understand why the DPP would take that position, but I would challenge that scenario on occasion. For example, an assault occurs; the offender then goes off to the pub, has some more booze or whatever, comes back and assaults the partner again. He goes off again and comes back, and this can happen for hours. I suspect the DPP would look very closely at that. Considering his statement on that, I suspect he would look very closely at the circumstances being brought forward.

I asked a question on the police feedback. We were given information on that from the Government, and I thank them for that because I did not contact the police, which I should have done. I understand the police were content with the way the legislation is in this situation.

I thank members responsible for putting this legislation together. A good deal of work has gone into it. We were told two states - was it New South Wales and Queensland or Western Australia? - have this or very similar, legislation in place. I thank the Government for bringing this legislation forward. To get a unanimous position on this type or legislation is unusual to some extent but I think that will occur - I think it will have unanimous support; I hope so. I will support the motion.

[12.31 p.m.]

Mr VALENTINE (Hobart) - Mr President, I again thank the Leader for the briefings. As always, they were very informative. These briefings allow members to have the information they need to deal with matters that are important to the community, matters that go forward to the courts. I thank the Law Society, the Tasmanian Bar and also the DPP for briefing us.

I will read from a government website, Disability, Child, Youth and Family Services, which describes what family violence is -

> You could be experiencing family violence if your partner is criticising, humiliating and insulting you, calling you names; stopping you or making it difficult for you to see friends and relatives; depriving you of basic necessities, such as money, food and shelter; making you have sex against your will; frightening you by damaging your house, furniture and other possessions; harming or threatening to harm your pets; threatening to hurt you; shaking, pushing or shoving you; denying you access to ceremonies, land or family or preventing you from practising your beliefs; slapping, kicking or punching you; using weapons, such as knives, to threaten you; threatening to call and have your visa revoked or criticising your cultural background; checking your letters, emails and phone calls; undermining your parenting.

If you go back through your own life, there are times - I have been married coming up to 46 years -

Ms Rattray - Congratulations, well done.

Mr VALENTINE - If I look at my own behaviour over that time, there may well be times when I think to myself, 'That was a bit threatening'. Was that something that could be considered to be a bit of violence? We probably all sail close to the wind at some point. It behoves us to read this list I have read out and make sure we understand what domestic violence is and encourage other people to be aware of their behaviour. We may have displayed sexism in some way, shape or form. We learn as we go and society learns as it goes.

Legislation like this helps to raise the profile of what is a very significant issue. There are minor occurrences, but a number of minor occurrences may be an indicator of something more sinister going on in the background. While we were talking during the briefings it was raised that even someone texting 'I love you' might seem innocuous enough and endearing, but that actually depends on what has gone on before and what the partner has experienced from the perpetrator. It can be a look across a room; it can be -

Ms Rattray - A gesture.

Mr VALENTINE - a gesture that someone might make that carries with it some of what I read out - intimidation. There are many forms of family violence and we have to be aware of it. I read that out just to show that quite a broad area of activity can constitute family violence.

The Law Society had an issue with the breadth of the definition of 'unlawful family violence' and also with 'significant relationship'. Although the term 'significant relationship' and its definition have been around since about 2005, if I recall, they thought that the law was a bad law because they were concerned it could lead to three minor offences that could lead to a new charge. They were basically saying that good legislation is clear and unambiguous. The difficulty is that unfortunately family violence is not always so clear and unambiguous. It is an issue where people can be suffering family violence through what appears to be minor offences, but it is much more than that.

The Tasmanian Bar and the DPP had an opposing view to the Law Society on that. The DPP said they have the discretion to include the various aspects of family violence contained in the suggested amendments provided by the Law Society. As the member for Windermere said, the DPP also puts out guidelines, which I would like to read to the House. They are not in the act and it would be difficult to put them in and maintain them because they are guidelines, but some components of the guidelines are -

> Types of offences
>
> This offence will only be considered where there is serious criminal conduct. The Director will only consider consent where there are at least three occasions of serious indictable offences. Where there are allegations of assault, a determination must be made whether the matter would ordinarily be charged summarily on complaint (contrary to s35 of the Police Offences Act) or charged on indictment (contrary to s184 of the Criminal Code).

It refers to the assault charging guidelines -

> Matters that would ordinarily be charged summarily on complaint will not be relied upon as an occasion unless there are already three occasions that amount to an indictable offence.
>
> Period of offending
>
> Acts which occur within the same event or occurrence will not be relied upon as constituting separate occasions. There must be 3 separate occasions of family violence offences.

It goes on to talk about *Bellemore v Tasmania 2006* and Justice Slicer's determinations. It then talks about time limitations. This crime does not extend the time limits for family violence offences that may be imposed by any other act.

The guidelines provide some advice to Tasmania Police on charging -

> At the time of charging, all family violence related charges should be included on the one complaint. A plea should be entered to the indictable offences and all

> associated charges should be adjourned sine die pending the outcome of the indictable offence.
>
> The file will be reviewed by the DPP to determine if a charge of persistent family violence will be authorised; and there is any tendency or relationship evidence and, where there is a course of conduct, that all matters (where possible) are dealt with in the one trial and/or hearing to avoid the complainant having to give evidence on multiple occasions.

Quite clearly those draft guidelines exist in the background to all of this, which certainly gave me a great deal of comfort in how things may be dealt with.

The DPP said they have discretion to include the various aspects of family violence contained in the suggested amendments. The DPP also explained that it is not retrospective, a concern the member for Windermere touched on. These offences would already have occurred except for the one being charged within the state - at least one of the three has to be within the state; the Leader may correct me if that is wrong - therefore, it is not retrospective.

The Tasmanian Bar said a great deal of protection was built in and that a series of non-indictable offences can have a devastating effect. The DPP made a fair point that there are not enough resources to deal with minor matters so it would only deal with serious offences.

Yes, DPP is government prosecution, and one may say it is all right for the system to have these views, but how does that assist somebody trying to defend the offences? These offences are going before a judge. We trust judges to do all sorts of things. They are the eminent people put into positions of trust; one can expect that if a judge thought the evidence was not there, they would not lay the charges.

While they might find that the three charges may not be able to be proven, a component in this bill allows for any one of the offences that may be able to be proven so that they can be convicted on one of those three charges if the other one or two does not get up. We have to make sure we understand that with this legislation.

Mrs Hiscutt - Mr President, I can confirm that now, that is correct, what you are saying.

Mr VALENTINE - Thank you. When we pass legislation like this, we have to be sure we are being fair to all parties. Just because somebody appears in a court does not mean they are guilty. They have to have the capacity to be able to defend themselves.

People go through a number of hurdles or steps in the process of being charged and having to defend their position. It concerns me that every time you go into something like this, you have to have legal representation, which is not a cheap exercise. This bill provides the opportunity for Legal Aid to be provided. That is important because no system is perfect; not only that, there are occasions where people can be set up in an effort to frustrate them. Someone who wants to get back at somebody else - it is not impossible for people to be set up to breach. It is important that anyone going through the system gets the opportunity to have proper legal representation so having Legal Aid built in here is a very important component.

My issue is whether - and this is something for the Government to comment on; the Leader may wish to apprise me of this - Legal Aid is going to get extra resources to deal with the outflow

of this particular bill? If it becomes an act, no doubt there could be a significant draw on Legal Aid funding, and they are doing it tough enough as it is. They do not deal with matrimonial cases et cetera, but in these sorts of instances, quite a lot of resources could be required to be provided by Legal Aid. One hopes that if we are building them into a bill like this, we will provide the resources necessary for them to undertake this role effectively without impacting on the work they already do. I am interested in hearing what the case may be in this regard.

Under this bill members of a jury will not have to agree on which three offences make up the charge of persistent family violence. That was recommended by the royal commission, we are told, and it is to be Australia-wide, but perhaps the Leader could clarify exactly which states have put this in place at the moment. A number of charges might have been laid and three charges are what is expected to prove persistent family violence. Each member of a 12-member jury may have a different understanding of which of the, say, six or 10 charges, make up the three charges that constituent the persistent family violence charge. That will be up to the judge to decide; the jury does not have to come out with that. Some people might say that is a bit unfair, but no-one is contesting these are not offences that can make up that charge; it is just that getting 12 people to agree on that will be a pretty difficult circumstance.

Ms Forrest - They all have to agree that three occurred; they are not the same three.

Mr VALENTINE - No, it is not the same three, and that is what I am saying - it is not going to be so easy to get 12 people to agree on the same three. Some people might think that is not just, but I believe that is where the judge comes in.

I have already stated that should the persistent family violence charge fail, it does not mean that other charges included in the three offences - like rape, assault, abduction, or whatever those charges might happen to be - cannot be dealt with separately,.

The member for Windermere's point with regard to the parents and the son, is that a family violence order was placed between the son and his parents. I think the son might have had some drug issues. They were to be kept apart for a time, but the parents had fallen on hard times and they approached the son to live with him. I think that is the way it was. The son had compassion on them and brought them in, but they actually breached the family violence order. It was a sad circumstance.

It was a tough one for me that those definitions of three minor offences could have led to this, but I am satisfied, given the information from the Bar and the DPP, they would not be minor offences, and given the guidelines. It said, 'where there are at least three occasions of serious indictable offences'.

I will leave it at that and will listen to other members' contributions.

[12.50 p.m.]

Ms HOWLETT (Prosser) - Mr President, how family violence is dealt with in society is changing. It is now front and centre and governments are committed to addressing this serious issue. At the forefront is the Tasmanian Government with our nation-leading Family Violence Action Plan. This Government has invested significantly in prevention and early intervention to hold perpetrators to account.

The action plan recognises the need for government to take a coordinated approach to responding to family violence with focus placed on a number of priority areas. One of the areas we are debating today is a need to strengthen legal responses to family violence.

This bill does that. In creating the new crime of persistent family violence, we are recognising the impact family violence has on its victims. Family violence offences can occur over a lengthy period of time. Victims can spend months, even years, under the control of violent abusive partners and can be the victim of a range of offences.

Such offending can go unreported for some time, with victims too scared to speak out. Significantly family violence can have short-term and long-term physical, emotional, psychological and financial effects. The impact on victims can be devastating and long-lasting. It is entirely appropriate such offending can be covered by a course of conduct crimes such as persistent family violence. Rather than dealing with individual acts in isolation, this nation-leading new offence will allow courts to take into account the full extent of an abusive relationship.

As the Tasmania Bar said when providing support for this bill, this crime will appropriately reflect the gravity of the criminality engaged in by the perpetrators of persistent family violence. Community Legal Centres Tasmania echoed this view, noting such a crime recognises family violence often takes place over a prolonged period of time.

As Engender Equality said in supporting this new crime, the new crime validates that family violence can occur over a long time. They went on to say such a reform could recognise the nature of family violence and its adverse effects on victims. The sad fact is most family violence is cyclical in nature.

In commending the Government for the creation of the crime of persistent family violence White Ribbon Australia noted 54.4 per cent of women who reported family violence from a current partner experienced more than one incident of it. Troublingly, White Ribbon also observed only 9 per cent of these women sought help from police.

That is why a coordinated approach is so important and why our action plan is committed to extending support to families affected by family violence to link them with the services and support they need. As the lower House observed, there is a need to change the ways in which cases are dealt with by the justice system. This new crime does that.

[12.55 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I thank the Government for the very informative briefings we have had on this bill. I will make a short contribution because I believe much of the information has been covered by other members. I thank particularly the member for Murchison for the information she provided. The member for Windermere and I have shared at least one constituent who has come to us from the other side of the family violence spectrum. It is certainly not an easy situation when you are confronted with these cases.

An Australian website called Our Watch goes a little further into some of the facts and figures of family violence. It points out that this significant social problem is ultimately preventable. It is one of these crimes that do not have to happen. To prevent violence against women, we first need to understand it. That is a fairly important fact. While it may not happen to us, it is happening to other people, and we probably live in a bit of bubble sometimes. If it is not happening to us and it is not happening to people we know, it is only when we come across it that we realise the situation

and how difficult it can be for many people. I am sure many members here have been to women's shelters and seen the situations there: the women live in fear because they have escaped to the shelter with their children; they are almost living in a commune when you see where they are. It is also not disclosed where the women's shelters are; it has to be kept secret because when husbands or partners are remorseful - as mentioned by the member for Windermere - on many occasions the women are very forgiving because they want their life back, they want their family back and they want to hope that person is not going to hurt them again. You can understand them feeling that way.

But the key facts on this site are: on average, one woman a week - as mentioned by the member for Murchison - is murdered by her current or former partner. One in three Australian women has experienced physical violence since the age of 15. One in five Australian women has experienced sexual violence, and one in six Australian women has experienced physical or sexual violence by a current or former partner. One in four Australian women has experienced emotional abuse by a current or former partner. Australian women are nearly three times likelier than men to experience violence from an intimate partner. I think we need to recognise as well that violence can take many forms, including intimidation; it might not always be physical. A lot of abuse is not physical and cannot be seen. I think probably one of the hardest forms of abuse to recognise is when someone does not show obvious signs of abuse - bruising or broken bones - but it is emotional, economical or psychological abuse, and I would imagine it is just as difficult to prove as other forms.

