DOMESTIC VIOLENCE ORDERS (NATIONAL RECOGNITION) BILL 2017

Committee

Resumed from 31 October. The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon SUE ELLERY: When we left off, Hon Michael Mischin had asked a question around the notion that the scheme in its initial form may be inferior to the existing registration system in terms of timeliness. I am able to advise him and the chamber that the initial premise of the question he put is correct. From an operational perspective, a registered order is indistinguishable from a Western Australian order. That will not be true of interstate orders recognised under the national scheme. The issuing jurisdiction, not WA, will be the source of truth regarding the status and details of such orders. However, this distinction will not impact on victim safety; it will have only a minimal impact on law enforcement processes. In most cases the information available to frontline police officers under the interim system will be sufficient for the exercise of arrest powers to keep the victim safe. The police officer will check the interim information sharing system to do three things: confirm the existence of a recognised order; confirm the order has been served; and obtain a summary of the conditions of the order. That information will not have evidential value, but it will provide the basis for the officer forming a reasonable suspicion that a breach has or has not occurred. In those cases the need to obtain further information from the issuing jurisdiction relates to the laying of charges, not the initial police intervention. Nonetheless, when dealing with the victims' safety, we need to prepare for contingencies. Cases may arise in which the information available on the interim system does not provide sufficient basis for the exercising of arrest powers; for example, when the issuing jurisdiction has not updated the field that records the service status and the alleged offender is denying that the order has been served. That is why the bill preserves the capacity of police officers to issue police orders. Such orders will provide interim protection while the status of the interstate order is clarified to the agreed national information-sharing process. If the police officer believes that a criminal offence other than a breach of the order, such as assault, has been or is about to be committed, they can intervene in the usual way that they would intervene in such a matter in any event.

I think it is also useful to make the point about the advantages of the national system. Once an order is recognised, it is recognised across Australia. Achieving the same outcome via the registration process would require attendance at seven different courts in seven different jurisdictions. The new system also avoids the gap in protection that currently arises between a person's arrival in the new jurisdiction and their attendance at a court capable of registering the order.

Hon MICHAEL MISCHIN: I thank the minister for that advice. I of course acknowledge the importance of automatic and mutual recognition, which was the point of the discussions at a ministerial level over the last couple of years to try to achieve that, but also to institute our participation in this scheme. I am concerned that given the nature of the announcements that have been made, a false sense of security may be built up amongst those who are in this jurisdiction but from other jurisdictions. I think it would have been wiser to be a little more circumspect about the introduction of the bill and what it will achieve, and perhaps the minister might care to comment on what will be said to the public once the bill is passed to ensure that people's expectations are not elevated beyond what can be achieved. Nevertheless, one of the matters that was exercising the minds of Attorneys General particularly, as I have pointed out, in the course of the second reading debate in Victoria regarding the resources and the information platform, was whether those things have been addressed. What arrangements are currently in place? What has been achieved as a result of that negotiation? How much money is Western Australia expected to contribute to it? Who has the responsibility to establish the information-sharing system and database? To what extent will that be able to draw on what I understand to be the very successful integrated courts management system that the department of the Attorney General has implemented over the last several years? I know there are a number of questions, but I think the minister can gauge the broad scheme of what I am interested in and perhaps it might assist in being able to expedite proceedings if I can be given a response.

Hon SUE ELLERY: In response to the first question about the message that will be given to the public once the legislation is passed, a national communications campaign will kick off addressing, as its key component, its key message, the distinction between new and old orders. That is core to the communications message. Regarding who is establishing the courts management system and whether any money has flowed to it et cetera, the system will leverage off the existing national police IT system. The courts will provide the information using the integrated court management system, which the member would be familiar with. The courts will use that information to advise the police, who will then use their system to advise all other jurisdictions. The member would also probably be aware from the modelling that has been done, which I am advised is still very crude, that the expectation of

money to be spent will be about $1 million over four years. The caveat on that is that it is a fairly crude estimation. All jurisdictions will participate in the financing of it. That is the indicative cost and I am urged to put the caveat that it is a fairly crude estimate.

