

assisting. Again, all those matters may well have been linked to the improper use of material that would otherwise not have been out in the public domain but for the leak that seems to have occurred. Further to that, there is another question that the Standing Committee on Procedure and Privileges could not have considered because it was not referred to it, nor did it take evidence to that extent. However, other members of Parliament were also, in my view, interfered with in the execution of their duty with respect directly to this leak and directly tied to Mr Robert Taylor - directly. Robert Taylor called me. Now that must have been - I do not know; I am guessing - somewhere between 6 and 13 November; however, it was just prior to Hon Murray Criddle tabling the special report of the Select Committee of Privilege in Relation to a Matter of Privilege Arising in the Standing Committee on Estimates and Financial Operations, which referred this matter to the Standing Committee on Procedure and Privileges.

Hon Adele Farina: The article quoted was dated 8 November.

Hon KIM CHANCE: The eighth of November? That is possibly it. Robert Taylor called me at about that time - indeed, my telephone conversation with him was recorded in the next day's newspaper, so it will be fairly easy to work out when - without disclosing that he was involved in those issues of 6 November. He called me purporting to want to understand the reason for the difference in the way in which the Legislative Council and the other place deal with matters of privilege. He called to ask me directly whether I thought it was proper that privilege committees in the Legislative Council should be conducted in closed session, when those in the other place are conducted in open session. I thought it was a genuine call wanting to understand the way our committee system worked and I dealt with his inquiry in the same way. He did not disclose that he had already been involved in a leak from a private hearing. That is interference, in my view, with a member of this place.

Hon Norman Moore: With respect, he did the same to me -

Hon KIM CHANCE: I know he did.

Hon Norman Moore: - and I gave the same answer as you. I don't feel interfered with.

Hon KIM CHANCE: I do.

Hon Norman Moore: If anybody asks me a question "Why do we actually operate the way we do?", then I give them an answer according to my understanding. Now, I don't feel interfered with.

Hon KIM CHANCE: Yes, but the Leader of the Opposition and I would both accept a question from a journalist on its face value - always.

Hon Norman Moore: Yes; absolutely.

Hon KIM CHANCE: That is what the Leader of the Opposition and I both did on that occasion and, I would hope, on any other occasion. That is why I feel impeded in my duty because Robert Taylor did not disclose to me why he was calling. He was calling to shore up his own defence; that is why he called. He did not call because of any want of knowledge; in fact, I was surprised at his call because I would have thought that someone like Robert Taylor knew perfectly well why our hearings are held in private. If he wanted to know why the hearings in the other place are not private, he needed only to ask the Speaker. I was somewhat surprised, but that was clearly not the purpose for the call. He did not want to know what the difference was; he wanted to shore up his defence. It is at that point, I believe, that that becomes an impediment to me because I was speaking to somebody under pretences that he did not make me aware of. All that might be an overreaction; I am very careful not to overreact. All that I intend to do now is to move that this matter be adjourned to the next sitting of the house.

Debate adjourned, on motion by **Hon Kim Chance (Leader of the House)**.

CRIMINAL CODE AMENDMENT (DRINK AND FOOD SPIKING) BILL 2007

Second Reading

Resumed from 19 September.

HON DONNA FARAGHER (East Metropolitan) [3.24 pm]: The opposition supports the Criminal Code Amendment (Drink and Food Spiking) Bill 2007. This bill seeks to insert into the WA Criminal Code a new section, section 305A, which will expressly deal with drink and food spiking. Drink and food spiking can have serious consequences, not only from a health point of view; increasing concerns have also been raised within the community and highlighted in various media reports about the likelihood of people becoming victims of sexual assault.

The issue of drink spiking has, of course, been around for some time. From a legislative and policy point of view, I recall having some dealings with the issue of drink spiking in my former employment as an adviser to the now former federal Minister for Justice and Customs, Senator Hon Chris Ellison. That was in my capacity as a policy adviser for the National Illicit Drug Strategy as well as for the Australian Institute of Criminology. In 2003, the institute was commissioned by the commonwealth Attorney-General's Department to conduct a

national project on drink spiking. Its report was subsequently released by Senator Ellison. The report found that there was no one typical incident of drink spiking. I will refer to an article by one of the researchers, Dr Natalie Taylor, that appeared in the *Of Substance* national magazine. It states -

There is no single 'typical' incident of drink spiking. Rather, it can occur in a variety of locations, against a variety of victims, with a range of different drink spiking additives, for a number of different reasons. In the report it was found that:

- four out of five victims are female;
- half of drink spiking victims are aged under 24 while one-third are aged between 25 and 34
- two-thirds of suspected incidents occur at licensed premises, although for sexual assault victims the location is equally likely to be at the victim or offender's home or another location
- many victims do not know who the offender was
- where offenders can be identified, drink spiking can be perpetrated by strangers or known acquaintances, while incidents involving sexual assault are more likely to occur with a known acquaintance;
- many victims experience memory loss after drink spiking;
- apprehension of offenders is very uncommon.

One of the greatest difficulties, it would appear, in this matter is that the extent of the problem is unknown. However, that does not mean, of course, that nothing should be done. Again in the same article, it states -

... that it is currently not possible to identify the exact number of drink spiking incidents which occur within the community. This is because:

- (a) drink spiking is heavily under-reported to police and other authorities, meaning that the majority of suspected incidents remain unknown to authorities,
- (b) many victims experience memory loss after drink spiking so that often victims may be unaware of what has happened to them,
- (c) levels of reporting to police fluctuate with awareness campaigns so that it is not clear whether increases in reporting reflect an increase in incidents or an increase in willingness to report incidents
- (d) it is very difficult to verify whether someone's drink was actually spiked as drugs and alcohol can leave the body quickly.