I appreciate the fact sheet provided - that was really good, Leader - and also the briefings. The briefings are great. While I tend to listen and other people ask the questions I would have asked, it is informative and certainly helps us to form an opinion when we are dealing with something like this. I also appreciate the comments made by the member for Hobart. It is good hearing other people's contributions. Even though you are sure you are going to support the bill, it is good to get a bit more foundation when you are listening; you suddenly realise that some of the things you might not have thought are very pertinent to the bill at hand. I thank the Government for the briefings, and I certainly will be supporting the bill.

[12.59 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank all members for their contributions and those who are thinking about this. Domestic violence is a scourge on our society. I thank everyone for their input to this and I have quite a few answers.

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

QUESTIONS

Homelessness - Young People

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

[2.33 p.m.]

Young people are the fastest growing cohort of homeless people in Tasmania. Over half of all people seeking assistance from homelessness services last year were under the age of 25 years, and less than 0.5 per cent of public housing tenancies are held by young people.

Given that young people are disproportionately represented in the state's homeless population, why has a greater investment not been made by the Tasmanian Government in appropriate and affordable housing options for young people?

Will a greater proportion of initiatives address the needs of young people in the Affordable Housing Action Plan stage 2?

ANSWER

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

There is no doubt that homelessness, particularly for our young people, is a complex problem. That is why the Government is investing in services and accommodation options that address unmet demand as well as measures to help prevent future youth homelessness.

We are listening to young people and what they need, and taking action to improve their lives. Our affordable housing strategy and action plan includes a range of actions targeting young people who are homeless or at risk of homelessness in each region of the state.

Under Tasmania's Affordable Housing Action Plan 2015-2019, we are taking action to tackle these issues and these include:

- Trinity Hill youth supported accommodation facility, which provides 46 units for young people between 16 and 24 years of age, including six people living with disability;

- Eveline House at Devonport, a youth supported accommodation facility, provides 25 units for young people between 16 to 24 years of age, including five people living with disabilities.

- Colville Place facility provides nine units of accommodation and support for vulnerable young people between 12 and 15 years of age.

- Six new youth castles have been delivered to young people to transition to independence while maintaining links with their families.

- Nine backyard units of accommodation will be provided specifically for young people leaving out-of-home care by June 2019.

We remain committed to improving the outcomes for all young people at risk in Tasmania. Youth at risk require collaborative intervention across government and non-government service sectors to identify risk and intervene earlier in the lives of vulnerable young people. That is why this year's budget included additional funding for our Youth at Risk Strategy, including individualised case management. We are extending out-of-home care up to the age of 21 to support young people transitioning from out-of-home care when they are ready to do so, not just because they turn 18.

Consultation for the next Affordable Housing Action Plan 2019-23 has commenced and young people remain a vulnerable cohort identified in our consultation process. We know much more needs to be done and we will continue to do everything possible to ensure every Tasmanian has a roof over their head, especially our young people.

Shooting Industry Foundation of Australia - Meetings with Former Minister

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

[2.37 p.m.]

During the last term of the Hodgman Liberal Government 2014 to March 2018 -

(1) Did the then minister for Police, Fire and Emergency Services, Rene Hidding MP, have any meetings or communications with any representatives, members or lobbyists of the Shooting Industry Foundation of Australia? If so, when and where were those meetings held? What written or digital communication with SIFA occurred to and from SIFA?

(2) Did Mr Hidding, the Liberal Party or any other Liberal candidate receive any funding at all or in-kind support towards the 2018 election campaign and, if so, how much?

(3) Did SIFA fund any advertising promoting support for the Liberal Party or Liberal candidates leading into the 2018 election? If so, what advertising or promotional material was funded?

ANSWER

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

(1) I am advised the former minister met with representatives of the Tasmanian Deer Advisory Committee - TDAC - and the executive officer of SIFA at the request of the Deer Advisory Committee. The executive officer had commenced in the role after formerly being a regular provider of member representation to successive Tasmanian governments, including Labor and Labor-Greens governments, as a representative of Field and Game Australia. The minister agreed to the executive officer accompanying TDAC to meetings of the consultative committee.

Consultative committee meetings occurred throughout 2017 in Hobart. Following the 2015 amendments to the Firearms Act 1996, which included the Government strengthening firearm storage requirements, the Firearms Consultative Committee was reconvened to deal with the agreement by the Council of Australian Governments - COAG - to re-categorise one firearm, the Adler. Given this requirement to amend the act again, the consultative group was requested to provide advice on any other legislative issues important to their members that could be considered by the Government when developing legislation. The consultative group included game, target, sporting and primary industries representatives to ensure a full cross-section of stakeholder input.

(2) and (3)

This is a matter for the Tasmanian Division of the Liberal Party which discloses donations received in accordance with the Australian Electoral Commission requirements that apply to political candidates and parties.

Shooting Industry Foundation of Australia - Meetings with Former Minister

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

[2.39 p.m.]

Mr President, I was careful to make this question very clear and the question was -

(1) Did the then minister for Police, Fire and Emergency Services, Rene Hidding MP, have any meetings or communication with any representatives, members or lobbyists of the Shooting Industry Foundation of Australia?

What I heard was about the consultative committee and we know what they were established for and the purpose of them. I was asking for particular communications between the minister and SIFA, and that was not addressed. I will resubmit the question, but I do not know how I can make it any clearer.

International Live Animal Exports

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

[2.40 p.m.]

This is more in the federal arena, but my question is to the Leader. Given the degree of public interest in the export and processing of live animals offshore, sparked by events over a number of years now that have shone a light on some of the deplorable conditions animals have been caused to endure, both during the voyage and at processing facilities, can the Government please update the Chamber on any engagement it has had with the Australian Government on this issue and details of any current work being undertaken as a result of such engagement or that the Government may indeed already be undertaking through consultation with other bodies or parties to prevent the suffering of Tasmanian animals?

ANSWER

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

The recently highlighted welfare issues with international live exports, while concerning, are a national matter that falls under Commonwealth jurisdiction. International live sheep exports direct from Tasmania ended in 2005. Federal minister Mr Littleproud instigated immediate reviews into the Middle East live sheep trade, relevant standards and regulatory culture and also put in place a whistleblower hotline.

The minister, Mr Littleproud, has taken appropriate action supporting reforms arising from the first McCarthy review. This issue should not be compared to the regular transport across the Bass Strait highway connecting Tasmanian farmers to mainland suppliers and markets. Transporting of livestock across Bass Strait has been a normal practice for our farmers and agricultural industry for decades. Mandatory standards in the Tasmanian Animal Welfare (Land Transport of Livestock) Regulations 2013 apply to livestock transport in vehicles or containers loaded aboard a vessel

crossing Bass Strait. These regulations are based on the standards of the nationally agreed Australian Animal Welfare Standards and Guidelines - Land Transport of Livestock.

There are also requirements under Commonwealth legislation relating to the sea transport of animals, namely Marine Order 43, under the Navigation Act 2012. For livestock deck-loaded onto vessels to cross Bass Strait - that is, they are not in a vehicle or container - the Animal Welfare Guidelines - Transport of Livestock Across Bass Strait, approved under the Animal Welfare Act 1993, set out the conditions for management of those particular livestock.

National Youth Week

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

[2.43 p.m.]

Youth Week Tasmania builds upon the success of National Youth Week which ended in 2017. Youth Week Tasmania celebrates the positive contribution young people make to the Tasmanian community while showcasing their many talents and skills. It provides an opportunity for young people to share their ideas, raise issues of concern, have fun and celebrate being a young person in Tasmania.

No announcements have been made by the Tasmanian Government in relation to ongoing funding for Youth Week Tasmania. Given that the state Government has allocated $106 000 per year over the next four years to fund Seniors Week, will Youth Week Tasmania receive a similar commitment in next year's budget?

ANSWER

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

The Government is a strong supporter of Tasmanian youth, which is why it has allocated $787 976 over the next three financial years to the Youth Network of Tasmania. Funding for YNOT is reflected in the forward Estimates. The funding includes a grants program to organisations to support Youth Week Tasmania events and funding for YNOT to administer and promote Youth Week Tasmania on behalf of the Government. The project funding to YNOT is in addition to its new peak body funding of $110 000 per annum.

In 2018, funding for Youth Week Tasmania included a grants program of $22 750 to organisations to support Youth Week Tasmania 2018 events. Under the program, 13 grants of up to $2000 were awarded. In 2019, Youth Week Tasmania will again be a celebration that recognises the value of all young Tasmanians aged 12 to 25 and will run from 10 to 17 April 2019. The Youth Week grants program for 2019 will support local government, community organisations and schools to develop and deliver innovative events and activities during Youth Week Tasmania 2019. The Youth Week Tasmania 2019 grants program will again offer grants of up to $2000 to support Youth Week Tasmania events or activities. The guidelines and application forms for the Youth Week Tasmania 2019 grants program are available at www.communities.tas.gov.au/csr or by email to csrgrants@communities.tas.gov.au, or telephone on 1800 204 224. Applications must be received by close of business on 22 November 2018.

Pistol Clubs - Changes to Licensing

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

[2.46 p.m.]

The new manager of Firearms Services, Kerry Shepherd, in August 2018, forwarded a club newsletter to pistol clubs setting out changed procedure regarding licensing conditions and including areas of conflict of interest issues and other matters.

It is a four-page document outlining these changes. I am advised there was no consultation with stakeholders. Will the Leader please advise -

(1) What consultation has been undertaken with the clubs in receipt of this document?

(2) If none, why not?

(3) If none, is it proposed to meet with the clubs to explain the points/requirements as referred to within the document? A number of clubs are concerned about that.

ANSWER

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

In light of the fact that we have quite a few questions today and the length of this answer, I seek leave to table the answer and have it incorporated into *Hansard*.

Leave granted.

Club newsletters are a means of communication that have been utilised by Firearms Services in Tasmania Police for many years, to keep clubs informed and to highlight issues that might help the clubs' membership.

The August edition provided advice about:

- The introduction of SMS and email reminders, encouraging club members to provide mobile phone numbers and email addresses to Firearms Services in order to reduce the number of licences that expire due to licence holders changing their postal address.

- How to complete a permit application in order to avoid delays with processing.

- The nature of conflict of interest in clubs and how that conflict can be avoided. The summarised approach to dealing with conflict of interest was not a mandated requirement, it is an example of sharing information provided to other clubs that have asked for advice on how to deal with conflict of interest. Many clubs have advised that they found the content useful, in other cases clubs may have a different way of avoiding conflict of interest situations.

- Legislation changes that affect minors permits and storage requirements, both of which have previously been well publicised and are well understood by most clubs.

- Provision of club membership lists in order to reduce delays in processing applications from their members. Most clubs are well attuned to providing these lists and invariably the newsletter prompts those that are new to roles in committees into action.

- Inexperienced/unlicensed persons at a range and the requirement that the person be properly supervised for safety reasons.

- Exchange of information form requirements are well established and allow for information to be exchanged where it is believed that actions of a member or expelled member indicate that the person may no longer be suitable to retain a firearms licence. Information is periodically received from clubs highlighting mental health or physical capability concerns with their members. This results in the review and sometimes suspension of a licence.

- Participation rate record cards for pistol club members. This item of the newsletter highlighted the requirement for category H licence holders wishing to retain this form of licence to complete the mandatory number of participation shoots and to report this information to Firearms Services. The item highlighted that the requirement exists irrespective of whether the licence holder was the registered owner of a pistol. This aligns with the conditions placed on approvals for clubs and with the National Firearms Agreement. However, feedback from clubs on the requirement for non-pistol owners to complete mandatory shoots in order to continue to hold category H endorsement has highlighted that this would present many challenges to clubs and would be a significant change to currently understood requirements. On that basis, a decision has been made to postpone enforcement of the requirement pending the outcomes of the House of Assembly Select Committee on Firearms Legislation and Policy.

- It is important to highlight that while the requirement for non-pistol owners to complete mandatory participation shoots has been postponed indefinitely, the requirements for pistol owners has not changed and will continue to be enforced.

Firearms Services is always open to dialogue with club committees and appreciates feedback from clubs about ways to improve service delivery.

Firearms Policy - Letter to Stakeholders

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

[2.47 p.m.]

Regarding the letter sent to stakeholders on 9 February 2018 by the then minister for Police, Fire and Emergency Services, the Hon. Rene Hidding MP, in relation to proposed changes to the existing firearms policy, can the Leader please provide a comprehensive list of the stakeholders who were sent this letter, and please advise how the stakeholder list was determined?