Hon MICHAEL MISCHIN: I thank the minister and I am obliged for the update on what is happening. As I have mentioned, a draft of this legislation had been prepared towards the end of last year and received comment from a variety of government agencies or interested parties—I wish I knew the word that was used before we came up with "stakeholders". Since then, how many iterations has the bill gone through and what level of consultation has taken place on it, both within government and more broadly, say, with the Law Society, the Criminal Lawyers' Association and the like?

Hon SUE ELLERY: I am advised that there were six drafts and every version was circulated to WA Police and the former Department of Community Services, which is the agency that supports the minister who has responsibility for the prevention of family and domestic violence. I am also loath to use the word "stakeholder", but if the member was asking about external stakeholders, of course, this was the subject of a Council of Australian Governments agreement and there was limited ability to change the technical components of the legislation. Also, the member would be aware that there is generally very broad consensus in the field on what the bill is trying to achieve. It was not perceived that there was any need for further conversations about the policy; there was general consensus in the relevant interest groups that this was the right direction to take. The drafts were around the technical components, and they were circulated to the two agencies with most engagement in how the mechanism will be operationalised.

Hon MICHAEL MISCHIN: I accept that there is consultation and consultation. When it comes from a broad policy decision, it is developed by the Council of Australian Governments at that level. Decisions have to be made by governments on whether to participate in schemes. Sometimes useful information can be obtained about how legislation might work from outside agencies and the like, or interest groups. The priority for this legislation would be to make sure that it works in the manner intended, and fits with our processes and procedures. There were six drafts, all told. Were there any significant departures from the initial draft, which is about the last one I would have seen before the state election?

Hon SUE ELLERY: The main things that would have needed to be accommodated between when the member would have last seen a draft of this bill and what is now before the house are the changes that came into effect on 1 July in respect of restraining orders. The legislation that took effect would take into account changes as a result of that measure.

Hon MICHAEL MISCHIN: That highlights my understandable disappointment at the relevant minister claiming that there had been inactivity in this area, when it appears that most of the work had been done last year. We had to wait until the Restraining Orders and Related Legislation Amendment (Family Violence) Bill 2016 had achieved passage and been put into operation before the work could be completed effectively. Nevertheless, as I say, I give credit where it is due, and congratulate the government for having proceeded and introduced the bill.

I think that exhausts my more general questions on the legislation. I am conscious of the desirability of having this bill dealt with before we rise at the end of today. I have a few more questions on specific clauses within the bill. I am not sure whether anyone else has questions.

Hon NICK GOIRAN: I indicate to the minister that I have just a few questions, because I know she wants to get this bill through in a fairly expedient fashion. I have three areas I want to cover on clause 1, and I flag in advance that I have questions on clauses 2 and 3, and on proposed new clause 33A. On clause 1: in what circumstances will an interstate court be able to vary an order made by a WA court?

Hon SUE ELLERY: I draw the member's attention to part 3 of the bill, which sets out the provisions for the variation and cancellation of non-local domestic violence orders. That sets out the process. If I can provide some additional information for the member: one of the things that needed to be taken into account was ensuring that processes allowing people to vary interstate orders did not lead to a situation of what might be referred to as forum shopping. I did address in my second reading response, but I am happy to do it again, some of the safeguards that have been put in place to protect against that. Specifically, clause 26(4) provides that a court may decline to even hear, let alone grant, an application to vary or cancel an interstate order if there have been no material changes in circumstances, and the application is effectively in the nature of an appeal, if you like, against the original decision. That directly targets the potential risk of forum shopping. In addition, clause 26(3) sets out a number of other factors that the court may have regard to when considering whether to hear an application, including the normal place of residence or employment of the parties; any difficulty the respondent would have in attending the hearing; whether the court has sufficient information available to it to make a decision; and the effect on children. All of those factors point to reasons why the court may decline to hear an application, never mind grant it, to vary or cancel an interstate order. They all go to questions of fairness. Those safeguards are supported by the provisions

enabling the court, when considering such an application, to obtain and consider relevant information from issuing authorities in other jurisdictions.

