CROSS-BORDER JUSTICE AMENDMENT BILL 2009

Second Reading

Resumed from 9 September 2009.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [7.37 pm]: I rise to indicate that the opposition will support the Cross-border Justice Amendment Bill 2009. Members will be aware from the second reading speech and explanatory memorandum—those who were around at the time will recall—that the principal act was brought into Parliament by the previous government. Indeed, it was brought into the Legislative Council by me. The legislation put in place an arrangement that was unique in a sense—it was to provide law enforcement in the areas that geographically border Western Australia, the Northern Territory and South Australia; areas where there is significant movement across the standard boundaries, predominantly by Indigenous people. We put in place a mechanism so that law enforcement agencies could deal with people in each jurisdiction depending on the jurisdiction they were in at the time, rather than people being inconvenienced by having to move backwards and forwards to be dealt with in the justice systems of the different jurisdictions—for example, requiring people to be transported. The process by which that act came into being was that Western Australia prepared the model legislation that South Australia and the Northern Territory then followed. It turned out that South Australia and the Northern Territory found a couple of areas for which changes needed to be made for practical purposes. I will touch on those in a minute.

The bill before us today corrects some typographical errors in the act. Also, in two areas the bill addresses matters that were raised by the other two jurisdictions. One matter goes to the rights of the respective coronial authorities in each jurisdiction; so there is an amendment to ensure that the provisions of the model legislation do not impede the coronial powers in the respective jurisdictions to conduct coronial inquiries accordingly. Material has been provided to the house in the form of "Report 40: Standing Committee on Uniform Legislation and Statutes Review: Cross-border Justice Amendment Bill 2009" and I understand from discussions behind the Chair that information will be provided to us by the parliamentary secretary. That information will indicate—I do not know the gender of the coroners in the other jurisdictions—that a gentlepersons' agreement exists between the respective coronial authorities so that if there is an issue about the appropriate jurisdiction in which an inquiry is to be held, there is a longstanding convention, I understand, whereby they work it out between themselves by agreement as to which jurisdiction will deal with the matter.

The other substantive amendment is to address an issue that arose in the difference between a heading of a section in the principal act and the text that sat underneath that heading. It goes to obligations to persons who are released. The principle adopted was that the South Australian version of the legislative provisions that go to the rights and responsibilities of a person who is released without charge would apply to the Northern Territory and to Western Australia. The heading of that section referred to persons "released without charge" but the actual text that sat underneath that section omitted the words "without charge". The intention of the three jurisdictions all along was that the South Australian provision would apply in the other jurisdictions only in respect of that narrow component of a person who is released without charge. The committee report examines and asks some questions about that, and I understand we will be given a response by the parliamentary secretary about the original intention. It was never intended that the rights and obligations extended to Western Australia and the Northern Territory be broader than that very narrow application in South Australia. The substantive amendments, therefore, really seek to address those two matters. There are a couple of other questions that arise in the committee's report and, as I indicated, I am satisfied with the briefing that I received and the conversation I have had with the parliamentary secretary that we will be provided with a response to those matters. That satisfies the opposition and, accordingly, we will be supporting the legislation.

HON GIZ WATSON (North Metropolitan) [7.43 pm]: Just briefly, the Greens (WA) are happy to support the Cross-border Justice Amendment Bill 2009. We regard it as in keeping with the substantive bill that we passed through this place to which the former speaker referred. We do not regard the bill as contentious or controversial and we are happy to support it.

HON ADELE FARINA (South West) [7.44 pm]: I rise as chair of the Standing Committee on Uniform Legislation and Statutes Review to talk to the committee's report. I acknowledge the work of my colleagues on that committee. We have had a fairly heavy workload, and this is one of those reports that actually presented a few challenges for our committee, which I will address shortly. I therefore acknowledge the work of my colleagues on that committee, and also of course the committee staff, who do an excellent job in providing support to the committee and in doing all the necessary research.

As has already been explained, this bill before us is actually an amending bill to the Cross-border Justice Act 2008, which is the principal act. It seeks to address some issues that have arisen as a result of that legislation.