ANSWER

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

I am advised that the former minister for Police, Fire and Emergency Services, Mr Rene Hidding, developed the policy after much consultation through the Tasmanian Firearms Consultative Committee. The policy was sent to the consultative committee on 9 February 2018. In sending the policy to the consultative committee, there were no restrictions on its distribution and no embargo. Each member of the committee, which comprised multiple groups, was able to distribute it broadly and do with it as they wanted.

At least one of the groups represented, the Sporting Shooters Association of Australia, published the policy in full on its website on 14 February 2018. The Shooters, Fishers and Farmers Party put out a public media release about the policy on 20 February 2018.

The membership of the consultative committee was as follows: John Green, Arms Collectors Guild of Tasmania; Cheryl Arnol, Australian Clay Target Association; Wayne Johnston, Tasmanian Farmers and Graziers Association; Andrew Judd, Sporting Shooters Association of Australia, Tasmanian president; Don Riddell, SSAA, Tasmanian senior vice president; Andrew Winwood, Tasmanian Deer Advisory Committee; Richard Webb, firearms dealer, Tasmania; Craig Moore, Van Diemen Pistol Club; Peter Darke, Tasmanian Field and Game Association; Alistair Shephard, a firearms dealer; and Rod Drew, Shooting Industry Foundation of Australia.

State Service Employees - Appeal Rights

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

[2.49 p.m.]

Statutory rights of appeal are common in industrial relations and judicial systems. Appeals provide an avenue to review and correct erroneous decisions. They are a fundamental tenet of any just and fair administrative or judicial system. Under the Industrial Relations Act 1984, if an order is made regarding unfair termination or workplace entitlement, the employer has a right to appeal. If an order is not made, commonly because the employee's case is dismissed, the employee does not have a right to appeal. This results in an inequitable system providing limited accountability for review of decisions made. This is certainly not in the public interest.

Is the current Government aware that Tasmania's Industrial Relations Act 1984 does not provide any appeal rights to a State Service employee whose application regarding unfair termination or a workplace entitlement is dismissed by a commissioner of the Tasmanian Industrial Commission? Given this inequity, as well as the potential for injustice flowing from an inability to appeal erroneous decisions, can the Government undertake to promptly amend the Industrial Relations Act 1984 to remedy this obvious defect and make all decisions relating to disputes brought under section 29 of the Industrial Relations Act capable of appeal?

ANSWER

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

Part VI of the Industrial Relations Act 1984 deals with appeals. In particular, section 70 of the act deals with the right of appeal against a decision relating to award or an order from an industrial dispute relating to mode, terms and conditions of employment, breach of award and termination of employment.

In cases of termination of employment, employees have a right to appeal to the Tasmanian Industrial Commission. A commissioner is required to consider first a number of factors as set out in the legislation as to whether a termination is unfair.

If the termination is found to be unfair, the commissioner may then determine whether to make an order, be that for reinstatement, re-employment or compensation if considered appropriate.

It is only if an order is made that the decision then becomes one capable of appeal. Therefore in circumstances of an unfair termination matter where no order is made by a commissioner, there is no further right to an appeal.

This was confirmed in the decision of the Full Court of the Supreme Court in *Bennett v Minister administering the State Service Act 2000*. Section 70(1A) of the act sets out the basis upon which the Full Bench must consider to uphold any appeal, that is where the original decision by the commissioner made a legal error, or acted on a wrong principle, or gave weight to an irrelevant matter, or gave insufficient weight to a relevant matter, or made a mistake as to the facts, or the decision was plainly unreasonable or unjust.

As in any other industrial relations and judicial systems, appeals are usually reserved for matters where it is demonstrated that there are significant errors of fact or law and it is in the public interest to do so. It should be noted that since its inception in 1984, the act has had a major purpose change with its scope now limited to State Service and Crown prerogative employees only.

It previously covered both state servants and private sector employees. However, following federal changes this scope was removed.

Tasmanian Youth Conference - Ongoing Funding

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

[2.53 p.m.]

The Tasmanian Youth Conference is the only conference of its kind in Tasmania and is open to all young people and youth sector workers. There is an incredibly high demand from the Tasmanian youth sector for workforce development opportunities. Adolescence is a dynamic period with significant developmental changes taking place, including physical, psychological, cognitive, emotional and social change. The youth sector workforce tackles a spectrum of complex issues when working with young people during this period and needs contemporary, relevant, professional development opportunities to enhance and inform their work.

Given the success of the Tasmanian Youth Conference and the high demand from the youth sector workforce for professional development opportunities, will the Tasmanian Government commit to ongoing funding for the Tasmanian Youth Conference?

ANSWER

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

The Government is a major supporter of the Youth Network of Tasmania. In 2015 it provided YNOT with $40 000 to deliver two Tasmanian youth conferences. The first occurred in 2015 and the second in 2017.

To continue to support YNOT in its important role in advocating for young people and the youth sector workforce, the Government is now providing YNOT with additional funding of $20 000 per annum, with an increase from $90 000 per annum in recurrent funding in 2017-18 to $110 000 per annum from 2018-19, with indexation of 2.25 per cent also to apply for the first time from 2019-20.

Additionally, the Government is providing YNOT with recurrent annual project funding of $150 165 per annum to help support and represent the interests of young people and the youth sector workforce.

This includes funding for the now annual Tasmanian Youth Forum to inform youth participation, policy, initiatives and service development. The forum provides young people and youth sector workers with the ability to identify issues of concern and make recommendations to the Government about potential options to address them.

Additionally, to further assist the Tasmanian youth sector workforce, the project funding includes funding for a new youth sector workforce development project, to identify the workforce development needs of the Tasmanian youth sector.

This includes undertaking consultation to determine what training is needed, currently available training and professional development opportunities, current barriers to sector workers accessing professional development opportunities, and identifying potential partnerships and networks to link sector workers with existing resources.

A Tasmanian youth conference can be considered as a deliverable of this annual project funding. Further, as with all such events of this nature, organisations are encouraged to seek specific funding through the budget community consultation process, which we note is currently underway.

Tasmania Police - Seizure of Gun

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

[2.57 p.m.]

In December 2015 a valuable firearm, estimated value of about $20 000 plus - probably up near the $30 000 mark now - was taken possession of from Mr Heath Morton of Launceston because it was newly deemed to substantially duplicate in appearance a firearm capable of fully automatic fire.

It took Tasmania Police 16 months to determine which firearm Mr Morton's firearm is deemed to substantially duplicate in appearance. They have since changed their opinion about which firearm it substantially duplicates in appearance to one which is difficult to find any information about and one which has not been in circulation.

This firearm had been in the police-approved legal possession of Mr Morton for approximately six months. It was legally registered under the Firearms Act, had been re-registered and inspected by police on numerous occasions while in the possession of other owners in Tasmania and continually found to meet regulatory requirements.

Mr Morton made a substantial investment decision in purchasing this firearm, a decision made almost purely on the written approval provided to him by Tasmania Police, in the form of a permit to acquire the firearm as required under the Firearms Act. This written permit to acquire provided him by Tasmania Police and the subsequent registration certificate included all relevant details about the firearm in question.

Mr Morton has suffered emotionally and physically as a result of police actions and the failure of police to resolve this matter within a reasonable time frame and within the time as stipulated by police and the previous minister to both Mr Morton and myself.

When this matter was raised with me recently, Mr Morton broke down in front of me in describing this matter.

Will the Leader please advise - and this is not the first time I have asked these questions -

(1) What is the hold-up in finalising this matter?

(2) Will the firearm be returned to its lawful and legal owner?

(3) If not, why not?

(4) If it is to be retained, will Mr Morton be compensated for the correct value of the firearm; if not, why not?

(5) Has Mr Morton, through his ownership of this firearm, acted in any way contrary to the law?

(6) What clauses within the Firearms Act regulations were used to reclassify the firearm?

(7) In cancelling the registration of the firearm, what conditions were relied on within the act or regulations to do so?

(8) What do police see as a reasonable and acceptable time to finalise this matter?

It is going on and on. I would have thought three years was a sufficient time to have answered these questions. This is a man who is doing it tough and hard; he finds himself in this position that is breaking apart.

ANSWER

Mr President, I thank the member for Windermere for his question and for concern about his constituent.

(1) The matter has stalled as Firearms Services has been expecting instruction from Mr Morton in relation to how he wishes to dispose of the firearm. These options include selling the firearm through a licenced firearm dealer or another licence holder in another state, territory or

overseas. Some jurisdictions may allow for possession of firearms not authorised for registration in Tasmania. Firearms Services has indicated it will write to Mr Morton to reconfirm the action required for him in order to finalise this matter. The last correspondence was sent to Mr Morton on 4 October 2017.

Mr Dean - He is so distressed he cannot answer. He is in pieces.

Mrs HISCUTT - You might have to help him through it, member for Windermere.

(2) The registration of this firearm was cancelled on 12 April 2017 and it cannot be returned to Mr Morton.

(3) Mr Morton has been provided correspondence in June 2017 detailing his options in relation to the firearm. As the AAA SAP falls under item 6 of Schedule 1 of the Firearms Act 1996, a licence which authorises its possession or use cannot be granted in Tasmania.

(4) In correspondence sent to Mr Morton in June 2017, a resolution is proposed in relation to the sale of the firearm in question. The last paragraph details that if efforts undertaken to sell the firearm have proved unsuccessful, Tasmania Police will consider making an ex gratia payment.

(5) While strict interpretation would be that Mr Morton has breached the Firearms Act 1996, there is no intention to pursue a prosecution as it would not be in the public interest to do so.

(6) Schedule 1(1) and 1(6) of the Firearms Act were used to classify the firearm.

(7) Section 79(1), the subject firearm cannot be and should not have been registered under the act. The delegate of the commissioner was obliged to cancel this registration once it was identified as being substantially similar to a known automatic firearm.

(8) The time delays experienced by Mr Morton are regrettable and are in no way indicative of the time period for dealing with these matters currently. While these matters are complex, in most cases they are now finalised within three months.

I hope that helps you and your constituent.

Mr Dean - I hope so as well.

Hospitals and Health Services - Federal Funding

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

[3.03 p.m.]

Given the federal government's intention to clawback $600 million allocated to hospitals and the health services over the past financial year, how is the state Government going to counter the funding reduction in the situation where health funding is already under pressure?

ANSWER

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

I am advised the Tasmanian Government has supported other states and territories in lobbying the federal government on not adjusting funding retrospectively, including at the recent Council of Australian Government's health ministers meeting. We have seen annual federal funding for Tasmanian public hospitals increase significantly over recent years, with the last federal budget showing funding in 2018-19 was more than $100 million above that included in the 2013-14 federal budget, an increase of 35 per cent.

We will continue to work constructively with the Commonwealth Government to improve Tasmania's health system. I can assure members the Government will always fight for our fair share of funding for our public hospitals.

FAMILY VIOLENCE REFORMS BILL 2018 (No. 39)

Second Reading

Resumed from above.

[3.04 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank the members for their concern and questions. I do have quite a significant number of answers.

The member for Windermere asked a question about retrospectivity and the member for Hobart also asked a question along those lines. Retrospectivity - it is a new crime of persistent family violence, so I can confirm this new crime will not make conduct unlawful that was lawful before its commencement. As with section 125A of the Criminal Code, only unlawful acts that existed at the time can be utilised.

For the member for Windermere - on offences separated by days and hours. Ultimately, it is a question of degree and looking at the bigger picture and if it occurred in the context of a broader pattern of offending over a period of time. The guidelines will provide guidance on this particular point. The offence is designed to capture family violence occurring over an extended period of time, to capture that in a relationship.

The member for Murchison - why are we referring to the Family Violence Act for definitions? The Family Violence Act is the primary family violence legislation in Tasmania. Any future changes to the definitions used in the act would ensure consistency across our legislative frameworks, such as in the Criminal Code and assist to avoid any possible duplication or confusion with definitions used in the family violence context. The definitions used in the family violence legislation have been available since that legislation commenced in March 2005 and are well-established and understood.

Ms Forrest - The question was that it still refers to the Relationships Act. Why does it not go straight to the Relationships Act?

Mrs HISCUTT - Do you want me to read it out again?

Ms Forrest - I listened.

Mrs HISCUTT - That is why they do not, because it keeps it consistent with what is there.

The member for Mersey mentioned the Law Society's concerns that an accused may be unable to defend a charge fairly, because they cannot identify a particular incident because there was no requirement for date or time. This provision already operates in relation to section 125A, which deals with maintaining a sexual relationship with a young person. There are other ways to identify an incident to enable fairness to an accused. For example, a description of an event or location of incidences and the peripheral matters.