Hon NICK GOIRAN: Thank you for that information, minister. In providing that information, the minister has addressed one of my other concerns under clause 1, which is whether there is any risk that the scheme will be open to jurisdiction shopping. Clearly there is a risk, and that is why the safeguards have been put into clause 26. I thank the minister for confirming that. I go back to my earlier question: in what circumstances will an interstate court be able to vary an order made by a WA court?

Hon SUE ELLERY: An interstate court will be doing that under its own local laws. The variation or cancellation would be done according to the laws of the court where the application to vary or cancel is made.

Hon NICK GOIRAN: That means that another jurisdiction can vary an order made by a WA court. Was the WA judiciary consulted about this provision?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: What feedback was received?

Hon SUE ELLERY: I am advised that, in respect of the policy, no feedback was sought, because that was the policy established by COAG. At the margins, I am advised that there was some feedback on some operational matters.

Hon NICK GOIRAN: I am curious about the fact that the minister stated that the judiciary was consulted, because I earlier heard the minister indicate that there was consultation with Police and Communities.

Hon Sue Ellery: That was about a very specific thing.

Hon NICK GOIRAN: In addition to consultation with Police and Communities about a very specific thing, there has been consultation with other people, including the judiciary.

Hon SUE ELLERY: I was asked a question by Hon Michael Mischin about what consultation had occurred on the respective drafts since he had been the responsible minster, and my answer to his question was very specific about who the drafts had been circulated to. My answer to you just now in respect of consultation with the judiciary was at the outset of the process.

Hon NICK GOIRAN: Thank you for the clarification, minister. So the judiciary was consulted at the outset of the process—that is not to be confused with consultation on the six drafts—and they provided feedback on some operational matters. What were those operational matters?

Hon SUE ELLERY: I will give the member the information that has been provided to me: an issue was raised by the Chief Magistrate early on about who is able to issue the declaration—should that be the registrar or a judicial officer—and the Chief Magistrate's preferred position was that it should be a judicial officer. That feedback was taken into account and is reflected in the legislation before us.

Hon NICK GOIRAN: Is that then different from the model law?

Hon SUE ELLERY: The model law gave jurisdictions discretion on that issue, so we have acted within that discretion.

Hon NICK GOIRAN: Apart from the Chief Magistrate, was any other judicial officer consulted about this provision?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: To clarify, it is not the case then that other judicial officers did not respond to a request for feedback on the bill; the only judicial officer who was requested to provide feedback on this was the Chief Magistrate?

Hon SUE ELLERY: That is correct.

Hon NICK GOIRAN: Is the minister able to advise whether the Chief Magistrate expressed a view about the appropriateness of an interstate court being able to vary an order made by a WA judicial officer?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: Was the Chief Magistrate asked?

Hon SUE ELLERY: That is a matter of policy. The consultation was not on the policy that was set by COAG; the consultation was: "Here is the decision of COAG"—which the government of the day, the previous government, was party to—"This is what the government of the day is going to implement. Do you have any advice in respect of operational matters?" I have provided the member with that advice already.

Hon NICK GOIRAN: Is the minister able to indicate in what circumstances information that has been suppressed by a WA judicial officer will be able to be released interstate?

Hon SUE ELLERY: I draw the member's attention to part 4 of the bill, which goes to the exchange of information provisions. That sets out that the respective issuing authorities may share information with issuing authorities in other jurisdictions. Effectively, the police will be responsible for sharing the information that, let us say, in Western Australia, the court will provide to the police. The police will circulate that to other jurisdictions. Part 4 of the bill that is before us now sets out the parameters in which that information can be shared and who is able to share it and who they can share it with.

Hon NICK GOIRAN: Will police be able to then distribute suppressed information?

Hon SUE ELLERY: For the purposes of exercising their functions under this bill, yes, but only to the issuing authorities as defined in the legislation.

Hon NICK GOIRAN: Can the minister indicate to the house which section in the bill gives the police the authority to share suppressed information?

