

CRIMINAL INJURIES COMPENSATION BILL 2003

Second Reading

Resumed from 24 September.

MS S.E. WALKER (Nedlands) [7.28 pm]: The Opposition is very pleased that this Bill has been brought on for debate. It has embarrassed the Government into bringing it on, because a short while ago I introduced my own Bill on this issue. Prior to the election in 2001 the Attorney General waxed lyrical about increasing the amount of compensation payable to victims from \$50 000 to \$75 000. He said he would do that immediately upon coming into government. Of course, time has passed and no change has yet been made to the amount of criminal injuries compensation that victims of crime may receive. Those changes did not need a Bill; the Attorney General could have done by regulation - by a stroke of his pen - what he is seeking to do with this Bill, which is to increase the maximum amount of compensation payable from \$50 000 to \$75 000. Having said that, I am glad to see that I have prompted the Attorney General into bringing this Bill on. The Opposition supports it fully. Members know that the Liberal Party has a very strong record in this State of support for victims of crime, having enshrined their rights in the Victims of Crime Act in 1994 under the then Attorney General, the member for Kingsley.

This is an interesting Bill. The Attorney General said in his second reading speech that it consolidates into one piece of legislation three Acts operating in this State at the moment. The application of compensation will depend on when the offence was committed. While the Attorney General has increased the maximum compensation payable by 50 per cent, the last time this amount was amended was 12 years ago. It still seems that that maximum compensation of \$75 000 is a relative pittance, especially when one considers the suffering that victims of crime go through. It does not matter what the actual offence is; some victims can experience very severe consequences from a minor offence. The important thing is that the amount is being increased, although it is a shame that it is not being increased further.

The Opposition is pleased to see that victims of multiple homicide of close family members are being given special consideration. Currently, when two or more family members are murdered in one episode, only one amount is payable - a maximum of \$50 000. Under this Bill, when a close relative loses several family members, a maximum amount is now payable of twice the maximum prescribed compensation - a total of \$150 000. The Attorney General says that this is a recognition of the gravity of the loss, and the Opposition concurs. I am also interested to see that interim payments will now be available. When I recently visited the Homicide Victims Support Group, members had a lot to say about the difficulties they were experiencing as secondary victims in relation to criminal injury compensation. One of those difficulties - I do not know whether the Attorney General had assessed this yet, or whether he intends to make regulations - is obtaining funeral costs and trying to access the system. They were quite distressed at the forms that they had to fill in, particularly parents of children who had died, and also some victims who had been at the scene of the crime and had witnessed the horror of the homicide. It could also be the horror of seeing someone brutally beaten - there are plenty of different scenarios. Under this Bill, interim payments will be available to applicants for the first time, especially to those victims experiencing financial difficulties. Victims of crime often must go through all sorts of medical examinations, or may need psychological counselling. I presume the Attorney General is thinking about these issues when he talks about interim payments. I presume he is talking about funeral costs - I do not know, but we will get to that during consideration in detail.

It is also heartening to see that an award of compensation can take into account future treatment expenses likely to be incurred by the applicant. I note that the definition of "loss" in the 1982 and 1985 Acts does not allow compensation for expected costs when an applicant needs further treatment in the future. It is obvious that an applicant could need psychological counselling for many years. Post-traumatic stress disorder is a very prevalent syndrome today. We have seen this in the aftermath of crimes such as the attack on the World Trade Centre in New York. People may go for many years with that sort of difficulty and may need psychological counselling. I see also that people who are victims of a series of offences by the same offender, such as long-term sexual abuse over a period, are eligible for maximum compensation, which is multiplied by the number of offences. I am heartened to see that, because those in the criminal justice system know that a victim of childhood sexual abuse could experience many offences over a number of years, and this change is entirely appropriate.

I am also interested in the provisions for recovering awards from offenders. Often in the case of incest or paedophilia in the family, the child does not come forward until many years after the offence. If the crime is committed by the stepfather or the father, it is usually in a secure family home. When I was an articulated clerk, I did some of these recoveries. It is important that the State pursue these offenders and recover the debts from their assets. I would be interested in what the Attorney General has to say about how that is proceeding at the

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moment, and how he sees it proceeding into the future. The Bill makes the scheme more acceptable to victims, who will appreciate that. It also differentiates between primary and secondary victims. There seems to be a different definition of a victim in this Bill to that in the Victims of Crime Act. Perhaps the Attorney General will deal with this problem in consideration in detail. The Bill aims to categorise more clearly people who are secondary victims and imposes a limit on claims of this nature. It requires an applicant who was not the person against whom the offence was committed, or the person who suffered bodily harm or pregnancy as a result of it, to have been present at or immediately after the offence was committed, or to be a close relative of the person who suffered bodily harm or died as a consequence of the offence, and to have been living with the victim at the time of the offence. However, I note that parents of a homicide victim are exempt from this limitation, and that they can apply even if they were not living with a child at the time. This is only natural and just.

It is also sensible that the Bill prohibits compensation when a person is injured during the course of carrying out a criminal activity. It is also interesting that the Bill addresses gross contributory behaviour. I will be asking the Attorney General to give me some examples of the victim contributing towards the crime. The Bill also amends the definition of "conviction" and expands the categories under which a person can seek compensation, even though the offender has not been convicted.

In summary, the Opposition supports this Bill, because it provides assistance to victims of crime by increasing the maximum amount of compensation, although perhaps \$75 000 is still paltry. It consolidates the 1985 Act and the other two Acts before it, clarifies certain issues in relation to the Act and improves recovery from offenders. The Opposition will have quite a few questions to raise during consideration in detail.

MR R.A. AINSWORTH (Roe) [7.40 pm]: I support this legislation on behalf of the National Party. There is no question that victims of crime, particularly those who have suffered greatly due to criminal injuries, are very deserving of increased levels of compensation. It will be a far more equitable system than the three-tiered system provided under the repealed Acts, and the Criminal Injuries Act 1985.

I note that the increase in the amount that is available to victims also appears to be available to families or close family members of victims of homicide, particularly victims of multiple homicide. When two or more homicide victims are involved, a close relative may be awarded up to twice the maximum amount. In other words, the amount of compensation would be twice the maximum of \$75 000. Have I understood that correctly?

Mr J.A. McGinty: The amount of \$150 000 would be the cap.

Mr R.A. AINSWORTH: I have read it correctly. Murder has only one outcome and the victim cannot be compensated, but the families can be compensated. Without feeling any lack of compassion for the families of the dead victims, I do not consider that money will compensate them. I can accept that a victim of crime who was physically injured or suffered property damage would need the money for a range of losses. When two or more members of a family have been killed in a murder case, some costs are involved. However, by far the greatest pain would be the mental anguish over the loss of the relatives, which no amount of money could compensate. I do not follow the logic of awarding twice the maximum amount of compensation to the relatives of those victims. No amount of money could do anything to bring back the lost loved ones. When we start equating loss of life with money it diminishes the value of life. That is very much a personal viewpoint; it is not the view of my colleagues. I have not asked them. That aside, I support the general thrust of the legislation and will not vote against any clauses.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Interpretation -

Ms S.E. WALKER: The definition of "victim" is "a person who suffers injury, or who dies, as a consequence of the commission of an offence". Is the Attorney General aware that this is different from the definition of "victim" in the Victims of Crime Act?

Mr J.A. McGinty: No.

Ms S.E. WALKER: I think that the Victims of Crime Act refers to primary and secondary victims. I thought it was important to have the same definition in both Acts. I could be wrong. We dealt with the Victims of Crime Bill recently and I wonder whether the Attorney General can answer that question. If not, that is fine, and we will wait for Helen Porter.

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Has the definition of “close relative” been expanded to include grandparent, step-parent etc? Where is it and how has it changed?

Mr J.A. McGINTY: For the purpose of the criminal injuries compensation scheme, a victim is narrowly defined to be a person who suffers injury or who dies as a consequence of the commission of an offence. “Injury” is defined to mean bodily harm, mental and nervous shock or pregnancy. The nature of the injury is physical. The definition of “victim” is designed to catch the people who can benefit from this legislation. A victim of an economic crime, for instance, is not included because it is not intended to compensate economic victims. It would be consistent with the scheme under the Criminal Injuries Compensation Act for the definition of “victim” to be confined to the people we intend to be within the range of beneficiaries. That might well account for the difference. I do not know whether the member for Nedlands has the definition.

Ms S.E. Walker: Under the Victims of Crime Act it means -

- (a) a person who has suffered injury, loss or damage as a direct result of an offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or

In this Bill, “victim” means a person who suffers injury. Under the Victims of Crime Act, the definition is wider.

Mr J.A. McGINTY: The definition the member just read out includes a person who suffers injury, loss or damage. The notions of loss and damage can import something broader than physical injury, which is what the Criminal Injuries Compensation Act 1985 is designed to cover.

Ms S.E. Walker: Would it apply if someone were affected by someone who had committed arson?

Mr J.A. McGINTY: If someone were to set fire to a house and burn it down, that in itself would not be compensable under this scheme.

Ms S.E. Walker: Have you narrowed the definition?

Mr J.A. McGINTY: No, it has not been changed in that respect.

Ms S.E. Walker: I have the Criminal Injuries Compensation Act 1985 in front of me.

Mr J.A. McGINTY: The definition of “injury” remains the same.

Ms S.E. Walker: Where are you reading that from?

Mr J.A. McGINTY: From page 3 of the 1985 Act. Under that Act, “injury” means bodily harm, mental and nervous shock and includes pregnancy, but I cannot see a definition of “victim” standing alone in the interpretation section of the 1985 Act.