The operation of section 125A in this regard has not led to unfairness to accused persons. The provision ensures there is not a focus on date and time to establish the particulars of an incident. The intention is that section 170A(4) will operate similarly. The jury must still be satisfied beyond a reasonable doubt the incidents relied upon actually did occur.

The member for Windermere on prosecutions - this is a complex and often technical issue and the Government continues to work to improve family violence responses for vulnerable victims. Police have a pro-prosecution approach. If police can proceed with a prosecution with an unwilling complainant, they will. Tasmania Police also have a dedicated family violence unit to respond to family violence incidences.

The Witness Assistance Service provided by the Office of the Director of Public Prosecutions has changed the focus to supporting victims to participate in the court processes. We also have significant options available to assist with witnesses to give evidence in court through the operation of the protections available in the Evidence (Children and Special Witnesses) Act.

The member for Windermere - does any other jurisdiction have a similar offence to the proposed new persistent family violence provisions? Tasmania is the first jurisdiction to introduce an offence such as this. This new nation-leading offence will allow courts to take into account the full extent of an abusive relationship. The jurisdictions to which Mr Dean referred are ones, like Tasmania, that have extrajudicial provisions to their child sexual offences.

The member for Hobart was concerned about Legal Aid funding. While it is not anticipated there will be a substantial or immediate increase in costs, it is difficult to determine what the financial impact will be. Until the amendment takes effect, it is not known how often an unrepresented defendant may require legal aid. Any impact on these proposed changes will be carefully monitored and can be dealt with through the usual budgetary processes. I stress that the Government recognises the importance of the entire legal assistance section, including Legal Aid, which is why they have committed record state funding in recent years to support them.

The last one for the member for Hobart - jury members do not need to agree on the same three acts committed on the same three occasions. These amendments will not undermine the fairness of the trial for an accused; rather, the proposed amendments for the Criminal Code at section 125A and the provisions for the new crime of persistent family violence enhance our legislation by reflecting to the nature of the crimes as relationships or course of conduct crimes to provide more protection to victims of sexual abuse and family violence. In line with the recommendations contained in the *Criminal justice report* of the Royal Commission into Institutional Responses to Child Sexual Abuse, the bill provides that each member of the jury needs to be satisfied that unlawful sexual acts or unlawful family violence acts were committed on three occasions. The jury members do not need to agree that the same three acts were committed on the same three occasions.

In their response to the *Criminal justice report*, all states accepted, or accepted in principle, the need to implement this reform. The governments of Queensland, Western Australia and South Australia are already compliant with the royal commission's recommendations.

In relation to the new offence of persistent family violence, for an accused person to be found guilty of an offence of persistent family violence, they need to have committed an unlawful family violence act in relation to their spouse or partner on at least three occasions. This new offence has been modelled on other continuing offences in Tasmanian law, such as maintaining a sexual relationship with a young person. To return a verdict of guilty, the jury must be satisfied beyond reasonable doubt that the accused has committed an unlawful family violence act or an unlawful sexual act on at least three occasions during the period charged in the indictment. I think that covers a lot of stuff and I look forward to progressing this bill to the Committee stage.

Bill read the second time.

FAMILY VIOLENCE REFORMS BILL 2018 (No. 39)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -
Schedule 1 amended (Criminal Code)

Mr DEAN - Madam Chair, I have four or five questions on this clause, but I only get three calls so I am going to go through all of them and get the answers as you are able to provide them.

My first question, which needs to be on record, relates to clause 4, proposed subsection (6B) and also proposed new section 170A(7), which appears on page 9 of the bill paper, because these two areas are somewhat similar.

I asked the DPP for a full explanation of what it really means, and I ask that again in this place because I think it needs to go in *Hansard*. What is the actual meaning behind these two differences, and to identify those two areas as well, which are pages 4 and 5 and the clause 4(7) on page 9?

Mrs Hiscutt - Can I just ask the member to hold there for a moment?

Madam CHAIR - Thank you, honourable member.

Mr DEAN - My next question relates to -

Madam CHAIR - This is a long section. If all your questions relate to Schedule 1 as amended and proposed new section 170A, which is where you are at the moment, if we could trawl through proposed new section 337A separately, all the questions in this section -

Mr DEAN - They are all in clause 4; no, it is across the board.

Madam CHAIR - To give you a bit of leeway, I suggest we take clause 4, Schedule 1 and 170A as one separate call, and then we consider proposed new section 337A separately.

Mr DEAN - Just so I am following you there, we take Schedule 1 through to proposed new section 170A or it includes 170A?

Madam CHAIR - No, you have actually asked a question across both so we will do those two together. Save any questions relating to proposed new section 337A until after this. We will call that separately.

Mr DEAN - Thank you. So they all relate to within this one schedule?

My next one relates to clause 4(2) which refers to 'in a family relationship'. I want some explanation on why that is here. If you look at the definition of 'family relationship', it has the same meaning as in the Family Violence Act 2004, which identifies there that one of the parties, I think, has to be 16 to 18 years of age but then when you go to the Family Violence Act, that refers to the Relationships Act, which identifies that for a significant relationship both persons must be adults.

Why in this act have we gone the way we have? I take it that if it really means that, one or both of them have to be 16 to 18 years. Can you give me an explanation on what the family relationship issue relates to?

My next one is -

Mrs Hiscutt - Honourable member, can you clarify your last question? Exactly what it is you are trying to find out?

Mr DEAN - Clause 4(2) refers to having been 'in a family relationship'. So they must in a family relationship to be able to be found guilty or be charged with offences in this bill.

If you go to the definition of 'family relationship' in this bill, it says it has the same meaning as in the Family Violence Act 2004. If you go to the Family Violence Act 2004, it refers to the Relationships Act 2003 where it refers to significant relationships and says both must be adults for a significant relationship to occur.

Under this amendment we are trying to include both areas and 16 to 18 years. Why have we gone this way in relation to this bill in picking up the 16- to 18-year-olds? Does only one have to be a 16- to 18-year-old or could both be 16 to 18 years of age in a relationship? Does it constitute that? Does that satisfy?

I have crisscrossed all over it, but they are the two questions. They refer to two or three different areas under the schedule.

Mrs HISCUTT - The new subsection (6B) and the equivalent provision in the new crime - this amendment has arisen from a South Australian case. To avoid any potential confusion, the provision clarifies that the judge is to sentence on the basis that the identified occasions were not isolated acts, rather ones that took place during the course of the relationship.

In sentencing a person for an offence under section 125A(2), the sentencing judge is to make their own findings as to the nature and character of the unlawful sexual relationship and sentence the accused accordingly. In doing so, the judge does not need to ask the jury which of the unlawful sexual acts of the jury agreed were proved for the maintenance of the sexual relationship.

Mr DEAN - Does it also cover proposed new section 170A(7)?

Mrs HISCUTT - It is exactly the same.

The definition of family relationship provides parties, where one or both are between the ages of 16 and 18 can be covered by the family violence legislation. This recognises that these relationships can be covered for the purposes of the Family Violence Act and also for the purposes of this new offence accordingly. The family violence legislation - this one - takes precedence over others.

Mr VALENTINE - I have a question on clause 4(b), which refers to inserting a new paragraph (c) after paragraph (b) in section 125A(4). I do not think I heard, in your response to the second reading debate, which states have implemented this provision and whether it is in the exact format of this. It was part of the royal commission's recommendations, and I wanted to make sure that we were implementing that standard clause. If you could clarify that, that would be good.

Mrs HISCUTT - I answered some of this in my summing up, but in their responses to the *Criminal justice report* all states accepted, or accepted in principle, the need to implement this reform. The governments of Queensland, Western Australia and South Australia are already compliant with the royal commission's recommendations. Each state uses different ways to construct its statutes, but the policy intent in each case is the same.

Mr Valentine - Thank you.

Clause 4 agreed to.

Clauses 5 to 8 agreed to.

Clause 9 -
Section 8A amended (Cross-examination of victims of certain offences and applications)

Mr DEAN - This clause identifies that a person cannot be cross-examined by the offender himself or herself; it can only be done by counsel. In the guidelines it says that Legal Aid will be provided. Will Legal Aid always be provided in every situation where this arises, irrespective of the financial position of Legal Aid? There are times when they have cut off legal aid because of their budget. If a person requires Legal Aid and person does not fit their requirements, such as a high salaried person, will they be given Legal Aid in this situation? Are they entitled to get Legal Aid, because it says every person in this situation will be provided with Legal Aid? Will all people be entitled to Legal Aid in this situation?

Mrs HISCUTT - Section 8A of the Evidence (Children and Special Witnesses) Act, being amended, already provides -

> (2) If a defendant is not legally represented in a prescribed proceeding that will involve the taking of evidence from any such witnesses, the judge must ensure that the defendant -
>
> (a) Has been warned of the limitation on the right of cross-examination imposed by this section; and

(b) Has been informed that he or she may be entitled to legal assistance under the Legal Aid Commission Act 1990; and

(c) Has had a reasonable opportunity to obtain the assistance of counsel before the evidence is taken.

(3) If it appears to be in the interests of justice that a person should have legal aid in connection with this Part and that the person has insufficient means to enable him or her to obtain that aid, the judge may make an order directing that person be given assistance under the approved scheme for the time being in force under the Legal Aid Commission Act 1990.

This will apply to the amendment in clause 9 of this bill. This amendment expands a bar on self-represented defendants cross-examining their victims that already exists.

Mr DEAN - As I understand that, if it is deemed the person has insufficient means, the judge may require that Legal Aid be provided to them. This section is forcing the person who does have sufficient means to consult and have a lawyer present on their behalf if they wish to have the victim cross-examined.

Mrs HISCUTT - That is basically right. It is up to the accused to make that call.

Clause 9 agreed to.

Clauses 10 to 12 agreed to and bill taken through the remainder of the Committee stage.

CORRECTIONS AMENDMENT BILL 2018 (No. 33)

Second Reading

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

That the bill be now read the second time.

Mr President, this bill fulfills the Government's election commitment to ensure a member with policing experience is represented on Tasmania's Parole Board.

Just as we did in 2015 when we legislated to ensure a victims of crime representative on the Parole Board of Tasmania, we are amending the legislation to ensure a member with policing experience is similarly represented on the board.

The Parole Board carries out a vital function in our community. Once a prisoner is eligible to be released on parole, it is the independent Parole Board that determines whether or not to release the prisoner.

An individual with policing experience will bring a unique set of experiences to the board which are relevant when considering whether a prisoner should be considered for parole.

In determining whether or not a prisoner should be released on parole, the Corrections Act 1997 lists a number of factors that the Parole Board is to take into consideration, including the protection of the public, the rehabilitation of the prisoner, and statements provided by the prisoner's victims. We believe a former police officer's views will be helpful in considering applications for parole which inevitably involves the parolee reintegrating back into the community.

The Parole Board currently comprises three members, but this bill provides for a fourth member of the board. A fourth member of the board raises the possibility of votes being deadlocked, and the bill will ensure that the member presiding at a meeting will have the casting vote where the number of votes is equal.

As I mentioned, the addition of a fourth member to the Parole Board adds to recent reforms to the makeup of the board. In 2015, amendments were made to the Corrections Act 1997 to require one member of the board to have knowledge and experience of victim of crime matters. This was an appropriate step to ensure that a member with insight into victim-related matters could be part of the board's decisions.

In the Parole Board's 2015-16 annual report, the then chairperson of the board said it had been useful to have a designated member of the board giving a voice to victim-related matters. The chairperson went on to say that it is important that the board's composition reflects the importance of victims' issues.

Mr President, the Government is committed to keeping Tasmania safe, and this legislation to include a member with policing experience is an important measure to ensure community safety remains at the core of any Parole Board decision.

Mr President, I commend the bill to the House.

[3.41 p.m.]

Mr WILLIE (Elwick) - Mr President, as the shadow minister for Corrections I had a briefing on this bill a while ago, and I have been doing a bit of consultation with the Justice sector as well. I thank the minister's office and the departmental staff for that briefing, which the shadow attorney-general and I attended, where they provided answers to our questions. This bill provides for a fourth member of the Parole Board to be appointed who has experience serving as a police officer in Tasmania or in another state or territory. It specifies that the new member must not be a currently serving officer. I will get back to that point in a moment.

With this bill, as with most, I started with questions: What is the Government trying to achieve? Does the Government have a problem with the current Parole Board's decision-making? Are there other issues at play here? Is it about politics? These are important questions.

While in the briefing reflecting on the current Parole Board's decision-making was avoided, I was given the explanation that Victoria, the ACT and Tasmania are the only jurisdictions without serving police or former police on the Parole Board. New South Wales, the Northern Territory, Western Australia and Queensland have a serving officer and, as in this amendment, South Australia has a former officer. I think South Australia has a former officer, as the proposed amendment does, because South Australia is a small community just like Tasmania. A serving police officer may have a conflict of interest in such a small community. I am comfortable with some of that being resolved and will get to that in a point. I was concerned about conflict of interest, too, even with a

former police officer serving on the Parole Board. For example, a former police officer may have arrested the parole applicant -

Mr Valentine - Or may have prosecuted them.

