HOUSE OF ASSEMBLY

Wednesday, 9 March 2016

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:00 and read prayers.

Parliamentary Committees

SELECT COMMITTEE ON JUMPS RACING

The Hon. L.W.K. BIGNELL (Mawson—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Tourism, Minister for Recreation and Sport, Minister for Racing) (11:01): I move:

That the committee have leave to sit during the sitting of the house today.

Motion carried.

SELECT COMMITTEE ON E-CIGARETTES

Ms DIGANCE (Elder) (11:02): I move:

That the final report of the committee be noted.

It was becoming apparent that the unregulated SA environment and lack of clarity around the use of e-cigarettes and associated products was causing issues, as there were no guidelines for users, non-users, policymakers and those in the hospitality industry, as well as many questions surrounding the unknown effects on health. In response to this, I moved a motion on 17 June last year that a select committee into e-cigarettes be established.

The committee, consisting of the members for Hartley, Bright, Kaurna, Fisher and Elder (myself), undertook the charge to investigate any potential legislative and regulatory controls that should be applied to the advertising, sale and use of e-cigarettes. The committee was proficiently supported by Mr Shannon Riggs, parliamentary officer, and Dr Helen Popple, research officer. I would like to thank them and my fellow committee members for their diligence and hard work in deliberations.

I will state from the outset that each one of the recommendations was unanimously supported by the bipartisan parliamentary committee, and so it was puzzling that the member for Hartley in his media release, commenting on the e-cigarette report, stated that he was concerned that some of the recommendations will diminish the harm minimisation benefits e-cigarettes bring. Contrary to what he says in his release, the research is not clear that e-cigarettes are far less dangerous than smoking.

While we already see that in Australia some jurisdictions have moved to regulate e-cigarettes—such as Queensland, that treats e-cigarettes similar to tobacco products, and the ACT, where restrictions applied will prohibit the sale of e-cigarettes to minors under 18 years of age, restrict use in smoke-free areas and restrict advertising, promotion display and display of e-cigarette products and peripherals—here in South Australia, the announcement of the committee's terms of reference gave a platform for 142 submissions and 11 witnesses who voiced their views, from which the recommendations were drawn. The terms of reference focused the committee to examine such issues as:

(a) the potential for personal vaporisers to reduce tobacco smoking prevalence and harms;

(b) the potential risks of these products to individual and population health from vapour emissions, poisoning and the reduced impact of tobacco control measures;

(c) make recommendations on approaches to the regulation of personal vaporisers under the Tobacco Products Regulation Act 1997, including addressing the following areas—

(i) availability and supply;

(ii) sales to minors;

(iii) advertising and promotion;

(iv) use in smoke-free areas;

(v) product safety and quality control; and

(d) any other relevant matters.

Electronic cigarettes are battery-operated devices that vaporise liquid into a fine aerosol which is inhaled into the lungs. The devices are designed to simulate the look and feel of smoking. It is believed that e-cigarettes were first introduced to the Chinese market in 2004. Since the inception of e-cigarettes, markets across the United States, United Kingdom, Europe and, more recently, Asia, have expanded rapidly, moving through different generations of the devices.

Electronic cigarettes are also interchangeably known as e-cigarettes, personalised vapers, vaporisers, hookah pens, electronic nicotine delivery systems or electronic non-nicotine delivery systems, amongst other names. E-cigarettes may be used with or without nicotine and with a range of more than 7,000 choices of flavoured liquids. E-cigarettes are becoming increasingly popular, but there has been considerable debate over who the main users of e-cigarettes are: young people perhaps experimenting, or middle-aged smokers trying to quit or reduce tobacco use?

In 2014 the global electronic cigarette industry was estimated to be worth $US2 billion, projected to increase to $US10 billion by 2017. Perhaps motivated by this growth, we now see tobacco companies infiltrating the industry. At least five of the largest e-cigarette companies now have electronic cigarette subsidiaries to their business. Understandably, during its deliberations, the committee had, front and centre to its thinking, tobacco smoking, because it remains a leading cause of premature death in Australia.

Tobacco cigarettes are the only legal consumer product that, when used entirely as intended, will kill half of its users. I wish to impress how seriously the committee viewed the public health issue of smoking and notes the successful efforts of campaigns to educate and decrease the incidence of smoking. I re-emphasise that smoking tobacco kills 50 per cent of long-term users, and remains one of the leading causes of preventable death, according to the Cancer Council and other health experts. It is estimated that one person dies about every 28 minutes in Australia due to illness caused by tobacco use.

The committee's recommendations reflect the serious nature of all these facts. Considerable efforts have been made over the past several decades to minimise the harms associated with smoking, but cessation remains the only way to remove the risks of ill health and death associated with this behaviour. The addictive properties of nicotine in tobacco mean that many smokers find it extremely difficult to quit smoking, despite the knowledge that it may ultimately lead to their death. Tobacco smoking in South Australia is currently at the lowest rate we have ever seen. In 2014, only 12.8 per cent of the population identified as daily smokers, and for the first time, less than 10 per cent of young people aged 15 to 19 identified as daily smokers.

These results are heartening, and we need to further champion this cause. E-cigarettes are being increasingly promoted in Australia and overseas as apparent healthier alternatives to conventional tobacco cigarettes; however, conclusive evidence on the health risks or benefit of these systems is not likely to be available for years, or even decades. As such, the World Health Organisation recommends that e-cigarettes should be regulated to protect public health and ensure that the public has reliable information about risks and benefits.

E-cigarettes could play a role in supporting smokers to quit, but it is vital that this does not harm health or impede existing tobacco control effects. However, no e-cigarette product has been proven to be safe through the therapeutic goods testing process, or any other process, and there is a significant lack of scientific agreement as to their safety for users and bystanders. It is important that we understand the health risks associated with e-cigarettes to individuals and the community, as well as the potential for their use in reducing smoking prevalence.

Currently, due to lack of law governing these products, people may, for example, vape on the bus or in a workplace, whereas laws have been in place for decades preventing people from smoking in these very same areas. Laws also see plain packaging and declaration of harm to the user and those around them but we see no strategy matched by the e-cigarette industry.

With this in mind, the committee invited submissions during a six-week period over July and August last year. The committee was advertised locally and nationally on 11 July last year as well as through social media. The committee took evidence from 11 witnesses representing research, business, consumers and public health sectors. With this evidence and the scientific literature, the committee has found a range of attitudes in the community.

However, consistent across these otherwise diverse views was the belief in the importance of public and individual health. Although submitters and witnesses disagree on how best to achieve the maximum public health benefit, this concern was paramount in almost all submissions. The committee has produced what it believes to be the best potential public health outcome, aware that e-cigarettes are still a new and evolving product to the market and that much is still unknown about the short and, in particular, long-term health outcomes associated with exposure to e-cigarettes, components and associated aerosols.

The committee acknowledges that there is support for e-cigarettes internationally, particularly among public health organisations and groups in the United States and the United Kingdom. However, in light of the evidence brought before the committee, there was unanimous support for 20 recommendations covering all perceivable issues associated with e-cigarette use, exposure, sale and promotion. These recommendations aim to:

- protect children and non-smokers from first-hand and second-hand e-cigarette vapour;
- limit use of e-cigarettes to adults for the purpose of tobacco smoking cessation;
- limit the point of sale of e-cigarette products;
- minimise appeal of e-cigarette devices and flavours to non-smokers and children;
- limit relapse into tobacco use by e-cigarette users and promote cessation of e-cigarette devices;
- minimise accidents and/or harm by promoting misuse associated with e-cigarette devices and peripherals (keeping in mind that nicotine is an S7 poison); and
- encourage research into the health effects of e-cigarettes and their components, particularly in potentially vulnerable populations.

The committee recommendations support existing tobacco controls while being open to the potential benefits that e-cigarettes could contribute to reducing the tobacco smoking rate. The committee encourages and challenges product developers to pursue Therapeutic Goods Administration approvals to demonstrate product safety and efficacy. This precautionary approach is based on the continual emerging scientific evidence and lack of scientific consensus as to the safety of e-cigarettes.

The recommendations in this report do not constitute a ban on e-cigarettes or their components and peripherals. These recommendations, while recognising the possible role that e-cigarettes may play as a smoking-cessation device for some adult smokers, as based on mostly anecdotal evidence, address the issues associated with the product in the interests of public health.

The committee supports, unanimously, recommendations that comprehensively seek to protect public health while providing choice to those adults who wish to exercise their choice, and ensure certainty for business and the hospitality sectors. The proposed recommendations cover sale, use, promotion, product safety and quality control, enforcement, research and taxation of e-cigarettes and peripheral products.

Recommendations 1 to 5 address the sale of e-cigarettes, preventing sales to minors and appeal to minors and prohibiting indirect sales. Recommendation 6 prohibits the use of e-cigarettes in existing smoke-free areas. Recommendations 7 to 10 prevent the advertising and promotion of e-cigarettes, mainly in line with tobacco products, and limit the wording that may be associated with these cigarettes. Recommendations 11 to 13 prescribe product safety and quality controls to minimise the risk of poisonings, accidental harm and misuse associated with e-cigarettes and their peripheral products.

Recommendations 14 to 16 address the enforcement of regulations pertaining to e-cigarettes, peripheral products and nicotine. Recommendations 17 to 19 consider the research required to develop a vigorous and robust evidence base upon which to develop policy. Recommendation 20 encourages the government to consider taxation of e-cigarettes and peripheral products.

In line with the World Health Organisation recommendation for governments to regulate e-cigarettes, these recommendations generate a solid, practical foundation of regulation in the interest of public health. Working synergistically with the existing Tobacco Products Regulation Act 1997, these recommendations build on and also create policy that can respond to e-cigarettes as research emerges, thus allowing the market to develop in a responsible and relatively safe manner for adult consumers.