Ms S.E. Walker: No. Are you saying that a person whose house has been deliberately burnt down has never been able to claim criminal compensation?

Mr J.A. McGINTY: That is right. They have not been able to claim compensation under this Act. Essentially, this Act provides compensation for personal injury, not for economic loss. The loss of a home or being burgled or something of that nature is not in the nature of personal injury. The definition of “injury” remains unchanged. This Act has never operated to compensate for economic crimes. That is not to say that part of the compensation is not economic. As the member is aware, a significant part of the compensation is for economic things such as lost wages as a result of personal injury and other things of that nature. This scheme has never operated for economic crimes as such.

Ms S.E. WALKER: It makes one wonder why there is a different definition of “injury” in the Victims of Crime Act. Notwithstanding that, will the Attorney General tell me about the definition of “close relative”?

Mr J.A. McGINTY: In the Bill, a close relative is defined as a parent, grandparent, step-parent, spouse or de facto partner, child, grandchild or stepchild. For the purposes of this legislation, close relatives are the very immediate family. The existing definition is somewhat clumsier. It is contained on pages 2 and 3 in section 3 of the 1985 Criminal Injuries Compensation Act. Under that definition, a close relative is a person who was the husband or wife of a deceased person or the parent, grandparent, step-parent, son, daughter, grandchild, grand-daughter, stepson, stepdaughter or de facto partner of two years standing of the deceased person. I cannot think of anyone else who would be added to that definition. Under the Bill it is worded in more succinct language. It covers the same nature of close relations, unless the member has picked up something I have not. It covers the same people but is expressed in more modern, concise terminology.

Clause put and passed.

Clause 4 put and passed.

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Clause 5: “Convicted”, meaning of -

Ms S.E. WALKER: Will the Attorney General explain what is the difference between the range of offenders or alleged offenders under this Bill as opposed to the current Act?

Mr J.A. McGINTY: In this Bill we have expanded the definition of a conviction. Under this Bill, more proceedings in the courts would constitute a conviction and would therefore give rise to a claim for criminal injuries compensation, whereas previously they were excluded. I will contrast the provisions in this Bill with section 3(1a) on page 4 of the 1985 Act, which lays out the circumstances in which a person is convicted of an offence. Spent convictions are common to both the Bill and the Act. An intensive youth supervision order is now included in the Bill.

Ms S.E. Walker: Section 3(1a)(b) of the Criminal Injuries Compensation Act says “having been found guilty of the offence, a conviction is not recorded” etc. However, this Bill deletes the words “having been found guilty of the offence”. I wonder what is the significance of that. Is that meant to include everything?

Mr J.A. McGINTY: I will make a note of that. If I can, I will come back to that later; hopefully, in just a few minutes.

Ms S.E. Walker: I am happy to adjourn if you want to wait for your adviser.

Mr J.A. McGINTY: She is not coming. Another adviser is on her way and should be here in five or 10 minutes.

Currently the Act provides that a person is convicted notwithstanding. I am told that there is a difference between being convicted and being found guilty, which has some relevance to the peculiar circumstances that affect the Child Welfare Act and the Young Offenders Act more so than anything else. I might be able to provide the member with more detail on that later. It is intended that the range of circumstances that enable someone to make an application under the Criminal Injuries Compensation Act be expanded by including within the definition of a conviction certain findings of guilt, which may not have resulted in a formal recording of a conviction.

Ms S.E. Walker: Would that include, for example, a juvenile justice team?

Mr J.A. McGINTY: Certainly it includes a reference to a juvenile justice team or the imposition of an intensive youth supervision order. I need to double-check whether a reference to a juvenile justice team would apply. I am not sure whether that is covered by section 55 of the Young Offenders Act. I will get that information for the member.

Ms S.E. WALKER: On that clause, I wonder whether anything else has been expanded on.

Mr J.A. McGINTY: I can now provide the answer to the issue the member raised with regard to the juvenile justice team. The Bill does include a reference to the juvenile justice team and the existing legislation does not. A victim of crime could not claim for criminal compensation when the outcome of the case was that the offender was placed in a juvenile justice team, which was obviously an injustice.

Ms S.E. Walker: A bit like the quokka killers.

Mr J.A. McGINTY: Yes, although it is hard to see how quokkas could make a claim for criminal compensation.

Ms S.E. Walker: Exactly. I am referring to the offence. Subclause (1)(c) does not contain the words “having been found guilty of the offence”. The relevant provision in the Act states -

Having been found guilty of the offence, the indictment or complaint was dismissed under repealed section 669(1)(a) of *The Criminal Code*;

I suppose this broadens the category as a person will not have to be found guilty and it will simply be a matter of whether it was dismissed under the Criminal Code. Is that right?

Mr J.A. McGINTY: That is right.

Ms S.E. Walker: The clause also refers to the repeal of section 20 of the Offenders Community Corrections Act. I suppose that without your adviser, you cannot tell me what all that means.

Mr J.A. McGINTY: The existing Act deems a reference to section 20 under the Offenders Community Corrections Act to be a conviction even though the Act has been repealed. That is carried forward, albeit in different language.

Ms S.E. Walker: I am happy to wait until another time to find exactly what all those paragraphs mean. I think it is important that we have on the record the sorts of situations in which a person can apply for criminal injuries compensation. It is not clear. Is it all right if we wait for another time?

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Mr J.A. McGINTY: Yes.

Further consideration of the clause postponed, on motion by Mr J.A. McGinty (Attorney General).

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Clause 6: “Loss”, meaning of -

Ms S.E. WALKER: The Attorney General said in his second reading speech that this provision has been expanded. Could the Attorney General tell us how and why it has been expanded?

Mr J.A. McGINTY: As was indicated in the second reading speech, clause 6 provides for an expanded definition of “loss” when it is incurred by a person who is also injured in the commission of an offence. The definition provides that an award may include provision for future expenses likely to be reasonably incurred in the treatment of the injury. That is not allowed under the current legislation, which allows someone to make a claim only in recognition of expenses incurred. This clause provides for an expanded definition of “loss” to include future medical treatment.

Ms S.E. Walker: Does that include psychological counselling?

Mr J.A. McGINTY: It does. I have used “medical treatment” in too tight a sense. Future counselling or medical treatment would be a better way to describe it.

Ms S.E. Walker: What would happen if a person needed years of psychiatric or psychological counselling? Would this cover it?

Mr J.A. McGINTY: The award would make provision for that to occur in the future up to the prescribed ceiling.

Ms S.E. Walker: Up to \$75 000.

Mr J.A. McGINTY: That is right. Of course, that includes all other elements of the claim. This would allow for psychological counselling well into the future.

The definition in the 1985 Act operated to exclude many claims for damage to clothing caused during the commission of an offence. To achieve a standardised definition for all claims and to clarify entitlements, the definition has been extended to all claims including those under the first Criminal Injuries (Compensation) Act of 1970, which had no provision for loss. The definition has also been extended to include clothing damaged in the commission of the offence, as opposed to damaged as a consequence of the injury, which is the test required by the 1985 Act. All clothing that is damaged in the commission or as a consequence of the crime is now compensable. They are the significant changes.

Ms S.E. WALKER: The definition of “personal item” includes things such as a hearing aid, artificial teeth and an artificial limb. Was there any assessment of the cost of these items? A traffic accident could be caused by someone driving recklessly on the wrong side of the road and could result in a person losing both legs, maybe an arm and his teeth. Was there any assessment of the cost of all these things and whether \$75 000 would be anywhere near an adequate figure? Medical costs for rehabilitation and psychological counselling must be considered.

Mr J.A. McGINTY: The current definition of “loss” is nowhere near as specific as that in the new legislation. It is designed to place beyond doubt that these sorts of matters are compensable if they are damaged as a result of the commission of a crime. The matters of clothing and future costs for treatment are subject to what I have already said. They will be compensable.

Ms S.E. Walker: The legislation refers to teeth. What happens if a person loses an eye and wants to get an artificial eye? He is limited, is he not? He could not apply under the proposed regime, whereas he could apply under the existing one. Under the current Act, “loss” includes “expenses actually and reasonably incurred by the applicant”. That would cover the replacement of a lost eye. It would not be an artificial eye. However, that could not occur under this Bill.

Mr J.A. McGINTY: I think that could occur under clause (6)(1)(f), which states -

A surgical appliance or implant used to correct or relieve a physical disability or medical condition;

Ms S.E. Walker: Is it something that people were applying for that you wanted to exclude? You have tailored it.

Mr J.A. McGINTY: No, the intention was to expand what is compensable. In many senses the wording has been expanded. The definition of “loss” will be considerably more extensive. The amendment is not intended to limit in any of those respects what can be compensated for.

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Ms S.E. WALKER: Under subclause (3), what damages can be awarded to a close relative under the Fatal Accidents Act 1959, and what is the definition of a “close relative” under that Act? The old Act contains a similar provision under paragraph (b).

Mr J.A. McGINTY: I need to get further information on that. I ask that I be joined by my adviser, Ms Laurene Dempsey, Assessor of Criminal Injuries Compensation. Under the Fatal Accidents Act, payments can be made to a close relative for funeral costs and a loss of dependence. A person who was dependent on the deceased experiences a loss of income and because they were dependent on the deceased their dependency status is lost.

Ms S.E. Walker: What is the maximum amount payable?

Mr J.A. McGINTY: A maximum of \$50 000 can be divided between the dependents.

Ms S.E. WALKER: What is the definition of “close relative” under the Fatal Accidents Act?