Mr WILLIE - Yes, or been punched in the face by them and not declared that while they were making that decision. I asked those questions, too, and was told that a serving member of the Parole Board can self-declare a conflict of interest and the parole applicant can judicially review a conflict of interest or a perceived conflict of interest. It is judicially reviewable. That said, there still could be a power imbalance. We know that many inmates of the prison may have disabilities. They may have a problem with authority and using their voice in that circumstance. I will be monitoring that very closely to see if there is any impact of this amendment on the Parole Board's decision-making. That said, I am quite comfortable that a conflict of interest can be resolved in most situations. I think the Governor appointing this person with this policing experience would pick wisely and make sure that it was a police officer who understood rehabilitation and the importance of parole. It could actually be advantageous in a little way if a police officer did know a bit of history about the parolee applicant and supports them reintegrating into the community. This is what this is about and what parole is about. Parole is a very good system, because it is far better than releasing a prisoner into the community without conditions attached. This is a very good mechanism for an ex-prisoner to be released into the community and be held accountable and for them to act and make efforts in certain ways. It could be a good addition for a police officer with policing experience and an approach to rehabilitation. Other states and territories already have this in place.

Most of the decisions are informed by various stakeholders and the information, reports and recommendations go through the secretary, so there is a variety of input into the decision-making of the Parole Board.

In the existing legislation, the chair is appointed by the Governor and this bill will not change that. The presiding member has the casting vote in a deadlock. It is important to note the presiding member would either be the chair or the deputy chair, rather than the victims of crime representative or the police representative. The other members of the board are appointed by the Governor. The deputy members, however, are appointed by the Minister for Corrections.

It is important to understand the functions and responsibilities of the Parole Board and in their latest annual report says -

> The board performs the following functions -
>
> (a) makes decisions as to which prisoners will be released on parole;
>
> (b) determines the conditions upon which a prisoner will be released on parole;
>
> (c) determines whether the conditions of parole orders should be amended or varied; and
>
> (d) determines if a parole condition has been breached by a prisoner and what action should be taken as a result of that breach.

Adding a police officer, with the last one in particular, may strengthen decisions.

The Parole Board has those functions and it is also to consider the following when an application is received -

> The Board is required to act in accordance with statutory criteria outlined at section 72(4) when determining whether or not a prisoner should be released on parole.

It says it should consider these things -

(a) the likelihood of the prisoner re-offending; and
(b) the protection of the public; and
(c) the rehabilitation of the prisoner.

I will get back to that point in a minute -

(d) any remarks made by the Court in passing sentence; and

(e) the likelihood of the prisoner complying with the conditions; and

(f) the circumstances and the gravity of the offence, or offences for which the prisoner was sentenced to imprisonment; and

(g) the behaviour of the prisoner while in prison and, if he or she has been in a secure mental health unit, while in that secure mental health unit; and

(h) the behaviour of the prisoner during any previous releases on parole; and

(i) the behaviour of the prisoner while subject to any order of court; and

(j) any reports tendered to the Board on the social background of the prisoner, the medical, psychological or psychiatric condition of the prisoner or any other matter relating to the prisoner, including in the case of a prisoner who has been a forensic patient, any report of the Chief Forensic Psychiatrist; and

(k) the probable circumstances of the prisoner after release from prison; and

(ka) any statement provided under subsection (2B) by a victim, or, if subsection (2AB) applies, the parent or guardian of the victim, of an offence for which the prisoner has been sentenced to imprisonment; and

(l) any other matters the Board thinks are relevant.

I read this out because it shows there are really strict provisions attached to the functions and what the board has to consider. Adding a police officer is not necessarily going to change the board's decision-making that much. They are prescriptive. Having some police experience there adds that other dimension in looking at those prescriptions. I am comfortable with this amendment.

I will go back to the point on rehabilitation because that is what parole is about. It is an important pathway back to the community and its success relies on the importance of rehabilitation programs within the prison. It may have been a week ago that the Custodial Inspector released a report and there were some concerning statements in that report, to me, about how rehabilitation in the prison sets successful parole periods and there is still a lot of work to be done, to be honest, in our corrections system. The inspector in his report, and I will go through some of the main points, said there were inconsistencies in clothing standards at each facility and some clothing issued to

prisoners in the Risdon Prison Complex was in very poor condition at the time of inspection. The increase in prisoner numbers places increased pressure on the health system, leading to longer wait times and in some cases results in the health needs of prisoners not being met.

It is hard to rehabilitate yourself if your health needs are not being met. There are many shortcomings with the management and treatment of substance abuse, and with the existing farmer co-therapy program with Tasmanian prisoners, including access to the program by prisoners, which is an important part of rehabilitation. Trafficking, the burden it places on correctional health services. Restricting access to the health clinic while dosing is taking place. There are limited places available in the community to enable prisoners to continue their treatment on release.

If that was a condition of the parole period, that could be an issue. Additionally, there are only two alcohol and drug counsellors on the Tasmania Prison Service staff to service over 600 prisoners, and there is inadequate supervision and a lack of professional support provided to these counsellors. There is no alcohol and drug treatment unit for women prisoners and no plans to establish one.

Concerning mental health, the Custodial Inspector found current mental health services do not meet the needs of the Tasmanian prison population. Services are understaffed, there is a lack of mental health leadership in the prison and there is no formal service level agreement with the Forensic Mental Health Services. Dedicated spaces conducive to the provision of mental health care in the prisons are lacking and there is a need for ongoing training and support for correctional officers to understand and manage people with mental health issue.

Lockdowns due to staff shortages: lockdowns cause strain in the delivery of pastoral care by prison chaplains and also result in high incidents of closure at the Risdon Prison Complex activity centre.

Mr PRESIDENT - We are talking about the bill in front of us, which is the Corrections Amendment Bill relating to parole. I do not want you to go into too much -

Mr WILLIE - I am trying to make the link between parole and rehabilitation in the prison, Mr President, and the success of parole relies on rehabilitation in the prison.

Mr PRESIDENT - It is a long bow. We have to look at the bill in front of us. It is the establishment of the Parole Board. These are the amendments on membership and meetings of the board. They are the amendments put forward within this bill. We are talking about the principle of it. I can understand you mentioning that within the prison itself there are issues relating to alcohol and drug advisers, and that there are only two. I understand how that can affect the prisoners themselves. Perhaps we can restrict it to parole and the bill in front of us as opposed to talking about the inadequacies, which may be argued, of the prison system.

Mr WILLIE - The reason I am taking this approach, Mr President, is because the Parole Board reports make the link between rehabilitation in the prison and setting prisoners up for successful rehabilitation into the community. That is where I am drawing that link from.

Mr PRESIDENT - I understand that. But when we talk about lockdowns, it is a bit of a different story. That is why I mentioned it then. I let you go on to that extent. But when lockdowns started to come into it, that starts to get outside the area we are looking at.

Mr WILLIE - The point I was trying to make was that lockdowns impact on rehabilitation in prison and there are many of them. I can move on.

That is good reading, members. If you wanted to pick up the Custodial Inspector's report, it highlights a number of the challenges in our prison service. I know that various committees are interested in those sorts of things. The member for Rosevears and I have had conversations about the prison service. It has been tabled in the House as well.

Parole should be a privilege, not a right. It provides opportunities for those who have offended to reintegrate into their community and to become productive members of the community. It also presents an opportunity for a prisoner to re-engage, with the benefit of structured conditions. That means the parolee has an opportunity to demonstrate an ability to reintegrate into the community whilst at the same time being accountable for their actions.

The Parole Board tells us that a successful parole period is directly proportional to the efforts of prisoners in participating in prison programs, which, in turn, is reliant on the opportunities for such programs, which is a summary of what I was trying to get to.

As I have highlighted, there is still plenty of work to be done in that regard. Rehabilitation is not being soft on prisoners. It is about making communities safer through reduced recidivism. It also reduces the cost to government. It is about being smart on the causes of crime, helping people rehabilitate so they do not reoffend, and that makes communities safer.

Labor is a strong supporter of the parole system. We will monitor any impact of this amendment closely and we will support the bill.

[3.57 p.m.]

Mr DEAN (Windermere) - Mr President, the member for Elwick talks about the police dimension on this board. There has been a police member, or there was, for 13 years.

Mr Willie - That is right.

Mr DEAN - That member is Leon Kemp, who would be known to some of us here. He was a very experienced and long-serving police officer who also had union representation.

Mr Willie - I don't think he is serving anymore.

Mr DEAN - He is not serving anymore, and I will tell you a little more about that. He went before an interview panel a while back to be reinstated to that board, and he was politely told that they were looking for a change. For that reason, he left that board and did not serve further on it. As he said, he had no intention of coming back on it again, and that was a recent discussion I had with him.

He also raised the issue of conflicts of interest which, quite properly, you have raised. He said that the whole time he was on the Parole Board, and I think it was the only time, he had a conflict of interest. I do not need to refer to the prisoner here, but that prisoner was a long-serving prisoner, in fact one whom I had helped to put away at one stage. He had also put this prisoner away.

When he came up for parole, he stood up, as is and was required of members of that board, and identified that there was a real conflict of interest here. The subject was there at the time and he

was well and truly aware of that conflict of interest, but the subject asked that Leon Kemp remain on the Parole Board panel making that decision. It was an interesting one. As Mr Kemp said, he supported parole for this man. I would like to mention his name because some of you would know him, but probably I should not - that person got parole and honoured that parole. To Leon Kemp's knowledge he has never reoffended or if he has, he has not been caught up with but he has not gone back into the jail system. That identifies the value of the parole system - I think it very much does - because he was probably identified in his earlier stage as a career criminal. There was no doubt about that. As Mr Kemp said, to his knowledge he has not reoffended and he has not come back before the system.

Here we are dealing with the Parole Board. The Parole Board's position and decision determine whether a criminal should be released from prison early, and the Parole Board is also able to give conditions and the matters that must be taken into consideration, as the member for Elwick referred to. If you look at those, at why it is desirable a police officer be on this board, and at the issues that the Parole Board must take into account in determining whether a person should be paroled and/or not, in a number of areas a police officer, in some instances, would probably be the only person with that knowledge to do it, in my view.

If you look at, first, the likelihood of the prisoner reoffending, well, a police officer has great knowledge and depth in that area - an experienced police officer does. I will flag an amendment I will be putting forward because I believe that any position on this Parole Board should be occupied by experienced members, members who understand and know what is going on, and have an in-depth knowledge in relation to these areas.

As Mr Kemp kept saying to me, 'You need the experience, Ivan. You have to have that background experience to be on that Parole Board.'. The likelihood of a prisoner reoffending, I suggest, is very much in the area of an experienced police officer.

Protection of the public: again, an area that police very much understand and know what is required. They know the people out there who put the public at risk. They can tell you - a police officer of experience in a certain area can identify these people to you.

Rehabilitation of the prisoner: again a police officer has a good understanding of that and what the rehabilitation opportunities and chances are going to be for an individual person.

The likelihood of the prisoner complying with the conditions: again, police officers understand their position there as well as to whether a person will comply with the conditions. They can look at their background, at their record, at their prison record, and they can look at their police record. The Parole Board would do that.

Mr Willie - A lot of information is fed through the secretary to the Parole Board to determine their decision too so a lot of information is presented to them.

Mr DEAN - You are right, a huge amount of information comes through. As I said, a police officer with the necessary experience is in a good position to make determinations in that regard.

The behaviour of the prisoner while subject to an order of a court: again police officers are able to look at that very closely because they deal with breaches of bail and all of those sorts of things as well. Mr Kemp would have had a great background of knowledge in that area.

Another one I ticked here that a police officer would be able to have great knowledge on would be any statement provided by a victim of an offence for which the prisoner has been sentenced to imprisonment. Police have the understanding, background and knowledge of what victims have gone through, what they have had to put up with and all of the circumstances around that as well.

What I am saying about a police officer on this board, Madam Deputy President, is that the police officer needs experience. The way the bill is currently written, it identifies 'a police officer' so it could be a police officer who has been in the service for 12 months getting this position - it could be - or two years. It could be a police officer who has served for, say, eight, nine or 10 years but has never seen an angry crook. In other words, it could be a police officer who has gone into photography or some other area within the police service that does not deal with criminals as such. I am saying that it needs to be the right person with the right background to occupy one of these positions. It is interesting that a lawyer, to be considered for this board, must have had seven years experience. I have had a lengthy discussion with the Government on this amendment in relation to this matter. A lawyer has gone through at least four years of university study - through UTAS or wherever it was. They have that background and experience behind them as well, whereas a police officer has - and I might be corrected here - 34 or 35 weeks training to be put out in the field. If we are looking at experience, I am not quite sure why we have that one person.