So, to summarise, the committee's consideration focused on the balance of the unknowns to the health of the product while protecting public health and also being mindful of the strong anecdotal evidence of those trying to quit smoking. Pertinent to the issue is also nicotine use and supply and point of sale.

Once again, I thank all committee members and support officers, and I await with interest as the minister deliberates on the 20 recommendations. I understand that work is already in progress to vigorously analyse these recommendations that were unanimously supported by the committee. I recommend the report to the house.

Mr TARZIA (Hartley) (11:15): Sir, it was Mark Twain who once said:

> Giving up smoking is the easiest thing in the world. I know because I've done it thousands of times.

And, so, here we are. I rise to speak in support of the report. The member for Elder has said much about the membership and the views of those who were appointed to the committee. I want to especially thank Mr Shannon Riggs, the parliamentary officer who was assigned as secretary, as well as the research officer, Dr Helen Popple, who was appointed by the committee on 2 July 2015. They were always there to aid us if we needed any research. They were very thorough in their roles, so I thank them very much.

We heard from the member for Elder that these e-cigarettes were introduced to the market across the world in 2004. Where are we, from a state government point of view, in 2016? I am glad you asked, because—

Members interjecting:

Mr Knoll: I asked.

Mr TARZIA: The state government has been extremely slow to react to this new technology. Queensland introduced laws from 1 January. What the Queensland parliament did was to actually amend the Tobacco and Other Smoking Products Act 1998 (the tobacco act) to actually capture electronic cigarettes as smoking products. Why has it done this? Well, obviously, to ensure that there is adequate safety in the market, to ensure that there is adequate regulation and to somewhat have control in the market to make sure that these devices, which are commonly known as electronic cigarettes, cannot be used in existing non-smoking indoor and outdoor places, so that the devices cannot be sold to children under 18 years of age, and so that they cannot be advertised, promoted or displayed at retail outlets.

You go on to New South Wales, which has actually made it against the law, I am informed, for anyone to possess liquid nicotine for the use in electronic cigarettes. New South Wales has also addressed issues of selling electronic cigarettes to minors as well; and I note that the parliament introduced a bill to ban e-cigarette sales to minors and has done much research on that. Western Australia has also addressed this issue.

To be honest, did we need more delay here in South Australia? If the government is serious about addressing this issue—and I know that this issue is important to many on the committee, the members for Elder and Bright and the member for Kaurna, who has a bit of experience in this area in his former life—then let us see some legislation put forward. As we have been told, from 2004

these devices have been in the market and if the government is serious about regulating the market, then let us have a look at it.

I welcome the bulk of the committee's recommendations, and I have made mention of certain ones. I just want to touch on some comments that David Cameron made. You would all know David Cameron. He makes the point—

An honourable member: Not as well as I'd like.

Mr TARZIA: Not as well as you might like, you say. He says:

> So I think we should be making clear that this is a very legitimate path for many people to improve their health and the health of the nation.

This is from an article that was published in *The Telegraph*. He says:

> Certainly as somebody who has been through this battle a number of times, eventually relatively successfully, lots of people find different ways of doing it and certainly for some people e-cigarettes are successful.

So, here we have quite a distinguished gentleman coming out and saying that e-cigarettes are useful for the cessation of smoking tobacco. Obviously, there is evidence, as the member for Elder pointed out, on both sides of the ledger, for and against e-cigarettes being used as a tobacco cessation mechanism. They are in the market. We know that they are in the market, we know that shops exist. As the member for Elder pointed out, we heard evidence from over 140 submissions.

These devices are out in the market. Some of them may be causing the public harm. What the state government needs to be doing is putting a bill and regulation before this house now, not waiting for an incident to happen down the track. When you look at all the resources that this committee used, they were great resources and we got a lot of feedback. With respect, though, what would be better is some legislation. Let us see the government putting some legislation forward in this regard.

There are a number of comprehensive government reviews, respected public health bodies, that say that e-cigarettes can stop people from smoking. I notice that a 2015 report for the UK cabinet office by The Behavioural Insights Team concluded that:

> E-cigarettes are now the most successful product at helping people to quit smoking, and the evidence shows that almost all users of e-cigarettes are former smokers.

I am not a smoker, but it is all well and good for someone across the other side of the chamber to say that people should just stop smoking; but if you have spoken to any of these smokers—and I can see one raising his hand across the other side of the chamber—it is not that easy. Unfortunately, it is not that easy, from what I am told, because it is quite addictive.

Why would we not do everything we can to provide a legislative framework where people can get off tobacco, which is killing them (smoking tobacco is doing you damage, it is killing people), and why would we not do everything in our power to put forward a legislative framework where people can safely, in a regulated environment, stop smoking tobacco? We would like to see some legislation from the state government in this manner. Just like New South Wales has, just like Queensland has and just like Western Australia has; they have had their committees, they have deliberated, and they put some legislation forward. So, let's see some legislation by this government.

Twenty recommendations have been put forward, as the member for Elder alluded to. Obviously, it is extremely important that we do what we can to protect children, and that we also protect non-smokers from second-hand e-cigarette vapour and tobacco smoke. We want to limit the use of e-cigarettes to adults for the purposes of tobacco smoking cessation. We should be limiting point of sale for e-cigarette products within reason. We should certainly be minimising the appeal of e-cigarette devices and flavours as well. I think we also want to stop a relapse into tobacco use by e-cigarette users.

There is some evidence—but I would not say it is 100 per cent clear—that people can begin with e-cigarettes and go on to use tobacco. We certainly need to make sure that we limit any relapse into tobacco use by e-cigarette users. Obviously, the accidents and/or harm promoting issues exist, and we need to make sure that we minimise them.

What will do that is a good legislated regulated framework that still allows people to have a choice. Just like you cannot stop people from eating fast food, you cannot stop people from smoking, you cannot stop people from smoking e-cigarettes. However, the government should be putting in a regulated legislated framework, within reason, to allow people the right of choice.

We should also be encouraging research into the health effects of e-cigarettes and cigarettes and their components, particularly I believe in vulnerable populations. We know, we saw evidence, that e-cigarettes are cheaper than cigarettes, so it goes without saying that if a product is cheaper the more vulnerable in our society might be more likely to use that product. I thank all the committee members. I thank those who made a submission to the committee and those who have also written in support of our comments since then, and I look quite actively to the government to see some legislation put forward. Let's see some action, not just words, in this area.

Mr PICTON (Kaurna) (11:25): It is my pleasure to support the report of the e-cigarettes select committee of the parliament. Firstly, I congratulate the member for Elder for bringing to the parliament this idea. I will give some defence of parliamentary committees as a vehicle for exploring a policy issue and looking into it. We have heard some attacks of that in the last 10 minutes as to whether the government should have just gone off and done something without consulting the parliament.

Mr Tarzia: You do it all the time.

The DEPUTY SPEAKER: Order!

Mr PICTON: I would have thought that people on all sides would want to consult the parliament, and that is what the member for Elder has done by bringing this motion and establishing this committee.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr PICTON: It means that we have gone out and—

The DEPUTY SPEAKER: Sit down. It is very early to start bringing members to order but I will have to do so if you completely disregard standing order 131. I have made sure people do not speak over you when you speak. It is up to the house to recognise the importance of these standing orders so that the business of the house can proceed in an orderly manner. I ask members to observe the standing orders and ask the member for Kaurna to continue with his remarks.

Mr PICTON: Thank you very much, Deputy Speaker. As I said, I support that this was a good vehicle for the parliament to look into this issue, for us to receive the evidence from across the community, deliberate, and we came up with a unanimous report—unanimous recommendations from both sides of the house that will now go to the government. I hope that the government will take on board—and I think it is the Minister for Mental Health and Substance Abuse who will be looking into this—all of the unanimous bipartisan recommendations that this committee has made.

We know in South Australia we have very good success in tackling smoking. We have one of the lowest smoking rates in the world in this state and in this country, and that has come about through a combination of measures over the last 50 years. No one single measure has done it, it has been a combination of all of them, but it is a continual fight and we want to get that smoking rate down as far as possible.

This new technology in terms of e-cigarettes potentially could help; it potentially could stop people smoking but there are risks attached to it. We have to consider whether it will make smoking seem acceptable again and whether people will start smoking cigarettes because this seems acceptable behaviour once again. We also need to consider the health effects of the e-cigarettes themselves. I think one of our key recommendations is that a whole lot more research needs to be done on the long-term health effects of using an e-cigarette. The e-liquids need to be looked at as to their long-term effects as well because there are a lot of unanswered questions at this point in time.

There have been some references to some research already, and there is very divided opinion in the research community and across different countries as to what the evidence truly shows. In terms of what the committee has done, I think it was a very good process. We had a number of

meetings including site visits where we went out and visited some of the vaping stores that have popped up across South Australia. We have held a number of hearings when we have heard from a lot of the experts in terms of the anti-smoking and cancer community, but also in terms of the pro-vaping business community, and we have heard from a number of people who use these products.

We also had a huge number of submissions that were made to the committee, and credit goes to Helen Popple and Shannon Riggs for their work in going through all of those submissions and putting together our research for the committee, which was a mountain of work.

In terms of the approach that we have come to at the end of the day, we have not taken the approach that was put to us by some people that we should completely ban these products unless they have been approved by the TGA, and that is certainly what a number of the health bodies were putting to us. Likewise, we have not supported the view that was put to us by a number of the pro-vaping business bodies that we should allow free regulation of these products in South Australia, and we should, in fact, be encouraging people to use them.

We have tried to arrive at what I think is a sensible middle ground, in that we will regulate these products and have sensible regulation about them and be precautionary and also practical in their use. In terms of whether you should ban them, I personally do not think that would be feasible to do that given how easy it is to obtain these products from interstate or from overseas through the internet, and from receiving them in the post. I also think that there is enough risk out there and enough concerns that we should not be allowing a free, regulatory proposal that was put forward to us by some.