Hon SUE ELLERY: I am advised that, yes, they can share information for the purposes of carrying out their functions under the bill. That includes, though it is not specifically spelled out, suppressed or other information so long as that information is being shared in accordance with the functions and within the parameters of the legislation that is before us today.

Hon NICK GOIRAN: I understood that from the previous answer, but my question is: which section in the act gives the power to the police to be able to provide that suppressed information?

Hon SUE ELLERY: I tried to explain that. The exchange of information provisions do not explicitly mention suppressed or otherwise. If the member is looking for a particular head of power that includes the expression "suppressed information", he is not going to find it. However, it is part 4 of the bill before us today that sets out the provisions for the exchange of information, and that includes suppressed or otherwise. But if the member is looking for an explicit expression of "suppressed or otherwise", he is not going to find it. It is not in there.

Hon NICK GOIRAN: Does that mean that if a police officer in Western Australia has information that he or she can provide interstate under part 4 of the bill, that same police officer is duty bound to respect the suppression order made in his or her state, being Western Australia? If the judicial officer has said that this information is suppressed, does the police officer respect the suppression order made by the judicial officer or does he or she share information under part 4 of the bill?

Hon SUE ELLERY: The advice I am provided is that part 4 of the bill that is before us provides the authority to share information. I am also advised that it is unusual, but not unheard of, for a suppression order to be issued in respect of restraining orders; nevertheless, it is possible. However, if a police officer found themselves in a situation in which they felt that there was some conflict between their obligations under this legislation and their obligations under other legislation, they would obviously need to seek some advice. But we are confident—as is every other jurisdiction in the nation—that it would appear that these exchange-of-information provisions are sufficient to allow us to give safe effect to the policy of the bill, which is to allow recognition of restraining orders relating to family and domestic violence across jurisdictions.

Hon NICK GOIRAN: The minister said "we are confident" that this and other jurisdictions feel that this legislation and the model law will be able to implement the policy. Has the government sought specific advice about the release of suppressed information?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: I will wrap up at this point, but I just make this observation rather than ask a question. My concern is that the government has not sought specific information about the capacity for a police officer to provide suppressed information to another jurisdiction. I note that clause 28(2), which is part of the part 4 provisions to which the minister referred, reads as follows —

> An issuing authority of this jurisdiction that makes, varies or cancels a DVO must provide to a local or interstate law enforcement agency any information about the DVO that the law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

The fact that the legislation—it might well be the case in other jurisdictions too—states "reasonably requests" is what will potentially create conflict for police officers. I acknowledge that police officers can always go back to the home jurisdiction and seek an order that that information be released. I am not at all confident that this has been considered by this government—we have just received information that it has not sought specific advice on this—but in all probability none of the interstate jurisdictions that also deal with these model laws and national schemes has sought advice on this particular point either. I do not propose that we do anything in particular about

it at this point, but I draw it to the minister's attention. If it is the case, as the minister indicated to us this afternoon, that the government has not sought specific advice on the suppression issue, can I suggest that now would be an excellent time for the government to do so. If an amendment needs to be brought forward, we still have a couple of sitting weeks left to deal with it.

Hon MICHAEL MISCHIN: Although I missed some bits of the exchange between Hon Nick Goiran and the minister, I listened to it with interest. It does seem to raise the question whether a suppression order in this jurisdiction would be honoured in other jurisdictions and what the consequences of that might be if suppressed information is inadvertently, or because of requirements in another recognising jurisdiction, disclosed or revealed and used in a manner that was not contemplated. It does seem that Hon Nick Goiran has raised a worthwhile issue and it does require some clarification.

My last question regarding clause 1 is more a matter of style than substance and I seek a comment from the minister about it. I know the titles of these acts will be different in every jurisdiction. For example, Victoria has the National Domestic Violence Order Scheme Act. Given that the term "domestic violence" is commonly used in other jurisdictions but is falling out of vogue in Western Australia with our preference for "family violence" and "family violence restraining orders" in particular, there may be some confusion among those who seek to obtain reassurance that their orders will be recognised in other jurisdictions and vice versa. I wonder whether the inclusion of "family violence" somewhere in the title is a good idea. Perhaps the minister can explain the thinking that led to the final version of this legislation being introduced in this place using words that reflect old terminology in this jurisdiction.