Interestingly enough, however, that bill has not actually come into effect yet so we are making amendments to a principal act that has not come into effect, but in any event that is what we faced.

The bill corrects some minor technical drafting errors in the principal act, tightens the wording of two provisions, updates a reference to the proposed South Australian legislation and makes what the committee considered to be two significant amendments: namely, clause 7 of the bill amends the repatriation rights of persons released from custody and clause 10 amends the power of coroners to investigate the death of a resident of one jurisdiction whilst in custody in a different jurisdiction.

During the committee's earlier inquiry into the principal act, it was found that Western Australia was providing the template or the model legislation that would form the basis of identical legislation to be adopted in South Australia and the Northern Territory. However, when reviewing the explanatory memorandum to the Cross-border Justice Amendment Bill 2009, the committee was confronted with contrary advice that suggested that the amendment bill was ensuring that the principal act was actually consistent with legislation in the Northern Territory and South Australia. That was contrary to what this Parliament had been advised in consideration of the principal act; namely, that the Western Australian bill at that time, now the principal act, is the model bill and that South Australia and the Northern Territory were to implement identical bills to that implemented in Western Australia. Therefore, there was some confusion about which legislation was the model bill and the committee inquired into that.

The committee inquiry process followed the normal process that we take and we advertised seeking submissions. Unfortunately, no submissions were received in response to the advertisement. We had hearings with representatives from the Department of the Attorney General. We also wrote some questions to the Coroner of Western Australia and the Aboriginal Legal Service of Western Australia. It was interesting that we ran into some problems getting the documents we needed. The Premier's ministerial office memorandum 2007/01, "Uniform Legislation and Statutes Review Committee", requires ministers to provide to the house all documents necessary for the consideration of uniform legislation. The reason for this is that the Standing Committee on Uniform Legislation and Statutes Review has very tight deadlines in turning around reports on bills; we have only 30 days. Therefore, it is necessary for the committee to start the review process as soon as the bill is referred. In this case, it was 21 days before we received the necessary documents from the Attorney General's office. It poses some serious problems when a committee has 30 days in which to consider a bill and it takes 21 days to get the information needed to start considering the bill. I bring this matter to the house's attention because it seems to have become a regular issue that we struggle to get the standard documents that should be presented for uniform legislation review and also struggle to get responses from government departments and even to get representatives from those departments to attend a hearing date that will enable the committee to meet its 30-day deadline, which is a very real problem for the committee. There is a comment about that issue in the report, which I draw to the house's attention, and I hope that ministers will take heed of those concerns.

I mentioned that there was some ambiguity around the issue of which legislation was actually the model bill. In looking through the supporting documents, it was clear to the committee that an intergovernmental agreement was executed, and since the principal act was adopted, there is no question now that this is part of a uniform scheme. The committee was satisfied that the subject matter of the bill actually falls within that intergovernmental agreement. What was not clear to the committee was whether the amendments introduced by the bill were in the manner that is required under the intergovernmental agreement. Clause 5.2 of the intergovernmental agreement requires unanimous consent of the participating parties before any legislation amending the cross-border legislation is introduced into Parliament by any of the parties. The lack of clarity about which was the model bill created some confusion about how to proceed and determine the application of this matter. The committee was very concerned that it was very clear in consideration of the principal act that the model bill was a Western Australian bill. We were then told that no, it was the South Australian and Northern Territory bills. There is usually only one model bill and, even taking that issue aside, there was no compliance with the intergovernmental agreement in how we went about making any amendments to the requirements in the intergovernmental agreement and therefore to the principal act. This is all detailed on page 6 of the report. I do not intend going through that now because members can read it for themselves. But some very real questions were raised as a result of those two issues: the ambiguity about the principal act and the procedure followed. The committee was a bit concerned about the department's response to some of the questions posed by the committee. The department did not seem at all concerned that the requirements under the intergovernmental agreement were not followed to the letter of the law, and the department was quite happy to assume consent despite the fact that the intergovernmental agreement required quite explicit consent to be given. I think that is of concern and the Parliament needs to be aware of it.