We have tried to reach a sensible balance, and I think whenever you do that you do not please everybody, and sometimes you do not even please anybody: you get everybody concerned about it; but I think we have come to the best conclusion possible. We also have concluded that a lot more work and research needs to happen, as well as a lot more enforcement of what the current laws are in South Australia.

There are some important recommendations that I would like to highlight. We have recommended that there should be a licensing provision for people to have a vaping or e-cigarette store in South Australia. That currently exists for tobacco products, but at the moment does not extend to vaping stores. We have also recommended, importantly, that you cannot be a cigarette store and a vaping store.

A lot of the vaping stores that we visited are very proud of the fact that they are trying to stop people from smoking, and I think there would be concern if you were going to a vaping store and there were a whole lot of cigarettes there as well. So, we have said that there should be a clear difference between the two.

As I said, we do want to see a whole lot more research into the long-term and the short-term effects, and also into the safety of some of the e-liquids that are mainly designed for use as consumption as part of food. When you are inhaling them, potentially there are different effects that happen there as well. Furthermore, a whole lot of the different subgroups of people—such as children, people with respiratory illnesses, chronic illnesses—needs to be researched as well.

We would like to see more enforcement of the laws as they currently stand. Personally, I would like to see more enforcement from SA Health of the laws that they have available to them. Particularly, we are talking about nicotine products there which are illegal to be sold in Australia, and most of the reputable vaping stores in South Australia will not sell those products but will refer people to sites in the US, or elsewhere around the world, where people can order them and import them. I think that is also of concern, and we have encouraged the commonwealth to look at what steps they can take to stop the importation of those products through the internet.

We also want to see some regulation over e-liquids and vaping devices. We do not want to see devices that would be particularly attractive to children, as we saw in one example. In fact, we want to see vaping banned for under 18-year olds. We also want to make sure that when people are using an e-liquid, they understand what ingredients are in there, which is not necessarily the case at the moment. There should also be warnings on the liquids and things like childproof tamper containers as well.

We want to see regulation in terms of advertising vaping; it should be in line with what happens around a tobacconist at the moment—i.e. you can promote the fact that you have a shop, but you cannot necessarily promote that you have cigarettes and the benefits of them, or lack thereof. We also want to regulate in terms of where you can smoke, and this has been a big concern and a big debate so far.

Around the world, progressively, these regulations are starting to be made so that it is consistent between smoking and vaping. Anybody who has seen vaping in action will know that it produces quite a lot of vapour, which can be concerning for people.

We also heard evidence from people like the Australian Hotels Association SA branch, and they would like to see it regulated because, at the moment, their members are being put in difficult situations where they are having to make a call. It would certainly be easier and preferable for them if there was a government regulation that they could enforce rather than having to determine their own.

I support all of the recommendations. I think that, certainly, during the deliberations of our committee, all of the members supported all of the recommendations. Unfortunately, the member for Hartley has now come out and put a media release out disputing some of those recommendations, but I did not quite see his dissenting report in the report. He could have brought that up during the process of the committee.

Members interjecting:

The DEPUTY SPEAKER: Order! Sit down.

Mr TARZIA: Point of order.

The DEPUTY SPEAKER: What is your point of order?

Mr TARZIA: He is making a personal reflection on me, Deputy Speaker.

The DEPUTY SPEAKER: I couldn't hear because of the shouting in the chamber, so if you—

Members interjecting:

The DEPUTY SPEAKER: Well—

Mr TARZIA: After he imputed—

The DEPUTY SPEAKER: Can't hear.

Mr TARZIA: —an improper motive, Deputy Speaker, I—

The DEPUTY SPEAKER: Sit down. Are you asking for an apology or are you just drawing my attention to the fact that he has made a remark?

Mr TARZIA: A withdrawal, please, Deputy Speaker.

The DEPUTY SPEAKER: What did he say?

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr TARZIA: I raised a concern with—

The DEPUTY SPEAKER: Sit down, please, while I make a deliberation. As we all know, if you are reflecting on a member, that is not parliamentary. So, if you feel that that is the case, bearing in mind the obvious discomfort you have caused the member for Hartley, you may wish to apologise and withdraw.

Mr PICTON: I do not have anything to apologise for. Deputy Speaker, my statement was simply that all members supported the report, and then the member for Hartley put out a media release where he did not support the report. I do not think that that is unparliamentary in any way.

Members interjecting:

The DEPUTY SPEAKER: Order! Just repeat that. You are saying the member put out a press release?

Mr PICTON: He put out a press release where he did not support the report that he had previously supported.

Ms Redmond interjecting:

The DEPUTY SPEAKER: Order!

Mr Tarzia: It is just not true.

The DEPUTY SPEAKER: So, it is not true?

Mr Tarzia: It is not true. I have the release here.

The DEPUTY SPEAKER: If the member is not imputing improper actions, which he is not—he is trying to make a statement of fact—and you have a problem with that, you are able to make a personal explanation at some later stage. The mere fact that you have put out a press release is not insulting, I would have thought. However, if you feel you have been improperly represented, you can make a personal explanation later. All I have heard him say is that you have put out a press release saying X or Y, which is either true or not true. He has not called you anything horrible, so the personal explanation might be something you wish to pursue later.

Mr Tarzia: He said that I have not supported the report, which I have.

The DEPUTY SPEAKER: Well, that is something—

Members interjecting:

The DEPUTY SPEAKER: Yes, that is not offensive in and of itself, so a personal explanation might be something you would like to consider afterwards, okay? I have had advice. This is not me on my own. The advice from the table is along the same lines. Member for Kaurna, I know you will continue while considering that you are being listened to very carefully now.

Mr PICTON: Thank you, Deputy Speaker. Can I quote directly from the member for Hartley's release?

The DEPUTY SPEAKER: That probably isn't necessary or helpful.

Mr PICTON: He said that he supports the bulk of the recommendations, but—

The DEPUTY SPEAKER: Member for Kaurna, that probably is not helpful.

Mr PICTON: Well, Deputy Speaker, I think it is fair enough that I should be able to say that he did not support the recommendations where he says that they will 'diminish the harm minimisation benefits e-cigarettes bring'. 'As a consequence,' he says, there are recommendations in the report where 'switching to e-cigarettes and any new regulations should not hinder that movement'.

Ms Redmond: Time's up.

The DEPUTY SPEAKER: Okay.

Personal Explanation

SELECT COMMITTEE ON E-CIGARETTES

Mr TARZIA (Hartley) (11:39): I seek leave to make a personal explanation.

Leave granted.

Mr TARZIA: I did welcome the bulk of the committee's recommendations via a media release that I did put out on 24 February, but I did raise a concern that some of the recommendations will diminish the harm minimisation benefits e-cigarettes bring, and that is straight from that media release.

Mr Picton: Yes.

Mr TARZIA: That's not what you said.

Members interjecting:

The DEPUTY SPEAKER: Hold on. Order! In which part of the member for Kaurna's remarks do you feel you have been misrepresented if he is quoting directly from your media release?

Mr TARZIA: He did not quote what I just quoted.

The DEPUTY SPEAKER: Okay. We have noted all of that.

Parliamentary Committees

SELECT COMMITTEE ON E-CIGARETTES

(Debate resumed.)

Mr SPEIRS (Bright) (11:40): Thank you for the opportunity to reflect on the final report of the Select Committee on E-Cigarettes released in February 2016. It was a pleasure to be part of this select committee. In fact, it was the first select committee that I have had the privilege of being part of since my election to this place two years ago. It did give me the opportunity to delve into a policy area and a topical area which I knew very little about up until I had the opportunity to be on the select committee. I took that opportunity and have learned far more about e-cigarettes than I ever imagined knowing about. I found it interesting. I thought the committee was helpful and well timed in many ways, in giving the South Australian parliament the opportunity to reflect on these devices which have crept into the market in recent years, and much more so in the last year or so.

To recount a small anecdote, I was at the opening of the Adelaide Festival at Adelaide Oval a couple of weeks ago on the Saturday night and the person sitting in front of me puffed away on an e-cigarette all evening. I suppose there is no legislative framework in place to stop that from happening at this stage, but I was quite concerned about having this e-cigarette smoke or whatever it is—I am not sure you can really describe it as smoke, but vapour—drifting over me all night long.

I would like to thank my fellow committee members for their involvement in the committee: the Chair, the member for Elder, who was joined by the members for Kaurna and Fisher, and from our side of politics there was myself and the member for Hartley. I would also like to thank Mr Shannon Riggs and Dr Helen Popple, who I notice is in the gallery today, for their involvement in the committee.

The committee took a significant number of written submissions on board as part of this process. We also heard from several witnesses who reported to the committee directly, attending personal hearings. We also went out on an excursion or field trip of sorts to some vaping shops where we got to see these shops in action, one at Thebarton and one on Goodwood Road.

Mr Tarzia: You even had a puff.

Mr SPEIRS: I would not be telling the house the truth if I said I didn't—

Ms Redmond: But did you inhale?

Mr SPEIRS: I felt I was actually peer pressured by the Chair of the committee into trying these things.

Members interjecting:

The DEPUTY SPEAKER: Order! You know how live music creates hearing issues? I am actually listening to all of you and it is not good. Under standing order 131, you must not speak over each other, because we can't all hear the wonderful words of the member for Bright. The member for Bright.

Ms Redmond: And we all want to hear them.

The DEPUTY SPEAKER: Order! Your voice carries, member for Heysen.

Mr SPEIRS: Thank you, Deputy Speaker. I was just recounting to the house when I was peer pressured by the Chair of the committee into taking a puff of one of these things.

Ms Redmond: But did you inhale?