However, the article does state -

Between 1 July 2002 and 30 June 2003 it was estimated that between 3000 and 4000 suspected incidents of drink spiking occurred across Australia. Further, it was estimated that about one-third of incidents involved a sexual assault while the majority of incidents involved no additional criminal victimisation.

It is clear from those figures that the potential and actual harm that can be caused by drink and food spiking cannot be underestimated and, indeed, can be devastating for the victim. The Standing Committee of Attorneys-General had agreed earlier this year to consider implementing model laws across all jurisdictions. This arose from the release of the "Final Report: Drink and Food Spiking", which was prepared by the Model Criminal Law Officers Committee of commonwealth, state and territory criminal law experts and which was endorsed at a meeting of the standing committee in July.

The bill before us is Western Australia's response to this issue. I understand that South Australia, Tasmania and Queensland have already enacted legislation. Essentially this bill will apply to two situations. The first is when a person causes another person to be given or to consume drink or food containing an intoxicating substance when that person is not aware of the intoxicating substance. The second is when a person causes another person to be given or to consume drink or food containing more intoxicating substance than the person receiving the drink or food would reasonably expect that drink or food to contain. In either of these situations the provider will be guilty of a crime with a maximum three years' imprisonment or, when a summary conviction applies, imprisonment for 12 months and a \$12 000 fine. In addition, the bill provides a specific defence to these new offences. That defence is when an accused person had reasonable cause to believe that each person who was likely to have consumed the drink or food would not have objected to consuming the drink or food if the person had been aware of the presence and quantity of the intoxicating substance in the drink or food.

As I said at the beginning of my contribution, the opposition supports this bill. I certainly hope it will serve as a strong deterrent to someone who might want to engage in such reckless behaviour. Hopefully the number of victims of such behaviour will also significantly decrease as a result.

The CHAIRMAN: Before I give the call to the minister, who will conclude the debate, I understood that Hon Giz Watson left the chamber to get a file to speak on this bill. I am very happy to hold up the proceedings -

Hon Paul Llewellyn: As you know, this bill was not on the notice paper and Hon Giz Watson has gone to recover the necessary files.

The CHAIRMAN: I will have to delay proceedings to enable the member to speak.

Hon Sue Ellery: We could sing Christmas carols!

The CHAIRMAN: As long as they are sung reasonably well. Thankfully Hon Giz Watson has returned and the minister will not have to sing Christmas carols.

HON GIZ WATSON (North Metropolitan) [3.32 pm]: I rushed down to the fax machine to get my notes on this bill. I give credit to my research officer's ability to assess a bill in 40 minutes. Apparently the Greens (WA) are pleased to support this bill to amend the WA Criminal Code! The bill will insert proposed section 305A, which deals specifically with drink and food spiking. Drink spiking is the act of placing a foreign substance into a drink without a person's knowledge and can be done with many different agents. The evidence points to alcohol being the most popular agent. Many prescription as well as illicit drugs can be used. There can be many reasons for spiking a drink, including as a prank or to aid sexual assault, theft, robbery and even kidnapping. This crime affects all sexes and ages. DrinkSafe reports that 11 per cent of drink-spiking victims are male. It is one of most underreported crimes and therefore there is a lack of crucial data to assess the true number of spiking incidents and drug-facilitated crimes. It can happen in any place where alcoholic and non-alcoholic beverages are consumed, such as at raves, clubs, bars, restaurants and even private house parties.

The Greens commend the government on the inclusion of this offence in the Criminal Code but at the same time we remind the government that it is imperative to complement this move by raising public awareness of the issue. Perhaps we need a public education campaign for young people on how to avoid having their food and drink spiked. We must also alert the community that food and drink spiking has become a serious offence. I understand that the Model Criminal Law Officers Committee of the Standing Committee of Attorneys-General delivered the "Final Report: Drink and Food Spiking" on 20 July 2007, after community consultation on a discussion paper that was released in May 2006.

This final report was prepared by the Model Criminal Law Officers Committee for submission to the Standing Committee of Attorneys-General. I would like the minister to confirm that this bill conforms to the recommendations made in that report. Under the condition that the bill follows best practice, we would express our support for the bill, despite it being called on at the last minute with such late notice. My thanks go to my very capable research officer, Irma Lachmund. She is a miracle.

HON SUE ELLERY (South Metropolitan - Minister for Child Protection) [3.35 pm]: I thank members for their contributions. I also thank members for their flexibility today in assisting us to get through some of these bills at very short notice. This is an interesting area in a disturbing way because, as each of the members has commented, we know that this phenomenon of drink and food spiking is underreported. It is interesting that laws are being made in an area where we are not actually able to accurately measure the extent of the problem. If members have close contact with young people, they will know somebody who has been affected by this. I certainly know a young man who was affected by this, which resulted in devastating consequences for him.

I thank members for their contributions. Hon Giz Watson asked whether this bill followed the report. The information that is available to me is that it did, but I will confirm that later and provide the member with that information. As I understand it, that is what this bill does. Without any further comment, I again thank members for their contribution and flexibility and commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Minister for Child Protection)**, and passed.

HUMAN REPRODUCTIVE TECHNOLOGY AMENDMENT BILL 2007

Second Reading

Resumed from 22 November.

HON ED DERMER (North Metropolitan) [3.38 pm]: On 22 November I used my last opportunity to contribute to this debate to try to explain in plain English as best I could the scientific propositions entailed in the bill and related other scientific matters. Unfortunately, in that endeavour, I made an error. I would like to apologise to the house for making that error and endeavour to explain the error that I made and correct it. I am fortunate that my contribution to the debate was interrupted by standing orders and other matters for it gave me