Mr J.A. McGINTY: I cannot give the member that definition directly, but it most probably does not matter because it is the definition of “close relative” in the Criminal Injuries Compensation Bill that is important because that is what determines the entitlement to compensation. It does not matter whether the definition of a close relative is somewhat broader in the Fatal Accidents Act - I do not know whether it is - because a person has to be a close relative for the purposes of this Bill to gain the benefits to which this Bill refers.

Ms S.E. Walker: If a person is considered a close relative under both the Fatal Accidents Act and this Bill, can he or she claim the \$50 000 maximum from the Fatal Accidents Act and the \$75 000 from the Bill?

Mr J.A. McGINTY: Any payment under the Fatal Accidents Act - for instance a funeral - would be taken into account by the assessor when making an award under the Criminal Injuries Compensation Bill, so there will be no double dipping. That is the way the two Acts will interact for the purposes of this Bill.

Ms S.E. Walker: A person would be better off pursuing a claim under the Criminal Injuries Compensation Bill, when it becomes an Act, because its maximum is \$75 000 as opposed to the \$50 000 under the Fatal Accidents Act.

Mr J.A. McGINTY: I would have thought that criminal injuries compensation payments are considerably broader than the two heads of payment under the Fatal Accidents Act. If a person were confined to a loss of dependency and funeral expenses under the Fatal Accidents Act, which has a cap of \$50 000, generally speaking he or she would be better off proceeding under this Bill. As I recollect, the Fatal Accidents Act is not confined to the outcomes of crime and therefore enables more people to apply for its provisions -

Ms S.E. Walker: It could be that a wall on a building site might collapse, or something like that.

Mr J.A. McGINTY: Yes, that might be one example of an incident that is not a crime as such.

Ms S.E. Walker: However, there is nothing that a person could claim under the Fatal Accidents Act that they could not claim under this Bill.

Mr J.A. McGINTY: No, there is nothing a person could claim under that Act that could not equally be claimed under this Bill if he or she were a victim of crime. As I have indicated, it is my understanding that under the Fatal Accidents Act a broader range of people might be able to apply in the event of a fatality, and that would include people who were the subject of an accident as distinct from a crime.

Ms S.E. WALKER: The definition of “relative” under the Fatal Accidents Act is quite interesting because, although it includes the range of relatives contained in this Bill, it seems more expanded. It includes -

- (i) the spouse of the deceased; or
- (ii) a de facto partner of the deceased who was living in a de facto relationship . . . 2 years immediately before the deceased died;
- (b) any person who was the parent, grandparent or step parent . . .

That is also included in the Bill. It continues -

- (c) any person who was a son, daughter, grandson, granddaughter, stepson or stepdaughter of the deceased;

And, interestingly -

- (d) any person to whom the deceased person stood *in loco parentis* immediately before the death of the deceased;
- (e) any person who stood *in loco parentis* to the deceased person immediately before his death;

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Is that covered by this Bill? It does not appear to be, but I could be wrong.

Mr J.A. McGinty: No, it is not.

Ms S.E. WALKER: Was it considered?

Mr J.A. McGinty: I am told that it was, but it was decided to retain the class of persons who would be classified as a close relative as they have been historically under the criminal injuries compensation legislation so as to exclude those additional people to whom the member referred under the Fatal Accidents Act.

Ms S.E. WALKER: When would a person stand in loco parentis?

Mr J.A. McGinty: A guardian, for instance.

Ms S.E. WALKER: What about a foster parent or a foster child?

Mr J.A. McGinty: Yes, I think that would be right, but it would not be included under the criminal injuries compensation legislation.

Ms S.E. WALKER: If a foster child who lived with a foster parent for many years - that can happen - witnessed the murder of the foster parent, could he or she not claim under the Criminal Injuries Compensation Bill?

Mr J.A. McGinty: That is right.

Ms S.E. WALKER: Could they claim under the Fatal Accidents Act?

Mr J.A. McGinty: Possibly. I am not too familiar with the Fatal Accidents Act, but I suspect that that would be the case.

Ms S.E. WALKER: Is it right that brothers and sisters are not included as close relatives under the Bill?

Mr J.A. McGinty: As close relatives, yes, that is right.

Ms S.E. WALKER: They are not?

Mr J.A. McGinty: No.

Ms S.E. WALKER: Were they included before?

Mr J.A. McGinty: No.

Ms S.E. WALKER: Were they given any consideration?

Mr J.A. McGinty: We did not change the definition. Siblings were not previously eligible and we did not want to expand the range of people who would be eligible under this legislation beyond those to which I have referred.

Ms S.E. WALKER: Was any consideration given to brothers, sisters, half-brothers or half-sisters?

Mr J.A. McGINTY: To the extent that brothers and sisters are victims of crime they can claim for any loss they suffer. Clause 6(3) deals with the relationship with the Fatal Accidents Act, so the answers I have given the member relate to fatalities. A sibling can claim whenever there is injury or loss that he has suffered and can make out that loss or suffering. In the normal course of events, he is in a position no different from anyone else provided he can establish the direct impact of the crime on him concerning his injury or loss.

Ms S.E. Walker: How can a person do it under this Bill? How would a brother or sister apply for compensation under this Bill if, for instance, he or she saw a brother or sister murdered? Under what circumstances could an application be made and how would it be done?

Mr J.A. McGINTY: Clause 12(1) is most probably the simplest way to explain it.

Ms S.E. Walker: It refers to a person who suffers injury. What does "injury" mean?

Mr J.A. McGINTY: It means "bodily harm, mental and nervous shock, or pregnancy" as the result or consequence of the commission of an offence.

Ms S.E. Walker: A person can apply only if he is a close relative.

Mr J.A. McGINTY: No. Anyone who is impacted upon in the way described in clause 12(1); in other words, any person regardless of his status who suffers injury as a consequence of the commission of a proved offence. It means loss and injury. If there is a proved offence, a person can apply for compensation.

Ms S.E. Walker: If that is the case, why does "close relative" have to be defined?

Mr J.A. McGINTY: "Close relative" becomes important - apart from the discussion we had about the Fatal Accidents Act - in later clauses. It is needed for claims for nervous shock.

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Ms S.E. Walker: That is what I am wondering about. If no relationship has to be shown to claim under clause 12(1), why is “close relative” defined?

Mr J.A. McGINTY: I refer the member to clause 35, “Mental and nervous shock, compensation for limited to certain persons”. Subclause (2)(e) requires that, in certain circumstances, the person be a close relative of the person who suffered bodily harm or died as a consequence of the commission of an offence and was living with the person.

Ms S.E. Walker: In that case, clause 12(1) would not cover brother and sister.

Mr J.A. McGINTY: It would other than for claims of pure mental and nervous shock. If someone else were impacted on as a victim of crime, he would be able to claim for the loss he suffered.

Ms S.E. Walker: No, because “injury” means “bodily harm, mental and nervous shock, or pregnancy”. A person cannot claim for mental and nervous shock as a brother or sister; a person can claim only for bodily harm or pregnancy.

Mr J.A. McGINTY: That is right.

Ms S.E. Walker: If a person sees his brother or sister murdered, how does he claim?

Mr J.A. McGINTY: When there is physical injury, including pregnancy -

Ms S.E. Walker: There is none.

Mr J.A. McGINTY: If it is pure mental shock -

Ms S.E. Walker: A sister sees her brother murdered but there is no bodily harm to the sister who lives; she is not pregnant as a result of an offence. How does she claim if she is excluded by not being considered a close relative under clause 35?

Mr J.A. McGINTY: One of the things this Bill seek to do is limit the range of people who can claim for pure nervous shock. It is done in a way consistent with the legislation brought before this House for tort law reform following the Ipp recommendations to limit claims for pure nervous shock to people who actually witness with their own senses an event or the immediate aftermath. It is also further limited in another clause.

Ms S.E. Walker: Is the Attorney General saying that any person who witnesses a murder with his own eyes and suffers no bodily harm or injury can claim under the current Act?

Mr J.A. McGINTY: There is no restriction of that nature provided a person has suffered loss. The loss might be in the nature of nervous shock.

Ms S.E. Walker: If a brother, sister, half-brother, half-sister or someone in loco parentis witnesses a murder and suffers nervous shock, can he or she currently apply for compensation?

Mr J.A. McGINTY: That is right.

Ms S.E. Walker: How does a person do that under this Bill? Has that avenue been blocked off?

Mr J.A. McGINTY: We have limited the range of people who can apply for compensation when the only claim is that of nervous shock. Through a case study, I will advise why we have done that. There was a famous case two or three years ago in New South Wales in which a young man broke into a hotel to commit a burglary; he broke and entered. The owner of the hotel lived upstairs. The hotel owner beat him up. The burglar made a claim for criminal injuries compensation on the basis that the force used by the hotel owner was excessive. As expected, there was a significant media interest. My recollection is that the mother of the offender saw him on television looking badly beaten. She made an application for criminal injuries compensation in New South Wales and was awarded a payment for the mental anguish of seeing her beaten up son on television. We do not think that woman was entitled to compensation and we have sought to exclude that. We are doing that by requiring a person to see an offence with his own senses.

Ms S.E. Walker: Where is that in legislation? How does a person in that position currently access compensation?

Mr J.A. McGINTY: Under the 1985 Act, there is no current limit on the ability to make a claim.

Ms S.E. Walker: How is that done and under which provisions?

Mr J.A. McGINTY: Of existing legislation?

Ms S.E. Walker: Yes.