Mr SPEIRS: Well, I choked. It made my throat very dry. I think the member for Elder would agree with me: it actually made our throats very, very dry. I have not smoked a cigarette before in my life, so I do not know if it is comparable or not, but there was a real dryness in my throat for quite some time afterwards. I was quite worried, because I was going on holiday the following day and I thought I might be ill for my holiday as a result of the member for Elder's—

The DEPUTY SPEAKER: That's called 'one for the team', isn't it?

Mr SPEIRS: Something like that. Anyway, it was a very hands-on committee, and it is good to broaden one's experiences so that we can relate better to those people we represent in our constituencies. So, now I can relate to those who feel the need to use e-cigarettes.

When I went on holiday—I had recovered from having the puff of the e-cigarette—I went to the UK and actually was quite surprised. I suppose my senses were piqued a little bit in terms of looking out for e-cigarettes, but the industry appeared to be much more developed there. It was much more visual in communities, there were many more sales points in high streets and in shopping centres in the UK, and there were far more people smoking in the streets and at events. I think if you saw someone with an e-cigarette in Adelaide, it would still be something that would attract your attention because it would still be a little bit out of the ordinary, but when I was in the UK it certainly was not out of the ordinary. I was really quite taken aback, having not been there for several years, to see so many people vaping in the streets.

What worried me about it over there was that it had clearly become something that was 'cool' among younger people. I have a number of younger cousins in their late teens and early twenties over there and they were all talking about how their mates vaped; they showed me YouTube videos of people vaping and the different smoke rings you could blow using these vaping devices. That is a significant concern. We do not want to get into a situation where vaping and using e-cigarettes is seen as cool, particularly by younger people. I do not feel we want to get into a situation where it is normalised in our community.

In recent years, certainly since I was in high school onwards, so in the last 10 to 15 years, smoking has become something that is seen by younger people as quite dirty and unattractive; it is not something that young people are really attracted to in the way they may once have been. We do not want e-cigarettes coming in behind that and replacing smoking as a cool alternative that they ought to be taking up.

As part of the committee, something that I pushed in line with this was a recommendation that I felt needed to be in there to prohibit the sale of e-cigarettes and peripherals to minors under the age of 18, in line with the Tobacco Products Regulation Act 1997, which is our headline recommendation. Recommendation 2, which I think is very important as well, is to prohibit the sale of e-cigarette devices that may specifically appeal to minors; for example, devices that have childlike aspects, such as diamantes and cartoon characters.

We saw examples of this online. There were also examples, I believe, in the vaping shops we visited where there were shiny characters. I think there was a little Hello Kitty on one of the e-cigarette devices. These are things that would specifically attract younger people, these shiny, glossy items. It reminded me in some ways of the alcopops of the nineties and the early 2000s when alcoholic beverages were dressed up as lemonades and cokes and given fancy names in order to attract younger people into drinking them. It felt to me like some of these e-cigarette devices were being dressed up in a way to attract younger people towards them.

Also, in the naming of e-cigarette juices that can be put into the e-cigarette devices to create different flavours that can be smoked, we have to be careful that we do not see a similar approach where they are given names to draw people in. There seemed to be some of these liquids that had names which could very well make them more attractive to younger people. I think there was a bubblegum flavour and things like that. The naming of these products should be looked at very carefully. Those were really, for me, the two recommendations that we need to look at very closely.

We also need to look at recommendations which protect public health. Interestingly, when I was in the United Kingdom, in August/September of last year, I did see Public Health England hand

down its substantial report into e-cigarettes. It did suggest, quite comprehensively in its findings, that e-cigarettes could be used as a way of stopping people from smoking traditional cigarettes.

It was interesting to see that come out at that time, and to look across the world and in Australia at other studies, where the jury is still very much out on these things. Yes, it is probably better to be smoking e-cigarettes than traditional cigarettes, but there is still plenty of research to do on that, so I certainly support the recommendations which encourage that.

In closing, I look forward to the government bringing rapidly into the house some legislation to change the law, to align e-cigarettes to traditional tobacco products and tighten up this area. It is something that needs to happen. It was a pleasure to be part of the e-cigarette select committee, and I would like to thank all those involved.

Ms COOK (Fisher) (11:50): I, too, appreciate the opportunity to rise today and speak in support of the recommendations made by the select committee on electronic cigarettes. Firstly, I would like to say that, as a healthcare worker with a background in using evidence-based practice for about 30 years, I would like to stress that I continue to use the evidence-based practice here within the house to advocate and support recommendations around public health issues and health care, including Transforming Health, and particularly in areas where there are great risks to the public.

I saw the opportunity to sit on the e-cigarette committee as one of those opportunities for positive reform. I, too, will point out at the start that I was disappointed with the member for Hartley's media release. I will quote one line from the media release, which leads to the disingenuous intent of this:

> The report's recommendation that e-cigarettes shouldn't be sold alongside tobacco products has the potential to undercut this public health benefit.

I do not recall anywhere within the hearing of actual rigorous evidence that that was actually the case. In fact, the research that was presented to us is not clear. There is a huge lack of double-blind trials and other rigour involved in the research. There is a lot of bias in the research as well. I would have to say this lack of clarity and lack of scientific process does not lead me to support any of it.

Some of the things we need to look at when we are making statements as leaders within government is that we need to look for evidence, rigour, trials and bias, and use that as a way of putting our recommendations into the public sphere. Otherwise, we will confuse members of the public who rely on us for clarity and truth. That is my last statement on that.

The other thing that concerned me greatly when I heard evidence being given throughout the hearings was the lack of acknowledgement of the power of addiction, and people's lack of understanding around the fact that this is actually an adjunct or a substitute addictive behaviour that does not necessarily address the psychology of smoking.

Having said that, however, I, like other reformed smokers, understand how very hard it is for people to quit smoking. Nicotine is one of the most addictive substances on this planet. I am sure we all have people in our lives, if not ourselves, who have tried to quit for whatever reason but have fallen back into the routine of smoking tobacco, despite the warnings and the evidence of the harm that smoking does.

Across many years of nursing, I saw firsthand the impact of smoking on the human body, and I fully support any evidence-based assistance we can provide to help people quit smoking for good. The committee has made 20 recommendations but they can be broadly broken down into five aims:

- limiting the appeal of e-cigarettes and associated peripherals to minors;
- bringing the sales, usage and advertisement of e-cigarettes and associated peripherals into a similar regulatory framework as regular cigarettes;
- empowering state government agencies to enforce the proposed framework for e-cigarettes, including calling on the federal government for more stringent enforcement;
- supporting ongoing research into the health effects and the safety of e-cigarettes; and

- recommending that the state government investigates further into the taxation of e-cigarettes.

Like all health reform, evidence-based reform is key. From submissions and witness evidence at hearings, the committee heard anecdotal evidence that e-cigarettes might be useful to people who want to quit smoking, but none of this anecdotal evidence has been rigorously assessed. Instead, the evidence which has been published provides mixed results, with some suggestions that e-cigarettes can be a smoking cessation aid but other evidence suggesting that they can be harmful, including enticing young people to take up smoking.

Until there is more peer-reviewed and assessed evidence around electronic cigarettes, their benefits and their harms, we should proceed with caution. This is also the advice of the National Health and Medical Research Council as cited by the Cancer Council SA in its submission when it says:

> There is currently insufficient evidence to conclude whether e-cigarettes can benefit smokers in quitting, or about the extent of their potential harms. It is recommended that health authorities act to minimise harm until evidence of safety, quality and efficacy can be produced.

I would say that the Cancer Council would specifically have an agenda that supports people giving up smoking. The fewer people coming into their care, the better, so the more people who give up smoking, the better; and, if they believed that it was absolutely safe for e-cigarettes to be used in this way, they would be the first people to advocate for them.

There are many quitting aids which have been assessed and approved by the Therapeutic Goods Administration (TGA) that increase the rates of long-term quitting and are safe to use, including patches, gums, lozenges, sprays and medications. During my journey, like Twain, I used every single one of them multiple times, and in duplicate, because it is an extremely difficult thing to do. While many e-cigarette manufacturers are keen to make claims about their ability to help people quit, they have been unwilling to put these claims to the test and have their products assessed by the Therapeutic Goods Administration. As noted in submissions to the inquiry, the TGA itself says:

> …there has not been any assessment of electronic cigarettes and their quality, safety and effectiveness is unknown.

Until these things are known, we should be very wary of claims made about the benefits of e-cigarettes.

We should also be wary about what chemicals and toxins may be present in the liquid—and I use that word because the term 'e-juice' has some physical effect on me: it makes me feel quite ill—that is used in e-cigarettes. Evidence provided at the hearings included information around the testing of e-liquids in the United States which showed 90 per cent of the 97 different e-liquids tested found higher levels of the carcinogenic compounds formaldehyde and acetaldehyde, with some having over 100 times the safety regulation level. This is a huge concern and should serve as a warning to those who advocate for these products without proper regulatory investigation.

There is no doubt that further research is required into what these liquids contain and what their impact is when they are heated and inhaled in the lungs. We are dealing with products which may be extremely harmful to the cellular level of the lung tissue, and what people need to understand is this actually impacts on your capacity to have a long life. We only get one set of lungs. These can be extremely harmful and we need to take the utmost care that we are not putting people's health at risk.

One thing that was consistent across submissions was that access to e-cigarettes by juveniles should be banned. We have an obligation to protect the most vulnerable people in our society, especially children and young people. Part of this protection is through ensuring that they can have a healthy lifestyle. We know the damage that smoking does and that the best way to be smoke free is to never take up smoking in the first place.

Supporters of e-cigarettes as a smoking cessation aid who provided submissions to the inquiry, such as the New Nicotine Alliance, claim that they are not used as a gateway to traditional cigarettes. However, I am unconvinced that the array of flavours available to people (such as iced

vovo, strawberry fields, grape, soda and cherry blast) do not entice young people to take up e-cigarettes.