Hon SUE ELLERY: I am advised that this title was so chosen because it is the most common across the jurisdictions. The member is quite right to draw attention to the fact that when people are talking about the issue of family and domestic violence, we tend to refer to family and domestic violence. However, we wanted to choose a title for the bill that is as close as possible to what other jurisdictions are using. Although style is important and words matter, I think those involved in family and domestic violence would advise that people who seek protection of the orders covered within it are not necessarily going to look for a bill; rather, they will go to a police station or seek advice from a legal service about how to get protection. The name of the bill will not help them; rather, the police or legal service will help them.

Clause put and passed.

Clause 2: Commencement —

Hon MICHAEL MISCHIN: I understand the need for flexibility in fixing the date of proclaiming the operative parts of the legislation. Assuming this bill makes its path through Parliament, say, today or next Tuesday, how soon does the government expect that it will receive royal assent? I take it that the idea will be to proclaim that the operative sections become operative from 25 November to coincide with White Ribbon Day and the introduction of the national scheme more generally. Can the minister confirm that; and, secondly, when does she expect the gazettal of the proclamation will be issued?

Hon SUE ELLERY: Yes, we are aiming, as I indicated informally when the member was making his comments, for White Ribbon Day, which is on 25 November, and therefore we are aiming for the executive council meeting on 21 November.

Hon NICK GOIRAN: As I foreshadowed, I have one question about this matter and it picks up from the issue raised by Hon Michael Mischin: was consideration given to clause 2(b) of the bill to simply state 25 November 2017?

Hon SUE ELLERY: I am advised that if we had known that we would be dealing with the bill this late in the process and this close to 25 November, we may well have done that, but that is not what was anticipated.

Clause put and passed.

Clause 3: Object of Act —

Hon NICK GOIRAN: As foreshadowed, I have a question about clause 3 and then the minister will be pleased to know that I have nothing further until we deal with her proposed amendment. Clause 3, "Object of Act", states —

> This Act establishes, in conjunction with the corresponding laws, a national recognition scheme for DVOs or domestic violence orders.

What is the distinction between the defined term "DVOs" and the undefined term "domestic violence orders"?

Hon SUE ELLERY: I am advised that there is no distinction. Parliamentary counsel drafted clause 3 so that an ordinary reader, if there is such a thing, of our legislation could easily understand the general objects of the policy of the act.

Hon NICK GOIRAN: Do I take it, then, that if the words "or domestic violence orders" were to be deleted, it would have no impact on the bill?

Hon SUE ELLERY: It would have no impact on the operation of the bill. The object of the act is written by parliamentary counsel in terms that are to be generally understood. No, it does not go to the operation of the bill. If a person was looking quickly for what this legislation achieves, they could easily read that in clause 3, which is the object of the act.

Hon NICK GOIRAN: I will make a comment and leave it at that. I understand what the minister has said about trying to make the bill user-friendly for others, but I think it has done exactly the opposite of that, with due respect to parliamentary counsel. When I looked at it, I thought, "Okay; we've got these DVOs that are clearly defined in clause 4(1)", which states —

> ***DVO*** means a local DVO, an interstate DVO or a foreign order;

Then we have this other thing, "domestic violence orders". The object of the act that we are about to pass says that we are creating a national scheme for DVOs or domestic violence orders. It gives the impression to the reader that they are two different things, when clearly that was not the intention. Maybe the minister could pass a note to parliamentary counsel that says that despite their best endeavours, it has actually made things worse. However, I think we have come to the conclusion that nothing turns on it.

Clause put and passed.

Clauses 4 to 8 put and passed.