Mr J.A. McGINTY: It is the general provisions - sections 7(1) and 12(1) - which are comparable provisions.

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Ms S.E. WALKER: Section 7(1) of the Criminal Injuries Compensation Act states -

Where a person has suffered injury or loss . . . he may apply . . . for an award of compensation for that injury or loss.

Under the Act the definition of “injury” states -

. . . bodily harm, mental and nervous shock, and includes pregnancy;

They are not limited. Does this provision limit in any way the person under section 7 of the current Act?

Mr J.A. McGinty: Sorry, can you say that again.

Ms S.E. WALKER: Section 7 of the current Act says that any person who has suffered injury or loss as a consequence of the commission of an offence, can apply for an award of compensation. Is that section limited in any way?

Mr J.A. McGinty: Limited in what respect? Yes, there are limits throughout the Act. I presume the member’s question is whether it is limited in respect of the class of persons who can apply for pure nervous shock -

Ms S.E. WALKER: Section 7(1) of the Act states -

Where a person has suffered injury or loss . . .

The definition of “injury” in the Act states -

. . . bodily harm, mental and nervous shock, and includes pregnancy;

Therefore, that would include mental and nervous shock. At the moment, any person who suffers mental or nervous shock from seeing a person murdered can apply for compensation under the current Act?

Mr J.A. McGinty: That is right, yes.

Ms S.E. WALKER: And it is not limited in any way.

Mr J.A. McGinty: Not in that respect, no.

Ms S.E. WALKER: Section 7(2) of the Criminal Injuries Compensation Act refers to a death that has occurred. Is there a difference? Does that limit section 7(1)? I do not think it does. Does section 7(2) of the Act qualify section 7(1)?

Mr J.A. McGinty: No.

Ms S.E. WALKER: I suppose it is then cutting down the range people who can apply for compensation -

Mr J.A. McGinty: For pure nervous shock.

Ms S.E. WALKER: Who can apply for compensation -

Mr J.A. McGinty: No.

Ms S.E. WALKER: Does nervous shock include the sorts of psychological problems that people experience after traumatic circumstances such as post-traumatic stress disorder? What does nervous shock include?

Mr J.A. McGinty: Yes, that is right.

Ms S.E. WALKER: Okay. If a brother and sister are in a bank and a bank robber kills everybody in there including the sister’s brother, she can claim under the current Act but she cannot claim for post-traumatic stress disorder under the new legislation.

Mr J.A. McGinty: Yes, that is right.

Ms S.E. WALKER: I think that is very poor.

Mr J.A. McGinty: It is a policy decision that is part of this legislation to limit the range of people -

Ms S.E. WALKER: I wonder how this will be paid for considering the types of offences that may come our way, the current climate and the possibility of people suffering post-traumatic stress disorder. I am wondering why it was not included in this Bill.

Mr J.A. McGINTY: The view was that in many respects claims for pure mental and nervous shock were too open for unjustifiable claims. I will provide the member with another example of a recent claim made under the current Act. I think people are aware of the 30-second rapist, Kevin Ibbs, and the circumstances surrounding that case. It ultimately transpired that his wife and her friend set him up. When he refused to withdraw and

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continued having intercourse for 30 seconds after she refused to consent, he was then convicted of rape for what began as a consensual act. Many years later, when it became apparent that there was a criminal conspiracy to deal with Mr Ibbs, his parents, having found out that their son was the victim of criminal conspiracy, made a claim for criminal injuries compensation for the nervous shock they suffered as a result of finding out that a conspiracy was perpetrated against their son. They received compensation. Frankly, that sort of compensation is not the sort of thing for which taxpayer's money should be used. In a variety of ways, we have limited the class of people who can make claims for pure mental and nervous shock. There is no comparable limit when there is actual damage or actual loss, or direct damage or direct loss to the individuals who wish to make a claim. In fact, we have expanded the range of things for which there can be compensation under this legislation.

Even though we are a getting a little ahead of ourselves by referring to clause 35, in the future, clause 35(2) will stipulate that -

An assessor must not make a compensation award for mental and nervous shock suffered by a victim as a consequence of the commission of an offence, or for any loss in respect of such shock, unless the assessor is satisfied -

It then sets out a range of circumstances. Paragraph (c) states -

that a person other than the victim died or suffered bodily harm as a consequence of the offence and the victim was personally present when or immediately after the offence was committed;

The provision of the law in which a person is a witness to someone dying or suffering actual bodily harm, or was there immediately after the offence was committed and saw it with their own unaided senses, which is now the test in negligence matters, or observed the immediate aftermath of the offence, has been transported into this provision in the Bill. Therefore, in the case of somebody who was there and saw the incident or who was there at the immediate aftermath such as a person who is required to identify the body or who returns home and finds the scene of a murder or grievous bodily harm, compensation for nervous shock can be paid. A provision then deals with the parents of a person who dies as a consequence of the commission of an offence, and the following provision allows for compensation to be paid for pure mental and nervous shock -

Ms S.E. Walker: But only if they are a close relative.

Mr J.A. McGINTY: No. I do not think it is limited in that way. Clause 35(2)(c) does not require that someone be a close relative. Paragraph (d) relates to only parents and paragraph (e) states -

that immediately before the offence was committed the victim -

- (i) was a close relative of a person who suffered bodily harm or died as a consequence of the commission of the offence;

The general scheme of things is that the person needs to have been at the site of the incident in order to claim for nervous and mental shock and not see it on television or be told about it sometime later. If the person were there, it would be compensable.

Ms S.E. Walker: If you are there and you are any person, it will be compensable?

Mr J.A. McGINTY: Yes, any person.

Ms S.E. Walker: That is different from what you were just saying.

Mr J.A. McGINTY: No, I was answering the questions the member for Nedlands put to me. It then goes on to say that if a person was not there but was a close relative of the victim, that person would be allowed to claim for nervous shock.

Ms S.E. WALKER: I asked at the beginning whether a brother or sister who witnessed the murder of one or the other could claim under this Bill.

Mr J.A. McGinty: If they witnessed it, yes.

Ms S.E. WALKER: That is what I asked. That is good. The range of people who can claim compensation is not limited to close relatives in those circumstances?

Mr J.A. McGinty: That is right.

Ms S.E. WALKER: That is a relief. While we are talking about money, how much money has been put aside? There is nothing in the budget that relates to providing more money to the Criminal Injuries Compensation Tribunal. Have resources been put aside; and, if so, how much was put aside for the increased awards that might be expected under this legislation?

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Mr J.A. McGINTY: Two very significant provisions have been made for the financial impact of this legislation. The first is that it will obviously take some time to flow through. Offences that occur after the passage of this Bill will be dealt with under this Bill. There are a variety of transitional arrangements. The full impact will not be felt on day one of the amalgam of changes that are being made. My recollection is that, assuming that the number of awards that are made remain constant, it is expected that this will involve expenditure in excess of \$1 million a year at the outset. The second change that has been made relates to the appointment of an additional assessor. The criminal injuries compensation assessor's office had 2.5 assessors. That has been increased to three.

Ms S.E. Walker: In fairness, that has been an increase of 0.5; it is not an increase of a full FTE.

Mr J.A. McGINTY: The increase from 2.5 to three is 0.5. In addition, the chief assessor has been doing minimal work on completing assessments. Other assessors have been spending an increasing amount of time on recovery and related matters. Once this legislation is passed and bedded down, it is expected that the chief assessor, who has been spending a lot of time on policy matters and the legislation, will revert back to working as an assessor. That will free up significant resources so that the number of claims that can be dealt with will be significantly increased. That will have a significant impact. We expect that hundreds more claims will be assessed each year. There will be a multimillion dollar effect each year when the full three assessors are working full-time on making those assessments, in part because of the increase in the quantum, in part because of the improved benefits, but most substantially because a lot more claims will be assessed.

Ms S.E. Walker: Have you worked out how many?

Mr J.A. McGINTY: It will be in the hundreds. My recollection is that somewhere between 250 and 300 additional claims will be assessed each year as a result of the additional 0.5 assessor. In addition, we expect that the return of the chief assessor next year to assessment work, once this legislation is in force, will result in an even greater number of assessments. It is expected that the total budget allocated to criminal injuries compensation will rise quite significantly, by millions.

Ms S.E. Walker: By millions?

Mr J.A. McGINTY: Yes.

Ms S.E. Walker: You are putting only \$1 million aside.

Mr J.A. McGINTY: No. On account of the changes, it will be an amount in excess of \$1 million. I do not have the exact figure with me but I think it was provided in the second reading speech. The appointment of an extra 0.5 assessor and the return of the chief assessor will mean that the full impact will be quite significant.

Ms S.E. Walker: How many cases are assessed each year?

Mr J.A. McGINTY: About 1 000.

Ms S.E. Walker: One thousand cases are assessed. How many were done in the past year?

Mr J.A. McGINTY: About 1 000.

Ms S.E. Walker: How long has the chief assessor been working away from her normal duties?

Mr J.A. McGINTY: About a year.

Ms S.E. Walker: To work on this legislation?

Mr J.A. McGINTY: Yes.

Ms S.E. Walker: How many were assessed in the year before this legislation?

Mr J.A. McGINTY: In round figures, 1 200.

Ms S.E. Walker: So only 200 more were assessed each year when the chief assessor was carrying out her full duties? Are you saying that she gets through 200 a year?

Mr J.A. McGINTY: No, I am not saying that. The member asked me for the figures for those years. A variety of other factors have impacted on that, including changed recovery processes - people changed their work patterns, the way in which things were dealt with and things of that nature.