South Australia can be proud of the comprehensive tobacco regulatory framework we have in place which has seen South Australia's smoking rate drop to an all-time low of 15.7 per cent. This includes point-of-sale restrictions, a ban on retail displays, widespread anti-smoking advertising and the Quitline (13 78 48) support. The work undertaken by health ministers (such as the former minister, John Hill, and the current minister, minister Snelling) is to be commended. Also, the member who spoke previously, the member for Kaurna, did work in the federal space around plain packaging, and we are seeing the lowest rates here in Australia, in the world and in history.

We have an obligation to ensure that the smoking rate in South Australia does not increase again through poor regulation of electronic cigarettes, and we have learnt the lessons of our fight against big tobacco and to regulate before South Australians become addicted to these products and it becomes a long-term struggle to claw back their use like it was with traditional cigarettes.

Thank you so much to the committee members, the members for Bright and, indeed, the member for Hartley. Thank you also to the member for Kaurna and for the drive and passion of the member for Elder who brought this in front of the parliament. I thank, too, the support of the secretary, Shannon Riggs, and also note in the house the presence of Dr Helen Popple and thank her for her excellent support, her measured approach and her encouragement to view the evidence rather than the emotive language. I commend the report to the house.

Debate adjourned on motion of Ms Redmond.

Bills

STATUTES AMENDMENT (COMMONWEALTH REGISTERED ENTITIES) BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:02): Obtained leave and introduced a bill for an act to amend the Associations Incorporation Act 1985 and the Collections for Charitable Purposes Act 1939. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:02): I move:

That this bill be now read a second time.

This bill proposes amendments to the Collections for Charitable Purposes Act 1939 and the Associations Incorporations Act of 1985 to reduce administrative burden for charities registered under the Australian Charities and Not-for-profits Commission Act of 2012 and collecting in South Australia. The Collections for Charitable Purposes Act requires charities collecting or attempting to collect moneys or goods for defined charitable purposes in South Australia to be licensed. The bill proposes to clarify the definition of 'charitable purposes' to make clear that 'charitable purpose' includes support, provision and research in connection with health services.

The amendments in this bill propose that any charity registered under the Australian Charities and Not-for-profit Commission Act of 2012 that gives notice of its intention to act as a collector, will be allowed to conduct fundraising collections in South Australia without having to apply for a licence under the Collections for Charitable Purposes Act or report to the minister. Nevertheless, the conduct of fundraising collections by these charities will continue to be subject to the code of practice and other disclosure obligations. At this point, for those who were following the introduction, I now seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

These changes will significantly reduce regulatory duplication for charities registered under the *Australian Charities and Not-for-profits Commission Act 2012*. To facilitate these arrangements, the Bill provides for information exchange to assist both the Australian Charities and Not-for-profits Commission and Consumer and Business Services fulfil their legislative functions. It also provides for removal of the collection agent licence (section 6A) and the entertainment licence (section 7) as there are no parallels with the Australian Charities and Not-for-profits Commission arrangements.

The Bill also includes amendments to better address concerns about potential misuse of funds collected for charitable purposes. Specifically, the Bill enables the Minister to request criminal history information from the Commissioner of Police about an applicant for or a holder of a licence. It also includes improved information gathering powers.

Many of the South Australian charities registered under the *Australian Charities and Not-for-profits Commission Act 2012* will be associations incorporated under the Associations Incorporation Act. These charities will still be regulated pursuant to the Associations Incorporation Act, but will not be required to lodge periodic returns under this Act if certain information has been provided to the Commissioner of the Australian Charities and Not-for-profits Commission (and Corporate Affairs Commission if required).

Prescribed associations that are registered under the Commonwealth *Australian Charities and Not-for-profits Commission Act 2012* will still be required to lay certain information before members of the association at the annual general meeting of the association as well as causing a report of the committee to be prepared disclosing any benefits received.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Associations Incorporation Act 1985*

4—Insertion of sections 33 to 34B

This clause inserts sections 33 to 34B:

33—Preliminary

Definitions are inserted for the purposes of the measure.

34—Application of Division to relevant prescribed associations

A relevant prescribed association (which is defined) is exempt from Part 4 Division 2 if the association has submitted specified information to the Australian Charities and Not-for-profits Commission. Despite the exemption from the Division, certain requirements are prescribed.

34A—Disclosure of information relating to relevant prescribed associations

An agreement may be made relating to information sharing between Commonwealth and State regulators.

34B—Commission may provide information to Commonwealth Commissioner

The Commission is authorised to provide information to the Commonwealth Commissioner for the purposes of the measure.

5—Amendment of section 39—Annual general meeting

This is a technical amendment to make the time period within which a relevant prescribed association must hold its annual general meeting consistent with the equivalent requirement in the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

6—Amendment of section 67—Regulations

The regulation making powers are amended to include a power to exempt incorporated associations that are registered under the *Australian Charities and Not-for-profits Commission Act 2012* from the application of the *Associations Incorporation Act 1985*.

Part 3—Amendment of *Collections for Charitable Purposes Act 1939*

7—Amendment of section 4—Interpretation

Definitions are inserted and amended for the purposes of the proposed amendments to the *Collections for Charitable Purposes Act 1939*.

In addition, the definition of *charitable purpose* is amended to include the provision of, or assistance or support to the provision of, health services (within the meaning of the *Health Care Act 2008*) or research in the field of health or such health services as a charitable purpose. Another amendment is made to the definition.

8—Amendment of section 6—Collectors must be authorised by licence

Provision is made for a Commonwealth registered entity to be deemed to hold a section 6 licence for the purposes of the Act while the entity remains a Commonwealth registered entity. Requirements and other matters relating to such licences are provided for.

9—Repeal of section 6A

Section 6A is repealed.

10—Amendment of section 6B—Disclosure requirements for collectors—unattended collection boxes

This amendment is consequential on the repeal of section 6A.

11—Amendment of section 6C—Disclosure requirements for collectors—other collections

The amendment to section 6C(4)(a) is related to the amendments that recognise Commonwealth registered entities (by providing for such entities to hold 'deemed' licences).

The repeal of section 6C(7) is consequential on the repeal of section 6A.

12—Amendment of section 7—Disclosure requirements for collectors—entertainments

The repeal of section 7(2) removes the requirement for a person who conducts or sells a ticket for an entertainment to hold a section 7 licence. Instead, the requirements in section 7(3) and (5) relating to entertainments are imposed on section 6 licence holders. Other amendments are consequential.

13—Amendment of section 8—Grant of authority by licensee

14—Amendment of section 9—Revocation of authority by society etc

These amendments are consequential on the repeal of section 7.

15—Amendment of section 11—Application for licence

Currently, section 11(2) requires the Minister, in considering an application for a section 6 or 7 licence, to take into account any matter the Minister thinks fit and consider whether, having regard to the objects of the applicant, those objects would be more effectively or economically carried out by any other person, society, body, or association being the holder of or an applicant for a licence under the Act.

The amendment proposes the repeal of subsection (2) so that the Minister is not expressly required to consider those matters in considering applications.

16—Amendment of section 12—Conditions of licence etc

Proposed new subsection (1) provides for licences to specify the period for which they apply.

The amendment relating to codes of practice reflects the insertion of a definition of code of practice into the Act.

Other amendments require the giving of notice before certain action is taken.

Other amendments provide for suspension of licences.

17—Insertion of sections 14A and 14B

This clause inserts sections 14A and 14B:

14A—Provision of information to Minister by Commissioner of Police

The Commissioner of Police must provide criminal history information to the Minister about a licence holder or applicant.

14B—Minister may require production of documents, records etc

The Minister may require production of documents, records or other information in a person's possession connected with an activity for which a licence is required under the Act.

18—Amendment of section 15—Accounts, statements and audit

The first amendment allows the Minister to require the holder of the licence to provide to the Minister a statement setting out specified information relating to money or property collected or received by the holder of the licence for charitable purposes.

Another amendment allows the Minister to publish on a website maintained by the Minister any information provided by the holder of a licence and requires the Minister to publish certain information.

Another amendment exempts Commonwealth registered entities from certain provisions of the section in certain circumstances. The Minister may impose requirements about the manner of provision of documents or information under the section.

19—Amendment of section 15B—Powers of inspectors

An inspector may require that the answer to a question under the section be verified by statutory declaration or given under oath.

20—Insertion of section 17A

This clause inserts sections 17A and 17B:

17A—Disclosure of information relating to Commonwealth registered entities

The Minister may enter into an agreement with the Commonwealth Commissioner as to the manner and provision of information for the purposes of the Act.

17B—Disclosure of information—general

The Minister is authorised to disclose certain information to certain persons or bodies.

21—Amendment of section 18C—Evidentiary

Some technical and consequential amendments are made to section 18C.

Schedule 1—Transitional provisions

This Schedule provides for transitional provisions for the purposes of the measure.

Schedule 2—Statute law revision amendments

This Schedule makes various amendments of a statute law revision nature to the principal Act.

Debate adjourned on motion of Mr Pederick.

SUMMARY OFFENCES (FILMING AND SEXTING OFFENCES) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:04): Obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:04): I move:

That this bill be now read a second time.

The bill refines and updates the offences in part 5A of the Summary Offences Act 1953 (which are filming offences) in response to the emerging phenomena of sexting, which, as I am led to believe, encompasses the notion of sending sexually explicit photographs or messages, typically via a mobile telephone device.

Mr Pengilly: Dreadful.

The Hon. J.R. RAU: It's dreadful, I agree. Apparently, among young people this is common. There is also the phenomenon which is described by some as revenge pornography, which I find rather distasteful as an idea. This is apparently the publication of explicit material portraying

somebody who has not consented for the material to be shared, often with the purpose of causing humiliation, embarrassment or distress.