I know there are other members on the board and there is no identification made for them to have certain experience, either. I understand that, but if we are looking at some of those other areas - psychologists, sociologists and so on - they also have an in-depth background through their training and through their skills. I am flagging now - and I am not sure where members stand on it - that my view is it would be better if the police officer is required to have a demonstrated period of experience within Tasmania Police.

Mr President, I support the bill. I will moving my amendment to gauge the position of the members.

[4.07 p.m.]

Ms FORREST (Murchison) - Mr President, I was interested in the member for Windermere's comments as a former police officer who, I would suggest, understands the role quite intimately. The bill is sensible. I know that other jurisdictions, as the member for Elwick pointed out, have either serving police officers or former police officers on their parole boards. Parole, in my view, is a very important part of our whole justice system. Our whole justice system should be focused on restorative justice and assisting people who find themselves on the wrong side of our justice system, if you can call it that, to reintegrate back into society, hopefully with a renewed vigour to live a life free of crime and avoid being sent back and thus be more productive and effective within our communities.

It is a sensible move and it addresses some of the issues that the Leader alluded to in her second reading contribution. If he is listening, the member for Windermere might have some insights into this.

Mr Dean - Sorry?

Ms FORREST - You might have some insight. I was going to ask a couple of questions that you may have insights into, being a former police officer. You made the point in your contribution about needing experience; you were suggesting an amendment that will be debated at a later time. You also made the point that some police officers, when they go into the service, might not spend

time dealing with criminal police activity. They may well have spent 10 years in another area that is completely unrelated. I was just wondering why you would add five years as a time frame - does that mean you have five years experience in a role in an area unrelated to the management of crime that may not give you any more insight than any other police officer?

The bill says that it is a police officer who has experience serving as a police officer. It is open to interpretation what experience actually constitutes. You could say 'relevant experience' may be more appropriate. You could say 'experience in policing of crime'. They are the sort of things worth considering.

I hope the Leader in her response will address why this clause has been drafted in this way. I should know how these appointments are made, but I do not. Is consideration given to the experience of the particular former police officer when the appointment is made? If that is the case, you do not necessarily need to prescribe a time. If you start prescribing a time, maybe you need to prescribe a particular experience.

As the member for Windermere said, a lawyer has to have seven years experience, but a lawyer may be a lawyer in family law, conveyancing and may not have experience in criminal law. I assume the legal practitioner to the Parole Board would be assessed along a similar vein to ensure they do have the necessary experience to function effectively on the Parole Board. If the Leader could respond, it may be helpful leading into Committee stage to address those matters. Her advisers are listening and taking it on board and nodding.

I do not have any opposition to the principle of the bill. It is important we do not stymie the process, but make sure suitably experienced and qualified people are on the Parole Board. It is an important aspect of our justice system to ideally reward genuine and real attempts of a person to do the right thing to avoid crime and be able to be released from prison. Hopefully they then fully participate in society, as all of us who are not subject to the justice system do.

With those couple of questions and points I support the bill and look forward to other members' contributions and to the Leader's reply.

[4.12 p.m.]

Mr VALENTINE (Hobart) - Mr President, the Governor appoints the chair. Where does guidance come from to help the Governor make the decision? If it happened to be the same person who was the former police officer, it might mean that particular person gets two votes, one a deliberative and one a casting vote. I would be interested to know the process required.

It might be important for somebody with police experience.

Mrs Hiscutt - Can you please clarify what you are looking for?

Mr VALENTINE - I want to know what advice is provided to the Governor when the Governor makes these appointments and how the process works. If someone can run through this, it would be appreciated.

I am concerned the appointment of the chair may be the former police officer. That means that person gets two votes, one a deliberative vote and in the event of a tie, a casting vote.

I would not like to think the police officer has the casting vote. It is all very well for the board to have the input of a person who has police experience, but not where the input was overt to the point that it makes a difference.

In this House, the President always votes down when it is a tie, by convention. There does not seem to be the same level of stricture here with a casting vote. It concerns me a little bit. I would be interested in hearing a response to determine whether I support this or not, and I will be listening to other members' observations.

[4.15 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I will start by delivering what I have and then I will have more information I will relay to the Council.

To start with, the member for Elwick had a few questions. He asked why the Government was doing this. The Government believes the addition of a former police officer will broaden expertise on the board and will help inform decisions. As the member acknowledged, the provision is also in line with other jurisdictions.

He also spoke a lot about the rehabilitation but, as the President pointed out, that is not strictly relevant to this bill. Briefly, the Government has a strong focus on reintegration and rehabilitation, and we have already invested significant funds in addressing the concerns raised in the Custodial Inspector report the member spoke of. Further, the Tasmania Prison Service anticipates a number of existing concerns will be addressed in the long term by the infrastructure initiatives already being undertaken.

The member for Elwick also spoke about the conflict of interest. Where a member of the Parole Board has had previous dealings with an application for parole, it is appropriate for that member to consider whether to participate in the decision about the applicant's parole. If a member of the Parole Board decides not to participate in the decision, a deputy member can fill in for that member.

Previous dealings with an applicant or any type of previous relationship between an applicant and a member, has the potential to give rise to allegations of actual or apparent bias. This touches a bit on what you were talking about, member for Hobart.

These same considerations about the bias can apply to judicial decision-makers, ministers, tribunals and other statutory decision-makers.

Parole decisions, as with many administrative decisions, are subject to judicial review. The rules of procedural fairness apply to proceedings before the Parole Board when dealing with questions of release on parole.

If a decision of the Parole Board is judicially reviewed under the Judicial Review Act, and the Supreme Court is satisfied that actual or apparent bias has been established, the Supreme Court can make a range of orders including setting aside the original decision.

Mr President, I will seek some more information.

The member for Hobart also asked about who helps inform the decisions of the Governor's appointments. A public call for expressions of interest is held, requiring written applications. A

selection panel is convened, usually senior departmental staff. Applications are considered and interviews are conducted and, if necessary, referees are contacted. The panel gives advice to the minister; the minister in the role of Executive Council gives advice to the Governor. That is the process.

The member also asked about the issue of a casting vote. As is in the act, the chair has the casting vote in the event of a deadlock. The chair has always been the legal practitioner.

Mr Valentine - When it comes to choosing the chair of the Parole Board, is that the same process that is used - the department advises the Governor who should be chair?

Mrs HISCUTT - The department advises the minister and the minister makes a recommendation.

Mr Valentine - The same process.

Mrs HISCUTT - The same process.

Ms Forrest - Did you not say it is always the legal practitioner who is the chair?

Mrs HISCUTT - Yes.

Mr Valentine - It cannot be the police officer. That satisfies my question, thank you.

Mrs HISCUTT - The last question was from the member for Murchison about appointments being made to the board. The Governor appoints members to the board. While there are no requirements in the Corrections Act about having a minimum level of experience, all members on the board are highly experienced in their areas. All current members have over two decades of relevant experience and it is not the case any person without significant experience in relevant areas is on the board.

The reason the legal practitioner has a minimum of seven years experience is because it is a quasi-judicial appointment, similar to a magistrate or a judge and there are minimum periods of service.

Bill read the second time.

CORRECTIONS AMENDMENT BILL 2018 (No. 33)

In Committee

Clauses 1 to 3 agreed to.

Clause 4
Section 62 amended (Establishment of Parole Board)

Ms HOWLETT - What is the duration of a term of an appointed position on the board?

Mrs HISCUTT - The current members of the board are highly experienced. Members are appointed for three years and can be reappointed. Members are experienced in various areas of the law, corrections, medicine, victims of crime matters et cetera. All current members of the board have decades of relevant experience in their relevant areas. These include members who are highly regarded in their fields. Members of the Council may be aware a former chair of the board, Justice Geason, is now a justice of the Supreme Court of Tasmania.

Mr VALENTINE - To clarify, are those terms set in regulation or a convention being used?

Mrs HISCUTT - They are set in the Corrections Act.

Mr DEAN - Madam Chair, I move -

> That clause 4, paragraph (c), proposed new paragraph (d), after 'who has', insert 'at least 5 years.'

In support of that, I referred to it in the second reading speech, but I can read what is going on around the Chamber. I want to put this forward because at least I can say I made an effort to make this a better clause. I have referred to the previous police officer who had a position on this Parole Board for 13 years; he probably would have still been there had they not for some reason wanted a change. I do not know what that was all about. To have spent 13 years indicates his experience was never challenged. It was experience, I suggest, that kept him on that Parole Board for 13 long years.

I do not know whether too many decisions of the Parole Board during that time were criticised. No doubt some parolees do not do the right thing. They come back into the system. What I am saying is that people on the Parole Board need the background to be able to make the important, critical decision of whether a prisoner should be granted parole. These parole officers are granting parole to criminals who have been in there for murder, rape, armed robberies, woundings, stabbings, you mention it - the Parole Board is required to deal with that calibre of person. They do need to have a very good background in what is going on around them.

I cannot accept that a police officer who has had one year's experience in the job would have that capacity as the police officer - that is, the representation of this police officer on this board - in the role to make these decisions. The police officer is not there to take on a role other than to act as a police officer on that Parole Board.

Parole cannot be taken lightly. Parole needs to be given very close scrutiny. There is no point in having a police officer there for the sake of it - a token thing: 'This police officer has 12 months experience, so put him or her on it.' That, to me, makes no logical sense whatsoever.

I suppose the Government, or the Leader here, will say, 'But the panel will make that determination'. Of course the panel will make that determination; that is what they are there for. Why seek applications from any police officer or retired police officer where there is not some experience required? There will be members who may apply after 12 months experience or two or three or four years of working in the police service. I have selected five years in this case. A lawyer has to have seven years and there are other conditions as well that go with that: one is to be a legal practitioner who has never been suspended from practice, had their name removed from, or struck off, the roll of the Supreme Court or been disbarred et cetera.

I am identifying five years because a police officer with five years experience in the right area would be able to make these important and critical decisions, in my view. Someone who has worked for five years in the CIB, for example, working with criminals all that time, would be able to read them and would understand them very well. That is their work: to understand criminals. It is often said there is not much difference between the mind of a good criminal and that of a good detective.

Mrs Hiscutt - Really?

Mr DEAN - That is often said. A good detective has to know how a good criminal works and operates, but they have to be ahead of them all the time. They have to try to be ahead of them all the time.

Mr Valentine - Are you saying it takes one to catch one?

Mr DEAN - Yes, absolutely right. That is what has been said; that is not the case. Police officers are not criminals, and it should never be suggested or even thought that they are. I am simply saying it is like a lawyer. In my view, a lawyer - a very good lawyer - has to have a good criminal eye, to understand crime, to understand criminal issues and elements and so on, and it is the same for a good detective.

The selection panel very clearly would identify whether the five years experience for an applicant would be sufficient in the circumstances. They would closely go down that path of: Where have you served? What have you done during that time? What involvement have you had with criminals? What involvement have you had in the area of understanding what rehabilitation is all about? They would be questioned about many other things. A police officer not only serves in the CIB over the course of that period. There would be very few who would not have gone through a number of courses during that period of time as well. Police officers are forever going doing courses in different areas to ensure they are right up with the world and with what is happening out there in this area. It is my view the panel should be left to make that judgment and five years would be reasonable in all of the circumstances.

I simply put this proposed amendment forward. I think it would make this a better bill, a stronger bill. Once again I go back to the previous police officer who was there who said that experience is what it is all about and experience is needed, it is necessary. I ask for the amendment to be accepted knowing I am not going to get that.

Mr VALENTINE - I do not know, member for Windermere. I just might support this, except: is it possible in the service for a person to have five years experience as a police officer behind a desk as opposed to being out experiencing what is needed to have relevant experience? I wonder whether your amendment actually goes far enough in terms of appropriate experience. 'Appropriate' is not going to be defined easily -

Mr Dean - It would be unwieldy to identify that in legislation and that would be a matter left to the criteria perhaps in a guidelines document for the selection of these people for the panel.

Mr VALENTINE - Which no doubt they probably would have anyway.

Mr Dean - That is right and it would be best left to the panel.

Mr VALENTINE - I will think very carefully about this but I might even support you.

Mrs HISCUTT - First, member for Windermere, I want to acknowledge your experience in policing -

Mr Willie - But?

Mrs HISCUTT - I have not got to that yet. The information you provide to the Council from time to time over the years I have been here has been invaluable and appreciated. As you mentioned in your contribution, the selection panel goes through rigorous criteria before they pick somebody. The applications have to be considered and interviews are conducted and, if necessary, referees are called on so this person is not selected willy-nilly - the panel gives great consideration to the person they finally select. The provision for a member with policing experience in the bill is worded in a similar way to the provisions relating to the two members who are not legal practitioners. So the others are selected in this same way.