The IGA requires consistency with the provisions of an agreed model bill and unanimous consent to the submission of any bill amending that model, not evolving legislation based on an ad hoc adoption of provisions of the equivalent acts in other jurisdictions, and that is exactly what happened in this case. I raise that again for

the Parliament's consideration. Some members might not see that as an important issue. However, those of us on the Standing Committee on Uniform Legislation and Statutes Review who need to deal with these things, make some sense of them and report to the Parliament have a very serious concern with that. States should not enter into intergovernmental agreements lightly, and when they do, they should follow the letter of the intergovernmental agreement and not just discard it when it does not suit them. I put to the parliamentary secretary comments in relation to that. As a result of that investigation, the committee made a number of findings, which are detailed on page 8. They read —

> 6.15 The Principal Act as presented to Parliament as a Bill represented the model bill in 2007 and as enacted remains the model bill.

And this was confirmed through correspondence with the Attorney General —

> 6.16 The Committee is not persuaded that an "*assumption*" of "*ministerial*" agreement, or provision of the various administrative "*information*" reports meets the requirements of clause 5.2 of the IGA in respect of an amendment of cross-border legislation.
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> 6.17 While this failing taints all amendments, it is primarily a concern in respect of clause 7 of the Bill which, the Committee has found, introduces a substantive amendment.

The reason for that is that this process needs to be followed in accordance with the IGA for substantive amendment. The committee considered that the other amendments proposed by the bill were minor amendments and therefore it was not too concerned that the process had not been followed for those other minor clauses.

The committee found that proposed amendments in clauses 1 to 6 and 8 and 9 appeared to be appropriate and consistent with the remaining provisions of the principal act and that none of clauses 1 to 6 or 8 and 9 introduces substantial changes to the principal act or hence the model bill provisions agreed pursuant to the IGA.

Clause 7 of the bill introduces a substantive amendment to the principal act by inserting the words "without charge" in section 36. The effect of this amendment is significant. This amendment will significantly reduce the scope of the application of section 36. It has been suggested that the reason clause 7 was changed in South Australia and the Northern Territory was that there was some ambiguity about its application. I find this curious, because each of the states agreed to the scheme, and Western Australia was charged with introducing the model bill. What was intended as part of the intergovernmental agreement is clear from the words in the model bill and the principal act. What the Parliament intended as part of the intergovernmental agreement is also clear. The ordinary meaning of the words in section 36 is that the obligations imposed by section 36(2) of the principal act are owed in respect of all persons released from section 34(2)(a) custody, regardless of whether such persons have been charged. This meaning creates no manifest absurdity or unreasonableness that requires some application of section 18 of the Interpretation Act, as was suggested to the committee. There is nothing in the principal act, or in the circumstances surrounding its passage, that suggests that Parliament's purpose or object in making section 36 was to limit its operations to persons released without charge. However, that is exactly what this amendment will do. Therefore, this amendment will significantly impact on the Parliament's intent when it passed the principal act.

An issue has been raised about the heading of section 36. That heading relates to persons not charged. The argument has been put that if we look at section 36 in the context of the heading, it is clear that that was the Parliament's intention. Members in this place will be aware that members must be presumed to be aware of section 32(2) of the Interpretation Act. That states that a heading to a section is not part of the written law. Therefore, we do not need to have regard to the heading of section 36, and any arguments that suggest that the heading to that section in any way impacts on the interpretation of the ordinary meaning of the words within that section are simply wrong. The words in section 36 are very clear. They are unambiguous. I believe this is a matter that the Parliament needs to look at very carefully in considering whether to adopt clause 7.