Ms S.E. WALKER: What must have happened with the chief assessor doing this work is that the number of claims that were being processed must have dried up. From what the Attorney General has said, the chief assessor has been off normal duties for a year to work on this legislation. Therefore, not as many claims have been processed.

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Mr J.A. McGinty: That is right.

Ms S.E. WALKER: How many fewer claims were processed in the year she was off?

Mr J.A. McGinty: An assessor would do an average of 40 claims a month. As a result of the additional 0.5 assessor, we now have three full-time assessors. The chief assessor is still not working full-time on claims. When we are fully operational, that will be 120 claims a month. Multiplying 120 by 12 will give you the number of claims a year. In the past year about 1 000 claims were processed. As you can see, significantly more claims will be dealt with. The publicity surrounding this Bill has meant that there has been a significant increase in the number of claims coming in. Had we not appointed the additional part-time assessor we would have been facing a blow-out in waiting times.

Ms S.E. WALKER: If each assessor assesses 40 claims a month, that is 480 a year. Is that figure in the annual report, or has it been plucked from anywhere?

Mr J.A. McGinty: I do not know whether it says that in the annual report, but that is how many they do.

Ms S.E. WALKER: They each assess 480 claims a year? How many more people is the Government expecting to apply for compensation as a result of this legislation? Did the Attorney General say that there would be thousands more?

Mr J.A. McGinty: No. You cannot quantify how many more there will be. I indicated that there had been an increase in the number of applications made in recent times.

Ms S.E. WALKER: I thought the Attorney General said that there would be 1 000.

Mr J.A. McGinty: No.

Ms S.E. WALKER: Has any analysis been done of the workload increase as a result of this legislation?

Mr J.A. McGinty: Yes.

Ms S.E. WALKER: What has that been?

Mr J.A. McGinty: They are the figures I have given you.

Ms S.E. WALKER: If a 0.5 assessor is employed, that person will get through only 240 cases a year. Is the Attorney General suggesting that there will be only 240 more applications per year as a result of this legislation?

Mr J.A. McGinty: We do not know what will happen to the rate of applications. We know that there has been an increase in the number of applications that have come in during the past year.

Ms S.E. WALKER: How many?

Mr J.A. McGinty: I do not have the figure with me.

Ms S.E. WALKER: Can the Attorney General's adviser tell him?

Mr J.A. McGinty: No.

Ms S.E. WALKER: No analysis of that has been done?

Mr J.A. McGinty: Yes, an analysis has been done. I do not have the figure with me.

Ms S.E. WALKER: Is the appointment of an additional 0.5 FTE the only resource in this Bill?

Mr J.A. McGinty: I have been saying that by having three full-time assessors -

Ms S.E. WALKER: In fairness, the work has slowed down. The processing must have slowed down if the chief assessor has been doing other work. If she is to come back on the job full time, things will return to normal. The minister is saying that the only resources he has put into this is another half a person a week.

Mr J.A. McGinty: No; I have covered the reasons that is not the case. I can go through it again if the member wishes.

Ms S.E. WALKER: Please do.

Mr J.A. McGinty: The actual cost of the increased benefits that will be available will be, if nothing else changed, in excess of \$1 million a year.

Ms S.E. WALKER: Can the minister explain how that \$1 million is split up?

Mr J.A. McGinty: It is going to the range of increased benefits that are prescribed.

Ms S.E. WALKER: Does the \$1 million go to the range of compensation payable?

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Mr J.A. McGinty: For instance, it goes to the increased payment for double-homicide victims.

Ms M.M. Quirk: Do you want to do victims of crime out of their compensation?

Ms S.E. WALKER: The member should go back to sleep.

Ms M.M. Quirk: I am not asleep.

Ms S.E. WALKER: The member looks as though she is asleep. How is the \$1 million made up?

Mr J.A. McGINTY: The amount in excess of \$1 million is made up of the various improved benefits, the advance payments and the double payment in the event of a homicide. The other improved benefits available under this legislation have been estimated, if everything else remains the same, to be in excess of \$1 million a year. The additional half-time assessor position, which increases the existing part-time assessor to a full-time assessor, should result, if targets are met, in approximately 240 extra cases being assessed each year. The average payment at the moment, I am told, is about \$12 000, so the additional amount of 240 times \$12 000 is additional resources that will go into criminal injuries compensation. In addition to that, the chief assessor - who has been spending a significant part of her time recently making changes in the office, overseeing the legislation and dealing with policy issues - will, when the legislation is passed and bedded down, return to doing an increased number of assessments, which will again add significantly to the outlay on criminal injuries compensation, because we have seen an increase in the number of claims in recent times, as a result of the good publicity attracted by the debate in the lead-up to this Bill. People are now more aware and therefore making more claims for criminal injuries compensation. Although we cannot quantify it, with the increased quantum that is now available, we are likely to see more applications. Generally speaking, there will be a multimillion-dollar commitment to the victims of crime under the headings I have just referred to.

Ms S.E. WALKER: Is the chief assessor or the tribunal given a budget each year of how much may be paid out? Are they allocated only so much each year to pay out?

Mr J.A. McGinty: They are given a budget, but obviously we pay out whatever the awards are.

Ms S.E. WALKER: What is the budget?

Clause put and passed.

Clause 7 put and passed.

Clause 8: Offences for which compensation may be sought -

Ms S.E. WALKER: Can the Attorney General explain clause 8?

Mr J.A. McGINTY: There are three criminal injuries compensation Acts, two of which are being repealed. The 1985 Act remains in operation. The first criminal injuries compensation Act came into effect on 22 January 1971. Prior to that date, there was no criminal injuries compensation in this State. One of the things this Bill does is to incorporate into this legislation each of the prior three pieces of legislation, and to standardise the approach. For instance, my recollection is that under the 1970 legislation, which came into effect in 1971, claims were determined by a court, not by an assessor. Any claims made in the period that legislation was in operation needed to be made to the District Court, being the court of competent jurisdiction. That will no longer be the case, because all claims in the period covered by this new Bill as well as the three previous pieces of criminal injuries compensation legislation will now be made by the assessor, not the court. Nonetheless, the historical exclusion of any claims for crimes or offences committed before 22 January 1971, when there was no legislation, has been maintained.

Clause put and passed.

Clause 9: Time limit for making a compensation application -

Mr N.R. MARLBOROUGH: I seek clarification on clause 9 in relation to some real circumstances I have had to deal with as a member. I wonder how this clause would apply to those circumstances in which the death of an individual could not be proved until many years after the death actually occurred. A young woman went missing and was presumed dead; all of the newspaper reports at the time were to the effect that she had been killed. Nobody was charged with her murder until the body was found some nine years later. Under the present Act, her parents have been able to be compensated. I wonder if the application of this clause would stop that from occurring in future, in a case in which somebody went missing and it was subsequently proved that the person had been murdered, but the body was not located until many years after the murder, and charges were not laid against anyone until such time as the body had been found. In the case I dealt with - of which the Attorney General has some knowledge - the perpetrator of the crime was eventually charged and is still serving time in prison. How would this clause affect that situation?

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Mr J.A. McGINTY: I give the member for Peel the very firm assurance that the idea of having a three-year time limit within which to make applications for criminal injuries compensation is designed to get people to make their applications within a reasonable time of being affected by the crime. The rule in the criminal injury assessor's office is that, if there is any justification whatsoever for a delay, an extension of time is granted. In the tragic case the member for Peel spoke about, in which all the circumstances only came to light some time later, there would be no question about an extension of time being granted. As I said, an extension of time is the norm in cases in which, for example, an injury had not stabilised; the facts had taken some time to assemble; the court proceedings might have been lengthy before there was a conviction; and a considerable period might have lapsed before charges could be laid. In all of those circumstances, an extension of time would be automatic. The only exception I can think of would be if someone knew he had a right to make a claim but said he did not want to and 10 years later changed his mind. If his reason for not making a claim was that he did not want to, he would be, if anything, negligent for not making a claim. The assessor might ask him to explain why he should extend the time.

Mr N.R. Marlborough: Does that apply under the Act?

Mr J.A. McGINTY: Yes; there is no significant change here. In the case of the person about whom the member for Peel was talking, there would be no question about whether she would be granted an extension of time.

Ms S.E. WALKER: The Act provides that "an application shall be made" and the Bill provides that "an application must be made". Is there any reason for that?

Mr J.A. McGinty: It is purely a matter of the drafting style of the very good draftsman who drafted the Bill.

Ms S.E. WALKER: It is nice to know that they are still there. I thought the member for Peel might have been indicating that the person who went missing turned up like the young woman in the eastern States. Has there ever been a case in which compensation has been paid and the crime was found not to have been committed?

Mr J.A. McGinty: Theoretically, it could happen but we are not familiar with any cases in Western Australia.

Ms S.E. WALKER: I think the Attorney General said that assessors recover the moneys. Is that right?

Mr J.A. McGinty: They would make an order for recovery.

Ms S.E. WALKER: Do they not do the recovery?

Mr J.A. McGinty: No.

Ms S.E. WALKER: I thought the Attorney General said earlier that the assessors do the recovery.

Mr J.A. McGinty: I said they were involved in it. By that I meant they make the order for recovery.

Ms S.E. WALKER: Does the recovery go back to the Crown?

Mr J.A. McGinty: Yes.

Ms S.E. WALKER: Has there been much success?

Mr M.P. Whitely interjected.

Ms S.E. WALKER: It is important.

Ms M.M. Quirk: It has nothing to do with clause 9.