Clause 9: Domestic violence concern —

Hon MICHAEL MISCHIN: I raise the question that was identified by the Standing Committee on Uniform Legislation and Statutes Review in its report about the reference in clause 9(1)(a), which states —

> … an act of family and domestic violence as defined in the former RO Act section 6(1);

Likewise, I refer to the same formula repeated in paragraph (b), which states —

> as defined in the former RO Act section 6(1).

Clause 4(1) states —

> ***former RO Act*** means the *Restraining Orders Act 1997* as in force before 1 July 2017;

There is a requirement in clause 9 to refer back to a statute as it stood before a certain date, which, if anything, makes the operation of this clause opaque. I accept what the minister said about people going to a police station or the like to determine what their rights and obligations may be. However, it makes it particularly difficult for, say, a respondent wanting to determine what their rights and obligations might be, for an applicant who is seeking to inform himself or herself about the legislation, and, likewise, for a police officer or other agency of government seeking to ascertain what obligations and responsibilities there may be to have to refer back to a piece of legislation that no longer is current. The committee simply raised the problem and made a suggestion about how that might be addressed, but does the government have any intentions of addressing the problem, given that this legislation is of interstate effect, when it may very well be that an authority in some other jurisdiction might also be interested in knowing what the devil we are talking about? Does the government propose to deal with the matter; and, if so, how?

Hon SUE ELLERY: I agree with the member and the views of the committee that it certainly is a convoluted way, to my mind, to draft this provision, but far be it for me to be critical of parliamentary counsel, and I hope that Hansard puts that in capital letters and underlines it.

Hon Michael Mischin: I do not think it has ever stopped you before in opposition to be critical of parliamentary counsel, but we'll leave that aside.

Hon SUE ELLERY: No, but things change. Clause 9(1) adopts the standard approach used by the Parliamentary Counsel's Office in Western Australia when referring to repealed legislation. The reference forms part of a test that will applied by the judicial officers, who will be well placed to access the relevant provisions. That goes to the point that I made earlier and that the member acknowledged in his contribution just now. The people whom this legislation is designed to help will not go to the legislation; they will go to a police officer, a legal service, a women's refuge or people who will assist them to get protection. They will not be looking to the precise detail of the clause.

Hon MICHAEL MISCHIN: Thank you, minister. I accept that this was a drafting decision made by parliamentary counsel, and I can understand why this formula was chosen, but once again I urge the government to consider, when this bill becomes an act and is published, inserting a note that, of course, would not be binding as part of the legislation, because clause 4(2) states —

Notes included in this Act do not form part of the Act.

To have a reproduction of the relevant portions of section 6(1) of the former Restraining Orders Act to readily inform those who need reference to this legislation about what is being referred to would not be an impediment at all. It would make it clearer and be of benefit to not only those using it now, but also, ultimately, Parliament if it ever has to reconsider this legislation in future.

Hon Sue Ellery: I take your point.

Hon NICK GOIRAN: I had not intended to speak to clause 9, but I just heard the minister indicate that it is not intended that this bill will be read by the people who might apply for these orders; it is more likely to be lawyers, advocates and so on and so forth, whom we would expect would be able to deal with the phrases used by parliamentary counsel. Earlier, when I asked the minister about the object of the act, she indicated that it was not deemed necessary by parliamentary counsel to use the extra words "or domestic violence orders", in effect—I am paraphrasing here—to make it more user-friendly for people. Whoever in the Parliamentary Counsel's Office drafted clause 3 and thought, "Let's be user-friendly" must have thought, by the time they got to clause 9, "Let's make it as convoluted at possible." It just strikes me as odd.

Hon Sue Ellery: You and me both.

Clause put and passed.

Clauses 10 to 33 put and passed.

New clause 33A —

Hon SUE ELLERY: I move —

Page 21, after line 17— To insert —

33A. Review of Act

(1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the 3rd anniversary of the day on which this section comes into operation.

(2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

The committee recommended that the bill include a clause that would give effect to a statutory review. The government is happy to agree with that. Parliamentary counsel has suggested an alternative set of words that will achieve the effect that the committee sought to achieve but is drafted in a way that is consistent with review clauses in other pieces of legislation. I ask the chamber to accept the government's version of how best to give effect to the committee recommendation that the bill include a review provision.