The committee found also that clause 7 proposes an amendment to section 36 of the principal act that will restrict the repatriation obligations that would otherwise be owed to persons arrested pursuant to the principal act. The committee is concerned about the removal of these rights, for some very good reasons. We are talking about cross-border legislation. We are talking about situations in which people are arrested basically in the middle of nowhere, somewhere close to the borders of the three states—Western Australia, the Northern Territory and South Australia. Under the legislation, a person will be required to be taken to the nearest police station for processing. However, because the application of clause 36 will be restricted to persons who are released without charge, there will be no requirement for the police to return a person who has been arrested and charged to his or her home. We need to understand the context in which this legislation will apply. These people may have no money and no form of identification on them, and they may be hundreds, if not thousands, of kilometres away from their home. I would have thought that as a matter of basic human principles and human rights, we should not be requiring the police to behave in this way. I do not know how we can pass laws that suggest that these

people will need to find their own way home. We should expect the police to return these people to their home. Therefore, this is a significant issue.

The Aboriginal Legal Service of Western Australia provided a submission to the Department of the Attorney General on this very matter, and this was also provided by the Aboriginal Legal Service to the committee in consideration of this matter. I want to read some of the things that were included in the submission, to bring home to members the enormity of the problem that we are dealing with. The submission reads —

- Many Aboriginal people cannot afford to repatriate themselves …
- Many Aboriginal people do not have a registered motor vehicle or a valid license to drive home or to collect family and friends when they are released from custody.

It goes on to state —

> [B]*ail will often include a condition for the released person to reside at their home address* [with conditions to report to the local police station within 48 or 72 hours]. *Clients from Warburton are released from Kalgoorlie courthouse and left to find their own way home, which is nearly one thousand kilometres away. The first leg of his journey is 400km to Laverton by bus, which runs only once a week. In the process, clients stay with friends or family in Kalgoorlie. Upon reaching Laverton, they are recognised by police and re-arrested for breach of their bail condition. The client is then driven back to Kalgoorlie court to be re-released on bail and start the whole process again;*

This is just an absurdity. The Aboriginal Legal Service also points out this incident —

> *five young boys who were arrested in Kalumburu, refused bail by police and flown to Kununurra for a court on a Thursday night. The boys were aged 10–14 years. The boys were taken to Kununurra without responsible adults being contacted in Kalumburu. On Friday morning they were released to bail but were not repatriated. At this time of the year the only way to get to Kalumburu is by light aircraft.*

Here were five boys aged between 10 and 14 years being left on their own a long way from home and being told to find their way home. I would not have thought that any member here would think that to be acceptable. The proposed amendment in clause 7 will lead to this sort of incident being able to continue to happen.

Some of the information that was provided to the committee was from the Department of the Attorney General, which advised us that currently there is no lawful obligation on police to take steps contained in section 36(2) of the principal act in respect of any person released from police custody. There is no police policy that requires that to happen. This was supported by the submission that was received by the Aboriginal Legal Service of Western Australia. The thing that I find very interesting about this is the fact that there is no current lawful obligation on police to take these steps. In my mind it is really irrelevant. The fact is that the Parliament in passing the principal act will impose that obligation on police once it is enacted, because it has not been enacted yet. The fact that the obligation does not currently exist is irrelevant. The issue is that the principal act imposes it. By supporting the amendment proposed in clause 7, we are actually taking that away and we are leaving people in harm's way as a result of that amendment.

The other argument is that the provisions in the principal act require that the person be taken to his closest police station for processing. The object of that is to reduce the distances and the impact of the ability to repatriate oneself after release. Although I agree that goes some way to addressing the problem, it does not eradicate the problem. The only way that problem can be eradicated is by not supporting clause 7, which proposes that amendment. The Aboriginal Legal Service of Western Australia was of the view that the amendment would increase the number of Indigenous persons stranded, with the resultant increase in risk of harm to those persons. I am sure that members will be concerned about that.

The committee concluded —

> 8.27. This amendment will result in the release of persons – including children – who have been charged but not convicted of any offence without legal repatriations obligations. This is likely to result in those persons being left without adequate means of transport or money to fund transport, food or accommodation, at significant distances from their place of arrest and/or usual abode.
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> 8.28 As required by its Terms of Reference, the Committee draws its conclusion as to the practical effect of the amendment to section 36 to the attention of the House.