Mr Dean - You have to look at their background, though.

Mrs HISCUTT - Those provisions do not set out any length of service requirements. If we were to amend the clause to include a time frame, the provisions would become unnecessarily restrictive on who could potentially apply for the position and further would also take us out of step with other jurisdictions which have former or current police officers on their board. No other jurisdiction requires a police officer or their equivalent on the Parole Board to have a minimum number of years experience. Instead it is appropriate that the Corrections Act 1997 sets out board qualifications for Parole Board members.

We are a state with a comparatively small population and, as I have just mentioned, being too detailed in setting out qualifications for members on the Parole Board would unnecessarily limit the pool of qualified applicants available. I make it clear factors such as length of service or other relevant skills and experience will be taken into consideration by the selection panel during the assessment process. As I have highlighted before, the selection process is thorough and it looks at the applicants in depth. All necessary actions are taken to make sure the qualifications of this particular individual are up to scratch.

I urge members to leave the bill as it is. There is no need to amend it.

Mr WILLIE - The Labor Party agrees with the Government. We are trying to legislate here for a scenario that is not plausible, in my view.

We have to leave a little discretion to the Justice department to pick an eminently qualified police officer, or the other members of the board and make those recommendations. If we start trying to legislate prescriptively, it will have unintended consequences and we may rule out good candidates.

The Justice department is not going to make a recommendation for a former police officer who has only had one year's experience. It is not going to happen and we are trying to legislate for a not plausible scenario.

Mrs HISCUTT - I thank the Labor Party for its support on this particular issue.

Mr FINCH - I am inclined to agree with the member for Windermere. I do not see it denigrates or messes up any process that might take place. I would like to see, in the assessment of the person

who is going to be on the Parole Board in the role of the police officer, a person who is going to have good experience as a police officer.

I cannot see putting in five years is going to be an impediment or that it clouds the issue of who to select. The member for Windermere is right. You need somebody with the knowledge and firsthand experience of how criminals think, work, what they do, what they get up to and then to be able to translate that into an assessment of whether somebody is deserving support.

My sister used to be a warder at the Women's Prison. When things were getting a bit softer for the women prisoners, she got very frustrated with the system because people were going too easy on the people in there. She knew behind the scenes and she was aware of the prisoners' mentality, and she said 'They are laughing behind our backs at the way the system is mollycoddling the people in there'. That is many years ago, and she has been retired for 15 to 20 years.

Times have changed, things adjust. The point was she had been in the service for probably 20 years and what she was observing was from years of experience dealing quite closely with female prisoners. She had an understanding of their mindset. What the member for Windermere is getting at is to have that understanding and depth of experience.

That would be part of the consideration of the panel selecting the Parole Board. I do not see that putting 'at least five years' in there is going to do any harm to the legislation or be at odds at what is trying to be achieved with the Parole Board.

One hopes in the selection process, that the person chosen is going to have those skills and experience in their kitbag, to be able carry out the job properly and be a good informative part of the Parole Board.

I am going to support it because I do not think it complicates the bill in any way.

Ms ARMITAGE - I am going to support the Government and the Labor Party on this one. I am sorry, member for Windermere, but it is probably the way it needs to be.

One of the concerns is that you say 'at least five years' when you are appointing people to boards. You might actually find the very best person for the job with only four years experience and you cannot choose them because it is legislated it is five years.

Mr Dean - You can tell me then why do lawyers need seven years?

Mr Willie - It is a requirement of a quasi-judicial appointment.

Ms ARMITAGE - As has been advised to you -

Mr Dean - I did not want you to say that -

Ms ARMITAGE - I could answer it in my own way and say I am not talking about lawyers, but police officers. It is appropriate the way it is worded. I will not be supporting the amendment. I appreciate that as a former police officer you might feel you need five years experience, but perhaps a person with four years experience would do the job.

Mrs HISCUTT - To reiterate and add a little bit, the selection panel will be considering it extremely hard if there is someone who is the best applicant, as the member for Launceston says, and has four-and-a-half years. The best applicant who comes forward maybe will be someone who has 20 years experience, but we have to leave it open and trust the selection panel will do their job correctly.

The selection panel will take into account the length of service and other relevant skills.

As a state, as I have said before, with a comparatively small population, being too detailed in setting out the qualifications for members will unnecessarily limit the pool of qualified applicants. I reiterate the clause is worded the same as in other jurisdictions and the addition of a time frame would take us out of step with those jurisdictions. It works in other states as it is and it will work here as it is.

The reasons for the legal practitioner having a minimum of seven years experience is because, as the member for Elwick says, it is a judicial appointment, similar to a magistrate or a judge; that is why seven years is there.

Members, I urge you to pass the bill as it is. It works fine in the rest of Australia, in the other states where they have this, and it would limit our pool of applicants to the selection panel too much. We should leave it to the selection panel to make the best decision and look at the qualifications necessary to appoint this person.

Mr DEAN - I am not going labour this point other than to say that it does not matter whether the lawyer's position is quasi-judicial - why is seven years there? If that is the case, why is that there? As I read this, it has to be a currently registered, serving lawyer on that board. I suggest there could well be more retired police officers out there than there are lawyers who would fit the position. To say it would restrict the applicants and there might not be enough applicants is really a flawed argument.

The member for Rosevears probably put it much better than I did in many respects. I cannot see where the amendment causes or creates any damage to the section in any way because what it does is simply say to a retired police officer, and they must be a retired police officer - very clearly, that is one of the criteria. What the amendment means is that unless you have had at least five years within the police service, you will not be considered.

To answer the member for Launceston - that a lawyer who has six years and 11 months serving as a lawyer might be well suited to an appointment to a position on this Parole Board and they will miss out because they do not have seven years. They must have seven years service. That argument is not a strong argument, but I respect the decision of the members around this Chamber. I put the matter forward because it strengthens the legislation and would make a better parole board.

As it is, because they are required by this legislation to have a police officer on the Parole Board, the only applicants they get are very inexperienced police officers with one and two years service, and then it comes a time when they have to make the appointment under this legislation. Maybe you might answer that for me, Leader: what happens if they do not get suitable applicants for the position on the Parole Board?

I ask members to consider seriously supporting the amendment, which does not take anything away from the bill at all.

Mrs HISCUTT - Starting at the end of your questions, if no applicant comes forward -

Mr Dean - No, I did not say that. I said, 'Not a suitable applicant.'

Mrs HISCUTT - Across Australia, this has not happened. A suitable applicant has always come forward and has been selected. If that does happen, it would have to be addressed at the time. Normally, there have been no issues.

I will answer your other two questions. A magistrate needs five years experience, judges need 10 years experience and other board members need seven years experience generally across the board.

What if we were to have a man or a woman migrate here from England with 20 years experience in policing and looking for a job or maybe looking to retire and fancies themselves as a suitable applicant for this job? They have zero Australian policing but 20 years elsewhere. You would think they would be well equipped to know the criminal mind. We should not close this down to five years or any year, because it would eliminate people who have excellent experience in another jurisdiction. I urge members not to pass this amendment and keep the bill as it is.

Mr FINCH - Just curious on the argument you are putting forward, Leader. The paragraph here says, 'In another State or a Territory of the Commonwealth.' I would assume if somebody came from the United Kingdom, it would come under the umbrella of a territory of the Commonwealth.

Mrs HISCUTT - They have 20 years experience in the Commonwealth and one year of experience in Australia, after they have migrated and become a citizen.

Mr FINCH - Can you tell me again please?

Mrs HISCUTT - If somebody living here had migrated from England, with 20 years experience in policing, and joined the police force here with a year's worth of work in Tasmania, this would eliminate them - an excellent criminal mind, with one year's experience, but they would be eliminated under this amendment.

Mr DEAN - While I am standing, was the member for Rosevears' position supported? That this could cover it because it says it is 'of the Commonwealth' that an ex-police officer or retired police officer from England could well apply for this position and could fit the criteria?

Mrs HISCUTT - Yes, he could come from America, but the experience in the head is here. There is 20 years worth of policing in this particular person. They have migrated, living here in Tasmania, have one year in our police force - this would eliminate them.

I think I was pretty right, so 20 years policing overseas, anywhere, they can come here with their corporate knowledge and have one year's working in Australia - this amendment would eliminate that person because they have had only had one year working in Australia whereas they have 20 years of corporate knowledge from elsewhere. Is that clearer?

Mr FINCH - It is unfortunate we have gone down this path because you are putting forward a tenuous argument. I think you started off the argument about someone from the UK. It is suggested

they would still fit the bill in respect of the way this is written. We are drawing on one year's experience here. I do not know.

I am out in the community a fair bit and I come across a heck of a lot of ex-police officers in the work I do and the people I meet are community members who have had a lot of experience and who are retired. If they had an opportunity to come onto a parole board, I am sure they would be very keen to put their name forward. I would say there is not a paucity of people out there. You are going to have people with one or two years experience crowding the market trying to get on the Parole Board.

I still hold the suggestion the member for Windermere is making is an appropriate one. It is not flippant. It does give some, I suppose, suggestion: do not put your hand up for this gig unless you are retired and you do have solid experience behind you. Do not come with one or two years experience and try to get onto the Parole Board. Make sure you have a good store of experience under your belt and then come and offer your experience because that is the sort of experience I think is needed on a parole board to help guide the other members from a policing view.

You want somebody with good experience under their belt to give you that assessment, just as we lean towards the member for Windermere when we talk about policing issues. I always listen to what he has to say because he comes with that vast experience as a police officer, a sergeant, a detective, as a police commander. I am still holding to the fact that I cannot see an issue with this amendment.

Mr GAFFNEY - I will have a quick contribution to this. I understand the Leader was using the UK as an example. If she used a country not in the Commonwealth, for example, the States or some other place -

Madam DEPUTY CHAIR - I think this refers to the Commonwealth within the country.

Mr GAFFNEY - It does but I think that was a confusion. I do not know where you are coming from with your experience because whoever it is going to choose it is not going to choose someone of one or two years experience. They are not going to go down that track if we have that many people out in the community who would have the required qualifications to take on this role.

My final point, and probably one that is a little bit flippant, is that last year I was accused of blocking the Government, of not supporting legislation, but this time I am supporting the Government's stand on this, so well done. The five-year time frame is not necessary.

Mrs HISCUTT - Thank you very much for your support, member for Mersey. We do not set years of experience for the other members for the corrections and medicine people or for the victims of crime person. We have faith that the selection panel selects the correct person for those two sections.

The selection panel is quite capable of picking a suitable applicant to fill the position we are talking about in this bill. They seem to do it well with the other two and we should leave it to the selection panel to make the correct decision. There is no need for this amendment to go into this bill.

Mr VALENTINE - Can we clarify that where it says 'or in another State or a Territory of the Commonwealth' that it is not talking about the wider Commonwealth but it is the Commonwealth of Australia? Can we clarify that?

My other observation is you would hope you would not have a person who has five years experience in matters that victims experience. I do not know that the time frame is applicable to that.

I have an element of acceptance of what the member is saying. I would like to hear the answer to the question I asked about the Commonwealth.

Mrs HISCUTT - The question is: what is the meaning of another state or a territory of the Commonwealth in this bill?

State means a state of the Commonwealth of Australia - that is, New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia. A state is defined in the Acts Interpretation Act 1931, section 43(1), to mean a state of the Commonwealth and Commonwealth is defined in the same section to mean the Commonwealth of Australia.

Mr DEAN - It takes away from the expertise of what is a very professional board, an important board. When we are dealing with people who have been incarcerated for long periods, in some cases for very violent and serious crime - and that is the only time you get to serve long terms of incarceration - you need a board that has the absolute best expertise on it to make the decisions that Tasmanians want and expect. That is, for people only to be released on parole where there is a real chance of rehabilitation and where there is a real chance they will not reoffend.

That is the expectation of the public, what we want and what we require, and to get that you need a very experienced parole board. You cannot get an experienced parole board when you leave it open to a person with one or two years experience. I do not care where they have served in that time. They could not have the required amount of experience to make the judgment and the decisions necessary to be made.

You are assessing the minds of people; you are assessing many aspects and character traits of a person in going down this path to get parole. You are taking away from the professionalism of this board by not having a person in the position of a police officer on there who has had quite a lengthy period of service.

The panel is likely to make the right decisions. I cannot say they will always make the right decisions, but that is what they are set up for. There are certain criteria they would need to meet, guidelines they would need to meet in the selection of these people, as in this case they have to be a police officer or must have been a serving police officer. They are the critical criteria in the first instance, but no other criteria are set.

Yesterday when we spoke about this matter, it was suggested to me there might not be a sufficient number of police officers applying for the position and it would restrict the applications. Well, hello! If you can only get applications from ex-police officers who have served one or two years, I suggest you do not want them on there unless they have the required experience. You do not want them on there to make up the numbers; it is not a numbers game. It is a very important position they occupy. What makes experience? Service time, where they serve and what they do -

that is where people gain experience and knowledge. I urge members to support this amendment. I will go the whole way with this one and take it to a vote.