Ms S.E. WALKER: The member for Girrawheen is not the Speaker, but she does speak a lot. I am not stopping the member for Girrawheen from getting up and speaking. She should stand up rather than sit there being bored, looking at her computer and doing nothing. I am trying to work out what the legislation means.

Has a person who suffered incest and who made a claim many years later had the claim rejected?

Mr J.A. McGinty: Not that we can think of.

Ms S.E. WALKER: Have there been any refusals in the past year when a claim has been out of time?

Mr J.A. McGinty: Yes.

Ms S.E. WALKER: How many?

Mr J.A. McGinty: We estimate that the figure is less than a dozen.

Ms S.E. WALKER: Can you say for what reasons they were refused or what the offences were?

Mr J.A. McGinty: Generally, the person simply has not brought forward a claim. Generally speaking in circumstances in which a person does not have a claim because the application has no merit, the request for an extension of time is denied.

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Ms S.E. WALKER: Is that a matter of public record? Is it the chief assessor's role to make that decision or can other assessors make it?

Mr J.A. McGinty: All assessors do that work.

Ms S.E. WALKER: Are they required to give reasons?

Mr J.A. McGinty: Yes.

Ms S.E. WALKER: Are they published?

Mr J.A. McGinty: They are in the form of a letter to the applicant?

Ms S.E. WALKER: Are they not subject to scrutiny? Are they on the public record?

Mr J.A. McGinty: That is not right. A decision to grant or not grant a claim is appealable, so it can be scrutinised.

Ms S.E. WALKER: If I asked for a copy of the letter explaining why an application was refused, could I be given one?

Mr J.A. McGinty: Provided you were an interested person.

Ms S.E. WALKER: I am, of course. I will ask as a member of Parliament.

Mr J.A. McGinty: Good luck to you.

Ms M.M. Quirk interjected.

Ms S.E. WALKER: I am interested in knowing why they were refused. If I asked for copies would the Attorney General make them available?

Mr J.A. McGinty: They would be made available if you were an interested person.

Ms S.E. WALKER: I am asking for them.

Mrs C.L. EDWARDES: I would like to give the member for Nedlands an opportunity to continue her inquiries.

Ms S.E. WALKER: If there are so few denials, why is the time limitation required? Surely it should be reversed. I will pursue a request to peruse the reasons for refusals, which I am sure I am entitled to do if they are a matter of public record.

Clause put and passed.

Clauses 10 and 11 put and passed.

Clause 12: Proved offence -

Mr N.R. MARLBOROUGH: Subclause(3) (b) reads -

if the application is made under subsection (2) - that the death occurred as a consequence of the commission of a proved offence and that the claimed loss has occurred.

In the instance of death, does the proved offence stand as per the definition that it is simply an offence? The definition of offence means an alleged offence or a proved offence.

Mr J.A. McGINTY: To put it in simple terms - there are a number of qualifications in exceptional cases - it is basically when there is a conviction: an offence is proved and there is a person who committed the offence. Clause 12 deals with routine cases in which an offence is proved in a court of law. That is the normal circumstance. From here on, clauses deal with exceptions to that general rule that a conviction is needed in order to get criminal injuries compensation. Clause 13 deals with circumstances in which there is an acquittal but a person is still eligible to apply for compensation. Clause 14 provides for situations in which the person who perpetrated the offence is insane and no conviction is obtained due to unsoundness of mind. People in those circumstances should not be denied criminal injuries compensation. Another variant on that theme is when someone has been assessed as not fit to stand trial.

Mr N.R. Marlborough: Does it also cover circumstances in which there is no trial; for example, a crime has been committed because the body has been found but nobody has been charged?

Mr J.A. McGINTY: Yes. As the heading says, section 17 deals with a crime that has been committed and no person has been charged. I will give the member a recent example of that. A fairly notorious person in Western Australia who was under police protection made an allegation that while she was under police protection she was raped by the police officer who was protecting her. No charges were laid against the police officer, on the

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grounds that it could never be proven in a criminal court that a rape occurred. Therefore, as a matter of policy, no charges were laid and no claim went to court. The woman made a claim to the criminal injuries compensation assessors who found on the balance of probabilities that she was raped. Even though the police officer was never charged, she was awarded criminal injuries compensation on the balance of probabilities. It is quite a remarkable case.

Mr N.R. Marlborough: I think I raised that case without knowing the outcome.

Mr J.A. McGINTY: I suspected that was the case!

Clause put and passed.

Clause 13: Alleged offence: acquittal -

Ms S.E. WALKER: My question about this clause also relates to clauses 14 to 17. Have any new categories been added and, if so, what are they?

Mr J.A. McGINTY: The simple answer is yes. This Bill expands the range of people that can make application for criminal injuries compensation. We found that the existing provisions, which were primarily in section 15 of the Act, were deficient in a host of areas. I give the member a simple example of an accused person who was not mentally fit to stand trial. In those circumstances no conviction was recorded; therefore, the victim could not make a claim for criminal injuries compensation. That shortcoming was added to the legislation.

I refer the member to section 15 of the existing Act. In the past, a person who suffered an injury or loss as a consequence of the commission of an alleged offence had a right to apply to the Attorney General for a certificate to enable the case to go forward. When the member for Kingsley was the Attorney General, she approved a request that I made for a section 15 certificate. Despite the failure to have a conviction recorded, or if no charges were laid, there was always a provision for the Attorney General to grant a section 15 certificate to enable that claim to go forward. In the sections to which the member for Nedlands referred we have tried to deal with all the types of circumstances to which section 15 certificates historically would have related. These cases are based on actual experience in the office of the Criminal Injuries Compensation Assessor, and also in the Crown Solicitor's Office, which provide me with advice on the applications for section 15 certificates. The Government has tried to spell out the circumstances in which - to put it in the old language - a section 15 certificate would have been granted. Overwhelmingly, the people who request section 15 certificates are denied them because there is nothing exceptional about their cases. We have tried to spell it all out so there will no longer be the need to issue section 15 certificates.

Clause put and passed.

Clauses 14 to 18 put and passed.

Clause 19: Assessor's general powers -

Ms S.E. WALKER: This clause provides for an offence penalty for the first time in this Bill. Why is that? Why is it being applied to this clause and for what purpose?

Mr J.A. McGINTY: Essentially, it is a power to subpoena documents to present before the assessor. The equivalent provision is section 35 of the Criminal Injuries Compensation Act 1985 under the heading "Witnesses and compulsion to furnish information". The current penalty is \$1 000. Given that that penalty had applied since 1985, it was thought appropriate to update the monetary amount of the penalty to reflect the general scheme of penalties contained in the legislation. The penalty will apply to people who do not comply with the subpoena to produce documents to the assessor.

Ms S.E. Walker: Is that the only offence?

Mr J.A. McGINTY: There are others as well.

Clause put and passed.

Clauses 20 and 21 put and passed.

Clause 22: CEO may apply for stay of compensation application -

Ms S.E. WALKER: Under this Bill, the CEO is defined to mean the chief executive officer of the department of the public service that principally assists the minister in the administration of this Act. I assume it is the CEO of the Department of Justice.

Mr J.A. McGinty: That's right

Ms S.E. WALKER: Under what circumstances might he apply for a stay? Why is that included in the Bill? Is it a new provision?

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Mr J.A. McGINTY: Section 32 of the Act is the current provision, which is comparable to the provision in this clause. It is obviously undesirable for a criminal injuries compensation matter to be determined that either pre-empts an appeal or a prosecution that is about to take place for an alleged offence or that occurs at the same time as the criminal proceedings. This clause replicates the existing provision.

Clause put and passed.

Clauses 23 to 29 put and passed.

Clause 30: Compensation awards, general -

Mr N.R. MARLBOROUGH: I seek some assistance from the Attorney General. My question is related to my experience with the existing Act. I do not know where in the Bill the specific application is, so I ask this question under the general clause. The April Fawcett case raised a number of questions with which I and the office of the Assessor of Criminal Injuries Compensation had to deal. One of the vexed questions I argued at length with the chief executive officer at the time was the office's interpretation of the present Act. As I said earlier, the death of April's daughter occurred some time prior to her body being found and subsequent charges being laid. The compensation applicable to the parents was subsequently based on not when the charges were laid and the offender found guilty but the time of the assessed death. As the death occurred when the old Act was in force, the compensation was far less than was applicable under the existing Act. I argued that, in terms of injury compensation, there was no known crime until the body had been found and, obviously, there were no charges until the body had been found and appropriate processes followed. Although the victims had to live with the grief, for many years it was a matter of simply not knowing where their daughter was. They knew not that she had been murdered but that she had disappeared, and mum and dad hung on to the hope that she would be alive. The real grieving and loss came as a result of the body being found and subsequent charges being laid. I believe that the present Act allowed the sort of interpretation I was seeking. I was not successful in arguing that.

Although I cannot specifically find the clause that may answer my point, I ask the Attorney General under this general heading how he believes that set of circumstances will be handled when the payment of compensation for such a crime is considered. Would this Bill have a similar application for a situation in which a body was found sometime after the legislation was enacted and, with the appropriate scientific expertise, it was discovered that the crime had taken place prior to the enactment? That is, would the application of compensation, which would take place after a body had been found and possibly after charges had been laid, be considered in the same manner? If, as with April Fawcett's daughter, the crime occurred before the new Act came into being, would the date of the offence be the time used to determine the compensation? Greer, the person found guilty in the case to which I have referred, has appealed that sentence on at least three occasions. That in itself caused major problems under the Act. Will the timing on which a claim of compensation is considered be based on the date of the finding of the body?