I am not speaking on behalf of the committee in this instance, but I personally urge the Parliament to give this very serious consideration. The practical effect of this amendment is significant and should not be taken lightly by the Parliament.

In considering whether the amendment was consistent with the intergovernmental agreement, the committee concluded, for the reasons I outlined, that clause 7 is inconsistent with the intergovernmental agreement because the provisions of clause 5.2 of the intergovernmental agreement were not adhered to, and, clearly, this was a substantial amendment, not a minor amendment, that is proposed in the other provisions. The final findings of the committee and recommendations on clause 7 are listed at page 18 and I will detail those as follows —

> 8.32 Clause 7 makes a substantial amendment to section 36 of the Principal Act which withdraws rights of repatriation that would otherwise be available in the event the Principal Act was proclaimed as enacted by the Parliament.
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> 8.33 The Committee has no evidence that intent of the parties, as expressed in the model bill (and enacted by the Parliament as the *Cross-border Justice Act 2008*) is not in fact the intent of the parties. Further, the Committee has no evidence that the procedure stipulated in the IGA for amending the model bill provisions or the IGA has been adhered to.
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> 8.34 On the information available to the Committee, clause 7 is inconsistent with the model bill provision required by the IGA.

The committee made two recommendations. The first is that —

> **The Committee recommends that the responsible Minister provide the Legislative Council with information as to the likely impact of clause 7 of the Cross-border Justice Amendment Bill 2009 on persons arrested pursuant to the *Cross-Border Justice Act 2008***

The second recommendation states —

> **The Committee recommends that the responsible Minister provide the Legislative Council with any additional information not provided to the Committee supporting a conclusion that clause 7 of the Cross-border Justice Amendment Bill 2009 gives effect to the provisions of the model bill and is consistent with clause 5.2 of the Memorandum of Agreement between the State of South Australia, the State of Western Australia and the Northern Territory of Australia, executed on 28 November 2007.**

I commend these recommendations to the house and look forward to the parliamentary secretary's response to these matters.

The other issue the committee also explored was the amendment proposed in clause 10. The Leader of the Opposition has already outlined that. I do not propose to go through it again, because I know that we have a lot of business to get through this evening, and it is detailed in the report. At the end of the day, the conclusion the committee reached on clause 10 was that it did not provide any problems. The concerns that the committee initially had were satisfied by the responses it received from the coroner of Western Australia. In the committee's view clause 10 is probably a minor amendment and, therefore, no issues arise in relation to whether it is consistent with the intergovernmental agreement.

The committee's final findings are found at page 20 of the report and I will detail those for the information of members who may not have had an opportunity to read the report —

> 10.1 On the information available to it, the Committee is unable to find that the Bill reflects *"model legislative provisions agreed to by the Parties"*, as required by clause 4.1 of the IGA when read with clause 1.1, or that the amendments it introduces have been introduced in the manner required by clause 5.2 of the IGA.
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> 10.2 The Committee has less concern with respect to clauses 1 to 6 and 8 and 9. Clause 4.1 of the IGA requires a party's legislation to be in *"substantially"* the same terms as the model bill provisions and it appears to the Committee that these clauses introduce changes which leave the Principal Act in substantially the same terms. It is arguable that clause 5.2 of the IGA does not apply to non-substantive amendments.

In relation to clause 10, the committee noted that —

> Clause 10 may be a substantive amendment. However, it may also simply resolve an ambiguity. It is not clear that clause 5.2 applies to this amendment, which preserves the status quo in respect of coronial inquiries and in respect of which the Committee's preliminary concerns at its effect were resolved by the Coroner of Western Australia.

In relation to clause 7, the committee found that —

> Clause 7 is a substantial amendment of the agreed model bill provisions to which clause 5.2 of the IGA applies. The formal requirements of clause 5.2 have not been complied with. The Committee is unable

> to "*assume*" unanimous Ministerial consent to the provision from the matters raised by the Department of the Attorney General. This is particularly the case where the Principal Act reflects the original intent of the parties and no changed circumstances have been identified to trigger a change in the policy underlying section 36 as enacted.