Hon MICHAEL MISCHIN: I thank the minister for her advice. The committee received advice based on other review clauses, and that informed the drafting of the review clause proposed by the committee. However, I understand that fashions change in this regard, as they do in all others. I indicate that from my perusal of the review clause that has been moved by the minister, it will achieve the same end as desired by the committee. Therefore, if I might be given the liberty of speaking on behalf of the committee, we will not proceed with the review clause proposed by the committee, which is listed on the supplementary notice paper as 1/NP8, in favour of the review clause proposed by the minister, which may form the model in future for other committees that propose a review clause—at least if parliamentary counsel has no change of mind over the next 12 months. I thank the government for accepting the committee's recommendation. The committee saw a benefit in having not only a review of the national scheme by ministers and governments, but also an opportunity for the government of Western Australia to inform the Parliament about how this scheme is working from Western Australia's point of view rather than just the national interest. That is ultimately our responsibility as a Parliament, and I am sure the minister would accept that it is also the responsibility of the government of Western Australia.

Hon NICK GOIRAN: Will the statutory review include a review of the capacity for police officers to provide suppressed information to other jurisdictions?

Hon SUE ELLERY: I cannot say specifically that the review will look at that. The member can see that the provision states that the minister must carry out a review of the operation and effectiveness of the act. That may include anything to do with the operation and effectiveness of the act. So I am not in a position to say whether that will be included or not included.

Hon NICK GOIRAN: Does the government have any internal mechanism available to it to ensure that when the statutory review comes up in some three years, the contention around suppressed information will be reviewed?

Hon SUE ELLERY: I am going to have to say no, because I do not think I can give the member a commitment on behalf of the Attorney General or the Minister for Prevention of Family and Domestic Violence. I can say that my recollection from when I was last a minister is that at the time of conducting a statutory review, we normally would look at what was said in the Parliament at the time the review provision was put in place. I anticipate that that would probably happen. That is the best I am able to offer the member.

Hon NICK GOIRAN: Although I agree with the minister, would the minister be agreeable to specifically raising that issue with those two ministers?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: Would the minister agree with me that if we were to pass the statutory review clause in its current form, the responsible minister, whoever that might be at the time, will have an indefinite period of time within which to carry out the review and an indefinite period of time within which to table any report before the house?

Hon SUE ELLERY: I do not know that I could agree with that. The responsibility is to undertake the review and table the report based on the review as soon as is practicable after it is prepared.

Hon Nick Goiran: It is open-ended.

Hon SUE ELLERY: That is the member's reading of it. That is not how I read it.

Hon NICK GOIRAN: Can the minister indicate to us how she defines "as soon as is practicable"?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: The minister cannot tell us?

Hon SUE ELLERY: I cannot define it for the member.

Hon NICK GOIRAN: In my concluding remarks on this clause, I draw to the minister's attention that all this review clause indicates is that the minister must carry out a review of the operation and effectiveness of this act as soon as is practicable. Members will note that the minister was unable to provide us with a definition of those words. Of course that is because this clause provides for an indefinite period of time in which the minister is to carry out a review. The proposed new clause states —

> (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

As we know, that is also an indefinite period of time. Therefore, the responsible minister might never carry out such a review and might never table the report of the review before the house.

New clause put and passed.

Clauses 34 to 46 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and, by leave, the report adopted.

Remaining Stages — Standing Orders Suspension — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [11.41 am] — without notice: I move —

> That the standing orders be suspended so far as to enable the bill to be read a third time.

Point of Order

Hon NICK GOIRAN: Mr Acting President, have you indicated to the house that you have received the report?

The ACTING PRESIDENT (Hon Robin Chapple): I have received from the Deputy Chair of Committees a certificate in writing that this is a true copy of the bill as agreed to in Committee of the Whole House and reported.

Question put and passed with an absolute majority.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Leader of the House)**, and transmitted to the Assembly.