Sexing-type images of adults and minors are commonly being used, whether by adults or minors, as a tool of revenge, bullying, vilification or harassment or even as a form of domestic violence. This is a major source of current concern. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Summary Offences (Filming and Sexting Offences) Amendment Bill 2016* proposes to amend Part 5A of the *Summary Offences Act* to apply the current offence of distribution of an invasive image to the distribution of images depicting a minor, being a child under the age of 17 years, to create a new offence of threatening to distribute an invasive image or an image obtained from indecent filming, which would apply to both minors and adults, and to make other consequential and related amendments to the existing provisions.

The Bill will amend section 26C of the *Summary Offences Act* so the offence in section 26C of distributing an invasive image will apply to images where the party depicted is under 17 years. Under the Bill, the distribution of an invasive image of a minor will be a criminal offence attracting a fine of up to $20,000 or imprisonment for four years. The existing penalty for the offence of distributing an invasive image of an adult is unchanged, namely a fine of up to $10,000 or imprisonment for two years.

In order to prevent the criminalisation of the distribution of innocent images of minors (for example, sending innocent images of naked infants to family members), the definition of invasive image excludes an image of a person that falls within the standards of morality, decency and propriety generally accepted by reasonable adults in the community. This test is a familiar concept in the criminal law. This definition protects the innocent uses of images of minors but ensures that the distribution of explicit images of children that offend reasonable adults in the community applying the stated standards are captured. This also means that the distribution of such images where, for example, the images themselves or the audience is inappropriate, are not captured by this exclusion and may still be charged. The inappropriate distribution of explicit images may also be captured under the child exploitation material offences in the *Criminal Law Consolidation Act 1935*.

A new offence has been created, which will apply to invasive images or images obtained by indecent filming of adults or minors, to target persons who threaten to distribute such an image of another person, intending to arouse a fear that the threat will be carried out or being recklessly indifferent as to whether such a fear is aroused; a practice colloquially referred to as 'revenge porn'. In many cases of revenge porn, the images are acquired in the context of a relationship or by way of consensual sexting. Such an offence will attract a penalty of up to a $10,000 fine or 2 years imprisonment if the image is of a minor, and up to a $5,000 fine or imprisonment for 1 year in any other case.

The Bill also makes related and consequential changes, such as making the relevant age 17 years rather than the current 16 years for section 26C and section 26D offences (consistent with the child exploitation material and other sexual offences in the *Criminal Law Consolidation Act*), updating the preferred terminology and definition of a cognitive impairment to invalidate any consent to the distribution of such images, and incorporating female breasts in the definition of an invasive image and private region.

The Bill will provide prosecuting authorities with greater flexibility and a wider range of offences to better reflect the nature of the offending conduct in a particular case as, presently, offences involving invasive images depicting children aged under 17 can usually only be charged under the child exploitation material offences in the *Criminal Law Consolidation Act*.

The Bill reflects changing social and technological trends and reaffirms standards of appropriate conduct, especially involving the use of invasive images depicting minors. It is important to avoid an assumption that young offenders who deal with explicit material depicting a child aged under 17 are simply naïve or misguided individuals. There are some young offenders who use such images as a form of unacceptable bullying (including, as revenge pornography). There will, of course, continue to be serious cases involving child exploitation material where a young person should properly be charged with an offence under the *Criminal Law Consolidation Act*. Decisions as to the appropriate charge in any such case, if any, are best left to the sensible exercise of discretion by police and prosecutors.

Any solution to this complex area is obviously not purely legislative. There is an important role for education, especially for children. However, the criminal law also has a vital role to play in declaring the boundaries of appropriate conduct.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Summary Offences Act 1953*

4—Amendment of heading to Part 5A

It is proposed to amend the heading to Part 5A to reflect that the offences will cover sexting.

5—Amendment of section 26A—Interpretation

It is proposed to insert a definition of *cognitive impairment* for the purpose of replacing the outdated and more limited term of 'mentally incapacitated' currently used in section 26E(1)(a) (and see clause 10). It is also proposed to amend the current definitions of *film*, *private region* and *private act*; to insert a definition of *image* which makes it clear that an *image* includes an image that has been altered by digital or other means; and to substitute the definition of *invasive image*. The new definition of *invasive image* will no longer exclude images of a person under or apparently under the age of 16 years and, instead, will provide that an image of a person that falls within limits of what are generally accepted in the community will not be taken to be an invasive image of the person.

6—Amendment of section 26B—Humiliating or degrading filming

This amendment is consequential.

7—Amendment of section 26C—Distribution of invasive image

The proposed amendment to section 26C substitutes the penalty provision for subsection (1) so that a higher penalty is provided if the invasive image is of a minor than in any other case. The penalties match those set for offences under current section 26D (Indecent filming).

8—Amendment of section 26D—Indecent filming

This amendment is consequential.

9—Insertion of section 26DA

A new section is proposed to be inserted after section 26D.

26DA—Threat to distribute invasive image or image obtained from indecent filming

New section 26DA(1) provides that a person who makes a threat to another person that he or she will distribute an invasive image of that person or some other person intending to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused, will be guilty of an offence. The maximum penalty for such an offence is as follows:

(a) if the invasive image is of a minor—$10,000 or imprisonment for 2 years;

(b) in any other case—$5,000 or imprisonment for 1 year.

New section 26DA(2) provides that a person who makes a threat to another person that he or she will distribute a moving or still image obtained by the indecent filming of that person or some other person intending to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused, will be guilty of an offence. The maximum penalty for such an offence is as follows:

(a) if the person filmed was a minor—$10,000 or imprisonment for 2 years;

(b) in any other case—$5,000 or imprisonment for 1 year.

It is a defence to a charge of an offence against subsection (1) or (2) to prove—

(a) that the person filmed consented to that particular distribution of the image the subject of the filming; or

(b) that the person consented to distribution of the image the subject of the filming generally,

and that, at the time of the alleged offence, consent to the distribution had not been withdrawn.

This section applies to a threat directly or indirectly communicated by words (written or spoken) or by conduct, or partially by words and partially by conduct, and may be explicit or implicit.

10—Amendment of section 26E—General provisions

One of the amendments proposed to section 26E(1)(a) lifts the age of consent for the purposes of this Part to 17 years and changes the reference to 'mentally incapacitated' to refer to cognitive impairment; and the other is a consequential amendment.

Debate adjourned on motion of Ms Chapman.

CORPORATIONS (COMMONWEALTH POWERS) (TERMINATION DAY) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:06): Obtained leave and introduced a bill for an act to amend the Corporations (Commonwealth Powers) Act 2001. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:06): I move:

That this bill be now read a second time.

The Corporations (Commonwealth Powers) Act 2001 refers from the Parliament of South Australia to the parliament of the commonwealth, temporarily—temporarily, not permanently—the following legislative power: the power to enact the Corporations Bill 2001—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! The morning has been really, really quiet, and we're going—

Ms Chapman: Probably boring.

The DEPUTY SPEAKER: No, never boring in this chamber. That's reflecting on your fellow colleagues and female colleagues. Attorney.

The Hon. J.R. RAU: Yes—as I was saying: the power to enact their Corporations Bill 2001 and the Australian Securities and Investment Commission Bill 2001 as laws of the commonwealth extending to each referring state, and the power to make express amendments to those acts that are amendments about forming corporations, corporate regulation or the regulation of financial products or services. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The referrals of power are made pursuant to section 51(xxxvii) of the *Constitution* and, in conjunction with identical referrals from all other state Parliaments, form the constitutional basis for the national legislative scheme for the regulation of corporations and financial products and services ('the Corporations Scheme').

The Corporations Scheme commenced on 15 July 2001. It replaced the national scheme laws (based on the Commonwealth's administration of the States' and Northern Territory's Corporations Law), the Constitutional certainty of which was undermined by the *Wakim* and *Hughes* decisions of the High Court.

The Corporations Scheme operates as follows:

- All states, including South Australia, have enacted referral legislation in accordance with section 51(xxxvii) of the *Constitution*, referring the relevant power to the Commonwealth Parliament.
- In reliance upon the referrals of power, the Commonwealth has enacted the *Corporations Act 2001* ('the Corporations Act') and the *Australian Securities and Investments Commission Act 2001* ('the ASIC Act') (collectively referred to as the 'Corporations Legislation').
- The Australian Securities and Investments Commission ('ASIC') administers the Corporations Legislation.

Unless terminated earlier, the referrals of power supporting the Corporations Scheme terminate on the 15th anniversary of the day of the commencement of the Corporations Legislation (15 July 2016), having twice been extended for five year periods in 2005 and 2011.

Section 5(1) of the Corporations Act provides that the Corporations Legislation applies only to:

(a) referring States;

(b) the Capital Territory (including the coastal sea of the Jervis Bay Territory);

(c) the Northern Territory; and

(d) external Territories (but only in relation to some provisions).

Section 4(6) of the Corporations Act provides that a State ceases to be a referring State if the State's referrals of power terminate.

As the Corporations Scheme commenced on 15 July 2001, South Australia will cease to be a referring State on 15 July 2016 if the Parliament does not extend the referrals of power.

Unlike other states, whose referrals of power can be extended by proclamation, South Australia's referrals of power can only be extended by legislation.

This Bill, the *Corporations (Commonwealth Powers) (Termination Day) Amendment Bill 2016*, amends the *Corporations (Commonwealth Powers) Act 2001* to extend the references of power for a further five years. The new expiry date will be the 20th anniversary of the commencement of *Corporations (Commonwealth Powers) Act 2001*, 15 July 2021.