The committee's final recommendation to the house is —

> **The Committee finds that, other than Clause 7, the Cross-border Justice Bill 2009 is consistent with the terms of the cross-border justice scheme's Intergovernmental Memorandum of Agreement dated 28 November 2008.**

Therefore, the only issue here is that of clause 7 and the fact that it does not comply with the provisions of the intergovernmental agreement. Also, the practical effects of clause 7, if implemented, I think, are significant. This is a matter that Parliament should give very careful consideration to before enacting the legislation, particularly given that this Parliament passed the principal act, which provided for full repatriation regardless of whether the person is charged. This proposed amendment makes a significant change to that intent by Parliament when it passed the principal act.

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [8.11 pm] — in reply: I thank members for their contributions to the debate, and I also thank the Standing Committee on Uniform Legislation and Statutes Review for its report and its consideration of the bill. As has been said, this is part of a cooperative scheme between the Northern Territory, South Australia and Western Australia to provide a seamless administration of justice in the border areas between the two states and the territory—an area where there is a transient population and where the borders mean very little in how people conduct their affairs—and to deal with the problem of people who may drift across the border from one state or territory into another and nevertheless be required for the purposes of the administration of justice because they have committed an offence, or may be required as witnesses or the like; or, in the case of deaths, that there be some cross jurisdiction so that their deaths can be adequately investigated by the coroners.

I have read the report prepared by the committee, and I have taken on board the concerns, as has the government. Many of those concerns can possibly be addressed by looking at the chronology of events in the genesis of this bill and the principal act. The intergovernmental agreement is dated, I think, 20 November 2007, so it was entered into by the previous Labor government. It provided, amongst other things, that the Western Australian legislation, which was to be mirrored by the Northern Territory and South Australia, would form the model bill. Therefore, we were supposed to be setting the standard. Of course, it was necessary to reflect certain provisions in other states and territories. In South Australia there was an obligation on the part of the police to repatriate someone who had been arrested but released without charge from police custody to either the place of arrest or some other convenient place, provided that the place to which the person was being repatriated was not going to put him or her at risk. That was an obligation in South Australia. It was not an obligation in the Northern Territory and not an obligation in Western Australia. Therefore, it made sense to introduce a provision in the South Australian legislation and in the Northern Territory legislation and in the Western Australian legislation that would not deny South Australian citizens that right under their law.

The Western Australian legislation that will be amended by this bill was the first cab off the rank and was supposed to be the model bill, but as we can see from the amendments that are now being dealt with, it was imperfect and there is now a need to correct some errors, including some terminological errors and at least one substantive error. This substantive error was to provide, under section 36 of the act, a broader right on the part of arrested persons, and a broader obligation on the part of the state police to repatriate people who are released from their charge. With respect, it would be ludicrous for Western Australia to provide an even greater right of repatriation than that enjoyed by South Australians under their law—a right, furthermore, that Western Australians do not generally enjoy. The intent was, quite plainly, that the Western Australian right of repatriation ought to be limited to no greater extent than that enjoyed by South Australians. One can see that that was the scheme, because although the Western Australian legislation was passed through this Parliament on 13 March 2008 and assented to on 31 March 2008, the Northern Territory legislation, which was supposed to mirror the Western Australian legislation, was passed on 12 February 2009, while the South Australian legislation was passed on 13 May 2009. I may have missed it, but I did not see any reference in the committee report to the legislation of those jurisdictions; however, an examination of those two pieces of legislation will show that their equivalent to section 36 is strictly limited to the repatriation of arrested persons only to the extent that they are released by the police without charge.

Although these concerns were raised by the committee in its report, for this house to now say that it will not amend section 36 to draw back the right of repatriation so that it accords with legislation in the Northern Territory and South Australia will mean that we are definitely out of kilter with those two jurisdictions.

Hon Adele Farina: How do we know that the imperfection doesn't lie in the Northern Territory or South Australian legislation? After all, the Western Australian bill is the model bill, as agreed and determined by the intergovernmental agreement.