Mr J.A. McGINTY: Unfortunately, the answer to the question posed by the member for Peel can be found in clause 31, where the provisions of the existing legislation are replicated. Clause 31, so far as is relevant, reads -

... the maximum amount that may be awarded ... in favour of one person for a single offence committed on a date in a period set out in the Table to this subsection -

The dates are the dates on which offences are committed. The tragedy of the case to which the member referred is that in a very real sense there was no certainty or knowledge that the offence had been committed until many years afterwards. In most cases, we know that an offence has been committed when it occurs. My recollection of this particular case is that it was many years later before the body was found and many years later before the person was charged. In those circumstances, unfortunately - this is historical now - the amount of compensation relates to the date on which the offence occurred. As the member can see from the table that is set out in clause 31 of the Bill, until recent times the amount has been extremely modest. No compensation is payable for events that occurred prior to 22 January 1971.

Mr N.R. MARLBOROUGH: I thank the Attorney General for his answer. It clarifies the matter. However, it raises the same doubts I had with the existing Act. I commend the Attorney General for making changes to the Act. They are very important. This Act needs to be brought up to date. This is an area at which we need to look more closely. I do not have a form of words for an amendment. If given the opportunity, I would be happy to work on it. The April Fawcett case is certainly unusual but it is not extraordinary. We hear of similar cases all over Australia in which there is a long time between a person going missing and the finding of evidence of any crime committed. In April's case, a mother was compensated for the loss of her daughter some 13 years after the event. It highlights the need for a different determination about the application of that compensation. It would require a fairly simple alteration to the Act. I think the Attorney General would agree with me that the Government seeks through this legislation to pay fair compensation for the loss of someone's life or the

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committal of an injury to someone. In the sort of case I have mentioned and, I suppose, incest, there can be a great time lapse between the committal of the offence and awareness that an offence has been committed and the laying of charges. The April Fawcett case highlights this problem with the Act, which needs to be rectified so that it is consistent with the intention of updating the compensation processes and assistance that such victims can receive, and their understanding of those processes. In the end, they are victims of a crime, regardless of the date on which the crime was committed. It would be fairer and more equitable if the interpretation and/or the wording of the clause were changed to create an opportunity for victims to gain the level of compensation provided by the Act at the time the offence was discovered.

Mrs C.L. EDWARDES: Picking up on the member for Peel's comments, those types of areas in which the offence or the injury become knowledge are already covered in legislation. Asbestos is one example, because its onset is obviously latent.

Mr J.A. McGinty: The changes that the Government will make to limitation laws next year will pick up on the notion that the member is talking about. At the moment, the date of knowledge is irrelevant; rather, it is the date on which the injury occurred.

Mrs C.L. EDWARDES: Yes. In this instance it is the date of the offence. Although there must be some certainty of the date of the offence, it does not depend so much on the criteria because the Government is making changes and tightening it up. Therefore, there will be a greater level of accountability when an application is made. The issues are what the victims are being compensated for and why. No-one could ever compensate for the trauma experienced by parents, family and the like if there is a delay of 13 years. Taking that recognition into account will not extend the budget. Given the changes that the Government has made between clauses 13 and 19, I do not believe many people will fall into that category. It is something that could very well be considered. It is an exceptional and special case, and it is not unknown in terms of being able to draft when the knowledge of the offence took place. People might have a belief there had been a death at that time but often it is not until people see the body that they have the knowledge.

Mr J.A. McGINTY: The case is compelling to take into account and give consideration to those tragic cases, particularly those involving homicides in which the body is not recovered at all or for a long period. In the policy of this legislation, the Government has maintained the existing requirement of the date on which the offence occurred and we do not intend to depart from it now, although, as I said, the case for allowing a measure of discretion in those types of compassionate cases is outstanding. Earlier we spoke about the extension of time beyond the three years that would automatically be granted in those cases. There is no question about compensation being paid and no question of denying claims -

Mrs C.L. Edwardes: It is just the amount.

Mr J.A. McGINTY: It is the quantum that is stuck in an earlier time when it was lower. That is the scheme of the existing legislation and we have carried it forward.

Mrs C.L. Edwardes: That is when we get back to what it is we are compensating people for. For instance, 13 years later funeral expenses increase and there is a valid argument for looking at the quantum at the time of the knowledge as against the date of the offence.

Mr J.A. McGINTY: From my point of view, when I see an alliance between the member for Kingsley and the member for Peel, I know I am in real trouble.

Clause put and passed.

Clause 31: Maximum for single offence -

Mr J.A. McGINTY: I move -

Page 22, before line 8 - To insert the following -

- (2) Subject to sections 32, 33 and 34, the maximum amount that may be awarded in aggregate on a compensation application made by the personal representative of a victim who dies as a consequence of the commission of an offence committed in a period set out in the Table to subsection (1) is set out in that Table opposite the period.

This amendment relates to an application made by the personal representative of a victim who dies as a consequence of the commission of an offence. It was recommended by parliamentary counsel - all three amendments standing in my name fit the same category - as drafting corrections rather than changes of any principle contained in the Bill, to place beyond any doubt some of circumstances to which this legislation gives rise.

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Amendment put and passed.

Clause, as amended, put and passed.

Clause 32: Maximum for single offence by multiple offenders -

Mr J.A. McGINTY: I move -

Page 23, line 2 - To delete "applies" and substitute the following -
and (2) apply

Again, this amendment relates to a drafting correction.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 33 and 34 put and passed.

Clause 35: Mental and nervous shock, compensation for limited to certain persons -

Mr N.R. MARLBOROUGH: As a result of reading the clause further, I am satisfied that the matter I was going to raise has been covered. I was simply concerned that the present Act allows for payment of mental and/or nervous shock under certain circumstances. Again, I was involved in a case in which an 82-year-old woman had her handbag stolen. The young offender was never caught, but as a result of the offence the woman required medical attention for a long period and was simply too frightened to go shopping. I was concerned that that was not picked up by the Bill. However, clause 35(2)(b) covers those types of circumstances.

Mr J.A. McGINTY: Anyone who is a direct victim, in the same sense as the elderly woman to whom the member for Peel referred, will be able to make a claim. This clause seeks to limit those extreme and unrelated claims for criminal injuries compensation by people who were not a close relative, who were not there when the incident happened - or in its immediate aftermath - but who see it on television, for example, and then make a claim for nervous shock as a result of seeing a picture or hearing about the effect that the incident has had on a relative or something like that. I do not think that taxpayers' money should be used for claims of mental or nervous shock for people who in that sense are unrelated to the commission of the crime. We intend to exclude them in future in order to ensure that money available goes to people who suffer direct loss or witness with their own senses the event that gave rise to the nervous shock.

Clause put and passed.

Clauses 36 to 38 put and passed.

Clause 39: No award if victim was engaged in criminal conduct -

Ms S.E. WALKER: Is this a new clause?

Mr J.A. McGinty: Yes.

Ms S.E. WALKER: Clause 39(2) states -

- (2) If an assessor is satisfied -
 - (a) that a person died as a consequence of the commission of an offence; and
 - (b) that the death occurred when the person was committing a separate offence,the assessor must not make a compensation award in favour of a close relative of the person for any loss suffered by the close relative as a result of the death.

There is no discretion. If, for example, a child were to enter the backyard of a bikie seeking the cannabis plants such people will be allowed to grow, and the child is subsequently caught and tortured and dies - that has tragically happened to children before - this provision excludes parents from claiming compensation. Does the Attorney General think that is fair and just?

Mr J.A. McGINTY: The intent of this clause is to build on legislation that purported to exclude criminal injuries compensation from any person who was engaged in the commission of an offence at the time he suffered injury or, in this case, dies. From memory, the legislation was passed in 2000. The member for Kingsley might correct me on that. The difficulty with the legislation was that, when we had a close look at it, it was thought not to exclude the operation of criminal injuries compensation because it was cast in terms of defences that were available. In the context of criminal injuries compensation, that is not a defence. It was thought as a matter of public policy that people injured when committing criminal offences should not recover compensation. The fact is that they have done so. There was possibly a loophole in the legislation. We have cast this provision to

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exclude compensation for a person injured as a consequence of being involved in the commission of an offence. If, at the same time, the injury was suffered when the person committed a separate offence and, in reference to the point raised by the member for Nedlands -

If an assessor is satisfied -

- (a) that a person died as a consequence of the commission of an offence; and

In other words, murder -

- (b) that the death occurred when the person was committing a separate offence,

The example given is breaking and entering, then -

the assessor must not make a compensation award in favour of a close relative of the person for any loss suffered by the close relative as a result of the death.

The provision on close relatives relates only to death that is occasioned when someone is committing an offence.

Ms S.E. Walker: That is what I mean: when a child is trespassing and is attempting to steal and is subsequently tortured and beaten to death.

Mrs C.L. Edwardes: Just killed.

Mr J.A. McGINTY: Yes, killed. In those circumstances the assessor is prohibited from making an award in favour of the parents of the person killed while in the process of committing an offence. The difficulty with these matters when taking a firm view - which is what I think the public wants - is that there should be no benefit accruing from someone committing a criminal offence. When a person dies, his estate makes the claim. That is allowed for under this provision. The estate or the parents should not be able to make a claim when the circumstance leading to the person's death was that the person was engaged in a crime. That might be a very black and white rule in its application and the member might say that it is heartless. We say that it is a very clear-cut application of policy to exclude criminal injuries compensation from being paid to the close relatives - that is, the family - of the person who dies in the commission of a criminal offence.