The economy of South Australia would be harmed by the State ceasing to be a referring State. The extent to which the Corporations Legislation would continue to apply within South Australia would be uncertain. Section 5 of the Corporations Act provides that, while the provision of the Act can apply to entities, acts and omissions outside of referring states, whether this will be the case in relation to any particular provision will depend upon several factors: whether the provision is intended to apply in a non-referring state and, if so, whether the Commonwealth has the constitutional power to legislate with respect to the subject matter of the provision. These factors can only be determined on a provision-by-provision basis. This uncertainty would also undermine any attempt by the State to establish its own system of corporate and financial regulation, as any South Australian laws would be invalid to the extent they are inconsistent with a valid Commonwealth law. In any event, establishing and maintaining a local regulatory system would be prohibitively expensive.

For South Australia to participate fully in the national economy, it must remain part of the Corporations Scheme. To do this it must continue to be a referring State.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Corporations (Commonwealth Powers) Act 2001*

3—Amendment of section 5—Termination of references

This clause deletes from current section 5(1) '15th' and replaces it with '20th', thereby delaying by 5 years the termination of the references of matters to the Parliament of the Commonwealth under the principal Act. Following this amendment, the references are due to expire on 15 July 2021.

Debate adjourned on motion of Mr Treloar.

REAL PROPERTY (ELECTRONIC CONVEYANCING) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:08): Obtained leave and introduced a bill for an act to amend the Real Property Act 1886, and to make related amendments to various acts. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (12:08): I move:

That this bill be now read a second time.

The National Electronic Conveyancing is a Council of Australian Governments reform. It is part of the National Partnership Agreement for a Seamless National Economy to which South Australia is a party. A comprehensive business case for National Electronic Conveyancing undertaken in 2010 indicated that it is likely—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.R. RAU: It is likely to generate national gross savings of up to $250 million per annum, largely for the banking industry and entities involved in conveyancing. South Australia's industry share of savings to the conveyancing industry would be approximately $10 million per annum, which could be equated to this initiative's value to the community in reducing red tape. South Australia's participation in NEC will markedly reduce current administrative burdens and costs associated with time and resources currently expended on physical settlements and processing of paper-based land transactions. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

It is anticipated that NEC will:

- Reduce costs and delays associated with conveying and settling land transactions
- Increase the accuracy of transactional data lodged with Land Registries and hence reduce the costs of corrections
- Reduce the complexities and costs of dealing across eight different jurisdictions.

The legal framework for NEC to be introduced in each State and the Northern Territory comprises the Electronic Conveyancing National Law plus Model Participation Rules (MPRs) and Model Operating Requirements (MORs), which are being developed by the Australian Registrars' National Electronic Conveyancing Council under the National Law.

The Electronic Conveyancing National Law (South Australia) Act 2013, which enacts the Electronic Conveyancing National Law in South Australia commenced on 21 January 2016. This Act provides a common regulatory framework to enable documents in an electronic form to be lodged under the Torrens land Title legislation in each State and Territory and will become operational in South Australia with the implementation of NEC.

The *Real Property (Priority Notices and Other Measures) Amendment Act 2015* introduced the first stage amendments required to support introduction of NEC to the *Real Property Act 1886* and commenced on 29 April 2015. These amendments included the introduction of an express statutory power to require parties to conveyancing transactions to verify their identity. Secondly, it introduced a new instrument called a Priority Notice, which allows parties to protect the priority of instruments prior to their lodgement.

The Real Property (Electronic Conveyancing) Amendment Bill 2016 (the Bill) will make the remaining changes required for South Australia to participate in NEC.

This Bill aligns the requirements for paper conveyancing with the new provisions for electronic transactions to facilitate a smooth transition between the two lodgement mediums and avoid the complexity and costs of dealing with two separate systems.

In particular, the Bill introduces the following amendments:

Certifications

The Bill broadens the current certification requirements to align with the certifications required for electronic conveyancing. The additional certifications will provide greater certainty that conveyancers, legal practitioners and mortgagees have complied with their statutory obligations, including the requirement to verify the identity of their client (or the mortgagor in the case of the mortgagee).

Certifications will be required to be provided in relation to:

- compliance with relevant legislation;
- compliance with the requirements of verification of identity and the execution of an instrument;
- retention of documents related to the certification of the instrument;
- compliance with any other requirements prescribed by legislation.

If a provision under the Act currently requires execution by all parties, then all parties will be required to provide certifications. In the case of a transfer of land, certification would be required from the transferor and transferee.

The Registrar-General will have the power to exempt parties or instruments from certification requirements under the Act. For example, a self-represented party would be exempt from making the full suite of certifications, particularly in relation to their person.

Client Authorisation

A Client Authorisation is a document by which a party to a conveyancing transaction authorises a legal practitioner or registered conveyancer to execute and lodge instruments on that party's behalf.

The Bill introduces new provision in the Act making it an offence for a legal practitioner or registered conveyancer to execute or lodge an instrument on behalf of another person, other than in accordance with the terms of a properly completed Client Authorisation.

In electronic conveyancing, the transacting parties will generally not have direct access to the electronic conveyancing system themselves. Each party will therefore need to provide a Client Authorisation to a legal practitioner or registered conveyancer who does have access to the electronic conveyancing system, authorising that legal practitioner or registered conveyancer to execute and lodge instruments on their behalf.

Once electronic conveyancing has commenced, a registered conveyancer or legal practitioner may not initially know if a particular transaction is to progress in paper or electronically. Alternatively, a transaction may be intended to proceed electronically but for some reason need to revert to paper.

The Bill aligns the paper and electronic conveyancing requirements to facilitate a smooth transition between the two lodgement mediums and avoid the complexity and costs of dealing with two separate systems.

Therefore, the same Client Authorisation form will be used for both paper and electronic transactions.

A Client Authorisation must be signed by the client or clients and the legal practitioner or registered conveyancer, or their agent. A properly completed Client Authorisation will have effect according to its terms as an authorisation to execute and lodge the specified instruments on behalf of the client. The conveyancer or legal practitioner will also need to take reasonable steps to establish that the client is entitled to enter into the conveyancing transaction identified in the Client Authorisation form. Reasonable steps could include inspection of some form of proof that the client's identity is connected to the subject land.

Instruments that must currently be executed and witnessed will require a Client Authorisation form.

The use of a Client Authorisation for caveats and Priority Notices will be optional and the following instruments will be exempt from the requirement for a Client Authorisation:

- applications for title by possession to land;
- applications for land division, applications for amalgamation of titles;
- applications under the Community Titles Act 1996 and Strata Titles Act 1988.

The Bill also gives the Registrar-General the power to exempt parties or other instruments from the requirement to obtain a Client Authorisation, for example, where documents require a personal declaration (ie. application under Part 7A of the Act – Title by Possession).

Mortgages

In electronic conveyancing, the purchaser will not usually have a representative acting for them in their capacity as mortgagor; their legal practitioner or registered conveyancer acts for them in their capacity as transferee. Their representative will therefore not execute the mortgage on their behalf.

As such, the Bill introduces amendments which allow for a mortgage to be lodged without the mortgagor's execution where the mortgagee is an Authorised Deposit-Taking Institution (ADI) (e.g. a bank) or where the mortgagee is represented by a legal practitioner or conveyancer. If this method of execution is used the mortgagee will need to hold a mortgage executed by the mortgagor on the same terms. A certification to this effect will need to be provided by the mortgagee or their legal practitioner or conveyancer. The same process may be used for a mortgage extension.

To provide uniformity between electronic and paper instruments, these execution methods will be applied to both lodgement mediums.

The Bill also gives the Registrar-General the discretion to allow other categories of mortgagees to use the above method of execution. For example a financier such as HomeStart Ltd, which is not an ADI, may wish to seek approval to utilise the above method of execution.

When a mortgage is transferred the transferee must take reasonable steps to verify that the transferor complied with the verification of identity and verification of authority obligations.

If the person by or on whose behalf the mortgage is executed as mortgagor is not the registered proprietor of the land and in the Registrar-General's opinion, the mortgagee:

- failed to comply with the verification of identity and verification of authority obligations; or

- cannot produce the mortgage on the same terms executed by the mortgagor,

the Registrar-General may cancel the mortgage.

If the person by or on whose behalf the mortgage is executed as mortgagor is not the registered proprietor and the mortgagee failed to comply with verification of identity and verification of authority obligations the mortgagee's interest in the land is not indefeasible.

Removal of Duplicate Certificates of Title and other duplicate Instruments

The Bill removes the requirement for the Registrar-General to issue, and for registered proprietors to produce, duplicate certificates of title and tenants' copies of Crown leases. Reference to duplicate certificates of title and tenants' copies of Crown leases will also be removed from all State legislation.

The current practice of issuing a paper duplicate certificate of title or tenant's copy of a Crown lease, and producing it to the Registrar-General for each transaction, is incompatible with an electronic form of conveyancing.

Duplicate certificates of title and tenants' copies of Crown leases have historically played the following roles:

- authentication: the duplicate certificate of title or tenant's copy of Crown lease is used as a means of identifying the relinquishing party in a transaction;
- evidence of entitlement: possession of the duplicate certificate of title or tenant's copy of Crown lease is used as evidence of a right to deal with the land;
- passing of interest: passing control of the duplicate certificate of title or tenant's copy of Crown lease from one party to another at the time of settlement (as a form of baton) protects the interest of the acquiring party between settlement and registration by ensuring that another dealing transferring that estate or interest does not gain priority (and also prevents multiple sales of the land);
- confirmation of registration: the issue of a duplicate certificate of title or tenant's copy of Crown lease acts as confirmation of registration of the conveyancing instrument.

However, the requirement to produce a duplicate certificate of title or tenant's copy of Crown lease in conveyancing transactions has not entirely prevented fraud. Attempts to forge duplicate certificates of title have been detected by the Registrar-General. In other jurisdictions, forgers have successfully undertaken fraudulent transactions. Additionally, fraudulent transactions have been entered into by parties who have dishonestly obtained or improperly used genuine duplicate certificates of title.