Hon MICHAEL MISCHIN: If there are imperfections in the way it was arranged, it is plainly a problem that the last government should have addressed. In substance, our act did not reflect what those two other jurisdictions had in mind. We are now trying to say that there ought to be a greater right of repatriation for people from other states than that enjoyed by Western Australians, or than that which even the people of those jurisdictions enjoy under their legislation. If it is to be opposed, the government will deal with it, but that is the explanation for how it has come about.

I understand the committee's concerns about the position that those people will be put in. I do not know—it was before my time—whether the specific right of repatriation and the broadness of that right of repatriation was considered by this Parliament in quite those terms; we will leave that aside. At the moment we are trying to enact the legislation that the Northern Territory and South Australia plainly had in mind, and to bring ours into line with those jurisdictions so that we can proceed with this very important scheme to allow for a seamless administration of justice in the border areas.

In respect of rights of repatriation in Western Australia, there are none. Nevertheless, administrative arrangements are implemented by the relevant departments. Although the Department of the Attorney General is not responsible for transporting persons back to the place of arrest or to some other convenient location for release, both the department and the judiciary will undertake a number of initiatives to ameliorate the problems that have been identified by, and are of concern to, the committee. The rollout of audiovisual conferencing facilities is one such means. That has been operating for a number of years now and the increased use of that will assist in that regard. We have operational audiovisual conferencing facilities at all department-managed court locations across Western Australia. We will be able to do something in that regard to ameliorate the problems that have been identified as causing the committee some concern.

In the cross-border region audiovisual facilities are now available at the Warburton and Warakurna multifunction police facilities. South Australia and the Northern Territory are also implementing programs to increase the number of teleconference-capable court locations in their regions. All court and tribunal service managers are being alerted to the issue of persons being stranded following contact with the justice system. Magistrates have made themselves available to deal with bail applications after-hours through the use of audiovisual conferencing facilities or the telephone, and the Chief Justice of Western Australia has written to the judiciary, the chief executive officer of the Department of the Attorney General and the Criminal Lawyers' Association on the issue of persons being stranded.

I appreciate the indication of support for the amendment on the part of the Leader of the Opposition and the leader of the Greens (WA). I will not go any further into the detail of it, suffice to say that the only clause that seems to have caused concern was clause 7 with regard to the limitation of the repatriation entitlement; the corollary being the obligation on the part of the police. The committee raised a question about clause 10, which deals with the powers of the coroner to investigate deaths. That was primarily a problem for South Australia rather than Western Australia. South Australia was apparently concerned that it might have difficulty investigating a death of one of its citizens if the death occurred in either Western Australia or the Northern Territory. Western Australia's Coroners Act is broad enough in its application to permit that. To the extent that there is an overlap of coronial jurisdictions, those things happen from time to time and the coroners of the various states and territories work out those problems among themselves in ways that do not necessarily duplicate the effort. They are the only matters that raised some concern.

Hon Adele Farina: You haven't addressed the issue of why the government sees the need for a distinction between providing repatriation to people who have not been charged but not providing it to people who have been charged.

Hon MICHAEL MISCHIN: Because it would throw it out of kilter entirely with the other two jurisdictions and we would be back to square one.

Hon Adele Farina: Is that the only justification?

Hon MICHAEL MISCHIN: It is not the only justification, other than the fact that it extends the right to people from other states that Western Australian citizens do not enjoy and the fact that it extends only to border areas and not across the state. A variety of reasons might be raised for its justification. The point is that it was not the intent of the legislation to extend beyond what was necessary in order to provide a cooperative scheme across the border areas. I am being diverted from the point I was making, which is that the coroner's jurisdiction and the provision that is currently being introduced into our model bill reflects a provision that is in the Northern

Territory and South Australian acts that have already been passed and assented to. I presume that they are waiting on our legislation to proceed with the cooperative scheme. I commend the bill.

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 Michael Mischin (Parliamentary Secretary)**, and passed.