Mrs HISCUTT - I ask members to remember that this amendment bill is inserting a police officer onto the Parole Board. The Parole Board already exists and it has experienced members on it who have been selected through the panel process with experience in corrections and medicine and -

Mr Dean - They all need to be experienced.

Mrs HISCUTT - The selection panel ensures that they select the correct people who they feel will be able to fulfil their responsibilities to the best of their ability on that board. This is already happening. This amendment will put one person on that board - except for the chair, who is the lawyer - who is the only person who has this restriction on them. The other people are picked on their experiences and how they can handle the position. You are singling this one person out and sort of saying that the Parole Board selection panel needs more guidelines. I think the selection panel is doing a great job as it is, and the member for Windermere's amendment would not guarantee relevant experience of a former police officer. A police officer may have five years of experience in a non-operational role, which is not going to address the concerns about where they have served. I seriously think, members, that the selection panel at the moment is doing a great job of getting the right people and this amendment that we have before us today is just adding another person to the Parole Board. I do not see that it is necessary to put it in there because the selection panel is already picking the right people. Members, I urge you to not to pass this amendment.

Amendment negatived.

Clause 4 agreed to.

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

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

Second Reading

[5.05 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 the bill is to make a number of amendments to Tasmanian acts that authorise, or facilitate, the release of information to CrimTrac. Up until 1 July 2016 CrimTrac was the national information-sharing service for Australia's police, law enforcement and national security agencies. The agency was established in the year 2000 under an intergovernmental agreement as a Commonwealth executive agency and collaborative partnership between the Commonwealth, states and territories.

In 2002, to combat serious and organised crime in Australia, the Australian Crime Commission was established under the Australian Crime Commission Act 2002. The functions of the Australian Crime Commission include collecting and analysing criminal intelligence, setting national criminal intelligence priorities, providing and maintaining criminal intelligence systems, investigating federally relevant criminal activity, and undertaking task forces in conjunction with state and territory police.

In February 2014 a national commission of audit recommended CrimTrac be merged with the Australian Crime Commission to better harness their collective resources. This recommendation was supported by all Australian governments and on 1 July 2016 Commonwealth legislation took effect, merging CrimTrac into the Australian Crime Commission.

The Australian Crime Commission now performs all the previous functions of CrimTrac, including providing national police information systems to police agencies and nationally coordinated criminal history checks to accredited agencies. It should be noted that the merged organisation is still referred to as the Australian Crime Commission by the Commonwealth ACC act and this remains its name for any legislative purposes.

Four Tasmanian acts authorise the release of information to CrimTrac. Those four acts are:

- the Annulled Convictions Act 2003;
- the Firearms Act 1996;
- the Forensic Procedures Act 2000; and
- the Health Practitioner Regulation National Law (Tasmania) Act 2010.

This bill amends these acts, removing references to CrimTrac and, where required, replacing them with references to the Australian Crime Commission. This will allow the information that would have once been sent to CrimTrac to instead be sent to the Australian Crime Commission.

Finally, the bill also adds a transitional clause into the Forensic Procedures Act 2000. This ensures that any agreements made between Tasmanian government agencies and CrimTrac are in effect ported across to the Australian Crime Commission and thus deemed to be an equivalent agreement with the Australian Crime Commission.

This bill will take effect on the day it receives the royal assent. I commend the bill to the House.

[5.09 p.m.]

Mr VALENTINE (Hobart) - Mr President, I do not have any concerns with what the bill is trying to do. It is a simple bill to change the name of the target agency, and there is no substantial change to the way the data is handled, as far as I can see, unless other members bring something to my attention. It simply changes the name of the agency that is to receive the data. I am happy to support it.

[5.09 p.m.]

Mr DEAN (Windermere) - Mr President, likewise, I support this bill. It is simply a matter of a change of name to work in with the other jurisdictions. We have no other option. If I look back at my career when data collection was simply done state by state, territory by territory, it was a nightmare to get the information you needed to get to be able to do your job properly. It was a matter of ringing all the states and finding what each state had on a person or what information on

a crime occurring. It was a nightmare. This is simply a change of name. Since CrimTrac and the other departments came into place, it has been a breath of fresh air for policing, obviously for many other jurisdictions. It is necessary, let us move forward and I will certainly support the bill.

Bill read the second time and taken through the Committee stage.

MOTION
Consideration and Noting - Select Committee on Firearms Law Reforms - Report

Resumed from 27 September 2018 (page 58)

[5.14 p.m.]

Mr DEAN (Windermere) - Mr President, I sought an adjournment of debate on this matter so I could consider the position of the Government in an informed manner. It was a lengthy response and as the member for Mersey said by way of interjection at the time it was delivered, it is of concern the Government's submission at the time for the committee was not as well prepared - words to that effect. I have paraphrased them in this comment.

I thank all members for their contributions. It is true that when first learning of the Government's position that they were not progressing the policy document, I believed the committee could and should proceed when this was raised by a member. I was trying to convince myself that it needed to proceed because of the interest being shown in it and not wanting to accept that the Government had in fact pulled the rug from underneath our feet.

I thank the Government for their response and we will make some reference to issues raised by the Leader on their behalf. I note that the Government is saying that everyone who wants to have their say on Tasmanian firearms laws, which are and should remain their strongest, can do so.

It is a pity they did not consider this at the time of releasing their policy two days before the election. It is a pity they had not considered that then. As the submissions received will identify, suppressors were referred to frequently, but the Government was not going to allow any discussion about them as they had been removed from the terms of reference. One person who had included suppressors in his submission asked me why this is the case. I told him to make contact with the Government and with the committee that is now set up in the other place to look at firearms reform.

The Government talks about the Firearms Act having been amended 14 times since it commenced in 1996. This includes amendments through the Firearms (Miscellaneous Amendments) Bill. While I have not counted the number of times, I believe I am right in saying that on each occasion it has seen stronger and stricter legislation being implemented.

There has been no relaxation of laws relating to firearm ownership or use. I do not recall any arguments coming forward from the anti-gun groups when these matters were dealt with. There lies the difference with the not-to-be-progressed policy document and the Liberal Party. Here there was a perception of weakening the current legislation and being contrary to the National Firearms Agreement.

The Leader's Government contribution also talks about Firearms Services - FAS - and what its functions are, including the employment of a civilian manager and other staff to keep up with the

workload. That will be appreciated by gun owners as delays are currently a cause of aggravation to them.

Mr President, it was made clear in the submissions received that firearm owners were generally displeased with the operations of FAS failing to act quickly enough and not operating efficiently in their interpretation of the legislation and failing to consult. Has this changed? I am not too sure because I have just received a complaint from a gun club involving a newsletter, where a number of issues have been raised. They are concerned about that and the activities of FAS. I hope that they can get on top of it.

The Leader then moved to farmers and referred to firearms as their tools of trade and the Government's submission or position. This is when the member for Mersey, I think, interjected with the phrase similar to one I mentioned previously. He was right; this information was not in their submission and I am not sure why. There is no disputing the need for farmers to have access to the right firearm. That has never been contested. What farmers are now seeking are changes that will allow them to do their work without unnecessary controls, requirements and challenges. They do not necessarily see any weakening of the laws and interference with the NFA.

The Leader refers to the 'captive bolt' device in the submission made. It is not a term that I was very familiar with at the time, but I am now. This is a device that is designed for use in an abattoir for humane killing of livestock by means of a retractable bolt. No licence is required. Tasmania is the only place that requires a licence for ammunition.

The Leader made reference to the other acts and regulations that farmers and hunters must be familiar with and comply with: the Nature Conservation Act and Wildlife (General) Regulations. I suggest there are many other acts they need to be familiar with and one of those would be the Animal Welfare Act and regulations that apply to that.

The first four-and-a-half pages of the Leader's speech in answer to this matter related to the history of the current act and how it all works. The following page-and-a-half related to the policy document and its release. It is interesting that the Government had steered clear of why the policy document was only publicly released two days before the election day and further, they have not made comment on why they withdrew their policy document at the eleventh hour.

In the Leader's position here, in relation to this motion, there was no comment made.

It leaves one to look at this closely. Was it because of public concern? Public concern is always present when it comes to messing about with changes to firearm laws. There is nothing new or unusual about public attention to firearm law changes. Port Arthur remains raw with Tasmanians.

Will the Government tell us why the policy document was publicly released only two days before an election? The release may not have been of the choosing of the party, but we should know why. I was expecting to be told here, in the Government's response. I was also expecting to be told the real reason behind the Government's decision not to progress the policy position, but they have been extremely careful to avoid this point and to protect both these areas. That causes me to believe things happened along the way that would or could cause embarrassment to them.

Neither did the Government tell us in their submission whether they had considered the likely ramifications of no longer progressing the policy documents on the select committee inquiry. While I am not suggesting it was deliberately done to derail the inquiry, it would have been extremely

prudent to have considered the consequences. They knew the policy document was the backbone of the terms of reference and referred to in the terms of reference. One would have thought they would have closely considered this.

I am trying to work out why the Government would now refer to the committee they have set up in this way. They refer to it in a strange way as the 'committee of the other place'. It is a committee the Government set up; the Government moved for that committee to be set up. It is an unwieldly way to have stated the position of the committee, in my view.

I ask the Leader to address this and provide an explanation to the House in due course, as it is espoused in a way that almost absolves the Government from anything to do with setting up of the replacement inquiry. It was told to step aside from that as well.

It is another case of a poor selection of words to explain a position the Government has been responsible for. The Government statement refers to the need for widespread community understanding and support for any change of firearms reform. They say that again in the Government submission in answer to this motion. Why release a policy document two days before an election for public consideration? Did they not see at that time the need for widespread community understanding and support for any change for firearms reform?

There are many questions left unanswered from the Government's statement as delivered by the Leader. It is not surprising many people felt let down by the Government's release of a policy document that would consider firearms reform so late during an election period. The criticism of the Government was to be expected.

I am pleased I sought the adjournment to go through and look very closely at the matters the Government was raising and I have had that opportunity. It is an important matter.

I thank other members for their contributions in relation to this matter and the statements and positions they brought forward.

A week or so ago, I had a long discussion with Dr Phill Pullinger in relation to this matter. It is still going on. They are still ringing me and I am trying to push them through to the right area now.

I hope the House of Assembly committee is able to address the concerns of both sides regarding firearms reform; however, because of what has happened, we will see a well watered-down version of a report, with findings and recommendations coming forward. The *Four Corners* program was interesting when you looked across the whole of Australia and what is happening to firearms reform.

I thank members for their contributions in relation to the motion before this Chamber.

Motion agreed to.

ADJOURNMENT

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

That at its rising the Council adjourn until 11 a.m. on Tuesday, 20 November 2018.

Motion agreed to.

Local Government Election Results

[5.25 p.m.]

Mr ARMSTRONG (Huon) - Mr President, I rise on the adjournment to raise issues surrounding the recent hard fought local government elections. I am sure all members have been trying to follow the results of the elections on the local government website. Many voters and candidates have also been trying to follow the results on the website and many have contacted me in a state of confusion. That confusion arises from the electoral office trying to forecast the outcome of elections after only 20 per cent of the vote has been counted. To the untrained and trained eye this seems ridiculous.

The website stated that some of the candidates had been eliminated when it was not the case. One candidate who contacted me had switched on his radio the next morning to hear he was out of the running. Again, that was not the case.

I call on the Tasmanian Electoral Commission to cease the way in which they have been predicting the final outcomes, especially after only one-fifth of the vote has been counted. Otherwise, make it obvious to all that their predictions are just that - predictions. Please have them state in bold letters at the top of their predictions so they can all be clearly understood.

Other matters arising from the election relates to the unacceptable time that has occurred in finalising the votes. Voting closed at 10 a.m. on Tuesday and by lunchtime yesterday and even a few moments ago, we still do not know the final results. I can accept some may be difficult due to the closeness of the vote. However, surely the time frame on this occasion has been very questionable. If it was a state or federal election, I suggest the progress would have been much swifter.

Local government is the grassroots of government and voters need to be treated in the same manner as their state and federal counterparts as far as elections are concerned. My understanding is that local government pays the bill for these elections. I assume the bill is split over the 29 councils, or with this recent one over the 28 as Glenorchy did not go to an election. I do not think the bill would be excessive if extra staff were employed to give to candidates and the public a faster and less confusing outcome. The electoral office must have the proper resources to allow the count to proceed in a reasonable time frame.

After noting the voter turnout at the elections and studying the process, I believe much work needs to be done and I will be putting forward a notice of motion in the coming weeks relating to how our local elections can be improved.

The Council adjourned at 5.30 p.m.