Mrs C.L. Edwardes: Or the estate.

Mr J.A. McGINTY: Yes.

Mrs C.L. Edwardes interjected.

Mr J.A. McGINTY: Quite possibly.

Ms S.E. WALKER: The child could go over the wall and just trespass before suffering a terrible and tragic death. It seems that it would be unfair and unjust. That is the question I asked of the Attorney General.

Mrs C.L. Edwardes: The child is not going to be charged with the offence.

Ms S.E. WALKER: No. I think the provision would be better if, after the word "death", the words "unless the assessor thinks it is just to do so" were added. That would allow the assessor to have some discretion. It seems to me that the public would feel that the law needed changing if a young child were murdered in this way after just doing something that all children do from time to time; that is, get up to a bit of mischief. The child would not have been committing a serious offence, just the minor offence of being on someone else's property and trespassing. Has the Attorney General given any thought to adding those words?

Mr J.A. McGINTY: The short answer to the member's question is yes, we have given consideration to these matters, but we thought the provisions of section 25 of the Act allowed a discretion to the chief assessor that we did not think should be there. Section 25 of the Criminal Injuries Act 1985 states -

In determining the amount of an award of compensation the Chief Assessor shall have regard to any behaviour, condition, attitude or disposition of the applicant or deceased person which contributed, directly or indirectly, to the injury or loss suffered by him or to his death, as the case may be, and may reduce the amount which he would otherwise award by such percentage as he thinks just.

Section 27 of the Act relates to the general discretion of the chief assessor. Essentially that allows the assessor to make the payment to a criminal. I do not think that that is a matter of policy or something that should be countenanced; therefore, that provision needs to be toughened up. In this matter we will have to wait and see what the experience is. In future, when people consider this matter, they will need to make a policy call. We have made a policy call here that people should not under any circumstances benefit from criminal activity.

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Clause put and passed.

Clause 40: No award if compensation already awarded -

Mr J.A. McGINTY: I move

Page 27, line 23 - To insert after “relation to” the following -

an injury suffered as a consequence of

This is a drafting correction to improve the operation of the legislation and does not effect any policy change.

Amendment put and passed.

Ms S.E. WALKER: Clause 40(2) states -

An assessor must not make a compensation award in favour of a victim who is injured as a consequence of the commission of an offence if a previous award has been made in favour of the victim in relation to the offence.

A “previous award” in subclause (1) is defined as -

... an order for compensation made under the *Criminal Injuries (Compensation) Act 1970*, or an award of compensation made under the *Criminal Injuries Compensation Act 1982*, the *Criminal Injuries Compensation Act 1985*, or this Act.

How does the Fatal Accidents Act fit in there? It comes in under clause 42. However, earlier when we were discussing the Fatal Accidents Act, the Attorney General said that if compensation had been awarded under that legislation, the person would not get compensation or that would be taken into account. Can the Attorney General explain why it does not say that in clause 40?

Mr J.A. McGINTY: The previous award is only a criminal injuries compensation award, not a Fatal Accidents Act award. A “previous award” is defined in subclause (1) to include the three criminal injuries compensation Acts - it is an award made under those Acts. Clause 42 provides that an assessor cannot review, increase, adjust or make a new award. Once an award has been made that is final. Although an award made under the Fatal Accidents Act would be taken into account when considering any award that may be made under the Criminal Injuries Compensation Act, the mere fact that an award had been made under the Fatal Accidents Act would not prevent an award being made under the Criminal Injuries Compensation Act.

Ms S.E. Walker: But that is taken into account.

Mr J.A. McGINTY: Yes, and the criminal injuries compensation award would be reduced accordingly.

Ms S.E. Walker: Where does it say that in this Bill?

Mr J.A. McGINTY: In the earlier clauses that we dealt with and under clause 42(4).

Ms S.E. Walker: That is only under any other contract of insurance. Fatal accidents are not contracts of insurance, are they?

Mr J.A. McGINTY: Sorry, clause 42(5) relates specifically to the Fatal Accidents Act -

Ms S.E. Walker: It says “a personal representative” -

Mr J.A. McGINTY: If it is a fatal accident it is hard to make the award to the person who is dead.

Ms S.E. Walker: Is it not a close personal relative? That is different is it not? “Close personal relative” is different from -

The ACTING SPEAKER (Mr J.P.D. Edwards): Member for Nedlands, I am losing touch as to who is on his or her feet at the moment.

Ms S.E. WALKER: I do not think that is the same because we are dealing with insurance and the personal representative of the deceased victim with regard to the Fatal Accidents Act, as opposed to a close relative. I do not think that applies to what I am asking. Unless it is covered somewhere else in the Bill, I do not think it states that an award under the Fatal Accidents Act will be taken into account under this legislation.

Mr J.A. McGINTY: I will provide that information to the member for Nedlands subsequently.

The ACTING SPEAKER: I note that the information will be provided at a later date.

Ms S.E. WALKER: And information with regard to clause 5.

Mr J.A. McGinty: I will come back to clause 5.

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Clause, as amended, put and passed.

Clauses 41 to 49 put and passed.

Clause 50: Compensation reimbursement orders, application for -

Ms S.E. WALKER: Under the current Act the Crown pursues compensation reimbursement orders. Can the Attorney General tell me why, under the Act, someone does not have to pursue a compensation order or award, but under this Bill it appears that, before the chief assessor can make an award, there must be an application? Is that correct?

Mr J.A. McGINTY: The existing provisions, particularly those contained in section 39 of the existing Act, are substantially replicated. It is my understanding that it was not intended that the process that is involved would change, although it is expressed in a somewhat abbreviated form in the Bill.

Ms S.E. Walker: Why is that? Why does the chief assessor or whoever is making the assessment, not just make the order and send it off to the Crown?

Mr J.A. McGINTY: I am told that the answer to the member's question is that a decision about whether to pursue recovery must be made in each case. In many cases there is simply no point in pursuing recovery. In other cases there may be positively detrimental outcomes from pursuing recovery. A decision to pursue recovery must be made in each case.

Ms S.E. Walker: When does that happen? Is the offender present at the proceedings? Is he represented? Does the lawyer who is acting for him say that he has no means? Is that the idea?

Mr J.A. McGINTY: Yes.

Ms S.E. Walker: Is the assessor allowed to investigate whether he owns property?

Mr J.A. McGINTY: Yes.

Ms S.E. Walker: Is that just done verbally? Is a title search done?

Mr J.A. McGINTY: No, title searches are done. The office undertakes what one would expect by way of recovery assessment.

Ms S.E. Walker: How does that work? During the course of the hearing does the assessor do a title search of any property held by the offender?

Mr J.A. McGINTY: No, there is a recoveries team.

Ms S.E. Walker: At the tribunal?

Mr J.A. McGINTY: They are employed by the Department of Justice. They do their assessment and present their material to the assessor, who needs to make an assessment of what should be done.

Ms S.E. Walker: How does that work? When a person is compensated, how does the tribunal deal with it? What is the process?

Mr J.A. McGINTY: As the legislation outlines, an application is made by the chief executive officer to the chief assessor.

Ms S.E. Walker: How does he know to make that application?

Mr J.A. McGINTY: Because he has staff who do the necessary spadework.

Ms S.E. WALKER: How do the staff get the information? It is a good question. I am trying to work out how the process works. How do the staff of the recoveries team in the Department of Justice know that an order has been made against person X?

Mr J.A. McGINTY: A copy of the award is made available to the CEO. I understand that is required under the provisions of the Act. That then triggers the recoveries people to do their homework and bring forward a proposition.

Ms S.E. WALKER: Is every award that is made sent down to the recovery section at the Crown Solicitor's Office?

Mr J.A. McGinty: No.

Ms S.E. WALKER: Where does it go?

Mr J.A. McGinty: The Department of Justice.

Ms S.E. WALKER: There is a special recoveries section at the Department of Justice?

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Mr J.A. McGinty: Yes.

Ms S.E. WALKER: Its officers do a title search to see whether the offender owns any property?

Mr J.A. McGinty: Amongst other things, yes.

Ms S.E. WALKER: I thank the minister.

Clause put and passed.

Clauses 51 to 65 put and passed.

Clause 66: Protection of assessors from personal liability -

Ms S.E. WALKER: Who does the Attorney General mean by the Crown in clause 66(3)?

Mr J.A. McGINTY: The member for Nedlands would probably find a reference to that in the Interpretation Act. I would define it as being any of the instrumentalities of the State.

Ms S.E. Walker: There are some left? I just wanted to know, because the Bill refers to the State everywhere else. Is that something different? Clauses 68 and 69 refer to the State.

Mr J.A. McGINTY: I can add nothing to what I have already said.

Clause put and passed.

Clauses 67 to 73 put and passed.

Schedules 1 and 2 put and passed.

Postponed clause 5: “Convicted”, meaning of -

Resumed from an earlier stage of the sitting after the clause had been partly considered.

Mr J.A. McGINTY: By way of explanation I draw to the attention of the member for Nedlands the addition in subclause (2), which provides -

... a person is convicted of an offence if the person, whether or not he or she is charged with the offence, is dealt with by a juvenile justice team under the *Young Offenders Act* . . .

That is a change. Anyone who is a victim of a crime committed by a juvenile who is referred to a juvenile justice team for that offence will now be able to seek criminal injuries compensation for the crime. Such victims could not previously do that. If that is not the only change, it is the most significant change that has been made under this clause.

Postponed clause put and passed.

Title put and passed.

House adjourned at 10.11 pm