Whilst possession of the duplicate certificate of title or tenant's copy of a Crown lease has been treated as evidence of ownership - and hence the right to deal with the land - it does not prove that the person transacting with the property is the person named in the Register as the registered proprietor and is entitled to deal with the land. Use of the duplicate certificate of title or tenant's copy of Crown lease to identify the transacting party, and as evidence of their right to deal with the land, is therefore inappropriate.

To combat this, the Bill introduces requirements for parties to a conveyancing transaction to have their identity and their right to deal with the land formally verified.

Where they are used, Priority Notices also prevent the registration of inconsistent dealings with the land and will therefore replace the 'baton' role of duplicate certificates of title and tenants' copies of Crown leases.

A subscription service known as Title Watch will also be introduced with the removal of duplicate certificate of title and tenant's copy of Crown lease. Title Watch is an alert service which will notify the subscriber via email or SMS that activity has been detected on the nominated Title. Items which trigger notification include, but are not limited to:

- order of a Property Interest Report or Form 1;
- lodgement of a Priority Notice;
- lodgement of a dealing (e.g. transfer, mortgage etc.).

Verification of Authority

The Bill introduces an obligation on practitioners not only to verify the identity of their clients but to verify the client's authority to enter into the transaction.

Both verification of identity and verification of authority – which is the right to deal with an interest in land - are important steps in preventing fraud. The Bill introduces amendments which require conveyancers, legal practitioners and mortgagees to take reasonable steps to identify their clients and ensure that they are in fact the registered proprietor of the land or otherwise entitled to deal with the land.

Such requirements protect the interests of innocent registered proprietors, who might otherwise suffer a loss due to fraudulent dealings (for example a mortgage) registered on the certificate of title for their land. Likewise, verification of authority protects the publicly funded Real Property Assurance Fund from compensation claims resulting from fraudulent dealings with the land.

Self-represented parties (other than mortgagors) will also need to provide a certification that they have the authority to enter into the transaction.

Document Retention

Associated regulations will be made requiring supporting documents to be retained for a specified period.

Caveats

The *Real Property Act* will also been amended to expressly allow a registered proprietor to caveat their own property. This has been introduced following a number of applications received by registered proprietors wishing to caveat their property out of concern regarding potential fraudulent activity.

In order to clarify the existing policy position held by the Registrar-General, a provision to make it clear that the Registrar-General may enter a caveat when it is in the public interest to do so has also been included.

The amendments will also make it clear that the Registrar-General may prescribe instruments which can be registered or recorded in the face of a caveat (unless the caveat specifically forbids the registration or recording of that particular instrument). The instruments that will be prescribed will reflect the existing position.

For national consistency and to align paper and electronic processes, the encumbrance panel is being removed from the Lands Titles Office forms as instruments are subject to prior registered interests in any case. Due to the removal of the encumbrance panel from instrument forms, instruments lodged after a permissive caveat will automatically be subject to the caveator's claim. The subsequent instrument need not be expressed to be subject to the caveator's claim.

Offences

New offences are created for fraudulently using a digital signature, fraudulently altering a Client Authorisation, executing an instrument on behalf of another person without a properly completed Client Authorisation and false certification.

A defence of honest mistake, will be available in relation to the offence of falsely providing a certification.

The same defence is available in relation to the offence of executing an instrument on behalf of another person without a properly completed Client Authorisation.

Assurance Fund

The Real Property Act Assurance Fund was established to compensate persons deprived of land, or an interest in land where they have suffered a loss, for example as a consequence of fraud or by any error, omission or mistake by the Registrar-General or his officers. The Assurance Fund is directly linked to the pivotal principle of the Torrens system which is to provide a Government guaranteed Title.

The Bill amends the Assurance Fund provisions to provide clarification in relation to the meaning of 'market value' for compensation and of the Registrar-General's right to payment for costs incurred in relation to the claim.

For the purposes of determining compensation, value is to be market value as at the date on which the claimant institutes proceedings for compensation.

The Registrar-General may use money from the Assurance Fund to pay the costs incurred by the Registrar-General in connection with a claim.

These amendments have been included to provide clarity and direction on existing provisions.

Terminology

Various amendments are included to make the Act technologically neutral. In particular, the definition of 'dealing' has been deleted to ensure consistent wording throughout the Act. Likewise, the terms 'registered' and 'recorded' have been used throughout the legislation in relation to instruments. The term 'registered' applies to traditional estates or interests in land such as transfers and mortgages. The term 'recorded' applies to other estates or interests such as Land Management Agreements.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Real Property Act 1886*

4—Amendment of section 3—Interpretation

This clause amends the definitions of several terms in the principal Act and inserts new definitions to support provisions in the measure. The clause also updates archaic and obsolete terms consistent with the statute law revision process undertaken in the measure.

5—Repeal of sections 14 and 15

The clause removes references to the Acting Registrar-General and Acting Deputy Registrar-General and the requirement for the Governor to appoint an employee of the Public Service to these positions.

6—Amendment of section 21—Seal of office

The clause removes a reference to the terms 'inscribed' and 'imprinted' in relation to the seal of office of the Registrar-General, to allow for the seal of office to be issued and appear in an electronic form. The clause also makes amendments consistent with the statute law revision process undertaken in the measure.

7—Amendment of section 39—Caveat against bringing land under Act

The clause makes an amendment to provide that caveats are to be lodged in the Lands Titles Registration Office, and not with the Registrar-General, consistent with other references in the Act.

8—Amendment of section 44—Proceedings under caveat

This clause makes an amendment to provide that caveats are to be lodged in the Lands Titles Registration Office and not with the Registrar-General consistent with other references in the Act.

9—Amendment of section 45—Lapse of caveat

This clause makes an amendment consequential to the amendment in clause 8 and also makes amendments consistent with the statute law revision process undertaken in the measure.

10—Amendment of section 49—Folios in Register Book

This clause makes an amendment to standardise the references to certificate of title in the Act.

11—Amendment of section 51B—Registration of title electronically etc

This clause makes an amendment to standardise references in the Act to a record being made in the Register Book or on a certificate of title.

12—Substitution of section 51C

This clause substitutes section 51C as follows:

51C—Issuing certificates of title

The proposed section updates the provisions in the current section 51C by standardising references to certificates of title, and making records on a certificate of title.

13—Substitution of section 52

The clause substitutes section 52 as follows:

52—Endorsement of record of registration

The proposed section provides that on registering an instrument the Registrar-General must make a record of the date and time of registration and the record must be accepted in legal proceedings as conclusive evidence of the date and time of registration.

14—Amendment of section 53—Retention of records

This clause makes amendments standardising references in the Act to information being registered or recorded by the Registrar-General.

15—Substitution of sections 54 and 55

This clause substitutes sections 54 and 55 as follows:

54—Form of instruments

The proposed section incorporates the provisions in the current section 54, standardises references to information being registered or recorded by the Registrar-General and also updates language consistent with the statute law revision process undertaken in the measure.

55—Non-compliant documents may be registered or recorded

The proposed section provides that the Registrar-General may register or record a document that is not in the appropriate form, or does not comply with a requirement under the Act (including where the document is not signed or executed in a manner required under the Act), despite the fact that the document

does not comply with that form or requirement, if satisfied that the document substantially complies with the form or requirements of the Act and that loss or inconvenience would result if the document were not registered or recorded.

16—Substitution of section 56

The clause substitutes section 56 as follows:

56—Priority of instruments

The proposed section re-writes current section 56 incorporating standardised references to information being registered or recorded by the Registrar-General, and updating language consistent with the statute law revision process undertaken in the measure.

17—Amendment of section 57—Effect of registration or recording of instruments

This clause deletes a reference to signing an instrument to allow for instruments that may be executed in electronic form.

18—Repeal of section 58

The clause repeals an obsolete section.

19—Amendment of section 59—Provision for registration in case of death of person

Subclause (1) makes amendments consistent with the statute law revision process undertaken in the measure. Subclause (2) makes amendments to provide for the execution of documents in paper and electronic form. Subclause (3) inserts a new subsection (2) to provide for the validity of an instrument executed on behalf of a person pursuant to a client authorisation after the person's death.

20—Amendment of section 64—Power of court to direct cancellation of certificate or entry

This clause amends the section to standardise references to records and certificates of title in the Act.

21—Amendment of section 65—Search allowed

This clause provides that if an instrument is lodged electronically, the Registrar-General may determine that only the instrument as registered is to be accessed in a search of records in the Lands Titles Registration Office.

22—Amendment of section 67—Instruments not effectual until registration

This amendment is consequential on the proposed new definition of instrument and limits the operation of the section to instruments registrable under the Act.

23—Repeal of section 68

This clause repeals an obsolete section.

24—Amendment of section 69—Title of registered proprietor indefeasible

Subclauses (1) to (6) amend the section to standardise references to time and certificates of title in the Act, and update language consistent with the statute law revision process undertaken in the measure. Subclause (7) inserts a new paragraph providing that if a mortgagee fails to comply with verification of identity requirements or verification of authority guidelines, the mortgagee's interest under the mortgage is not indefeasible.

25—Amendment of section 71—Saving of certain rights and powers

The clause amends the section to remove references to dealings with the land.

26—Amendment of section 73—Certificate of title

This clause makes an amendment to the section to standardise references to certificates of title in the principal Act.

27—Substitution of section 80B

This clause substitutes section 80B as follows:

80B—Application requirements

The proposed section provides that an application under section 80A must be in the appropriate form, and updates language in existing section 80B consistent with the statute law revision process undertaken in the measure.

28—Amendment of section 80E—Notice of application

The clause makes an amendment to provide for a notice to be in the appropriate form and another amendment consistent with the statute law revision process undertaken in the measure.

29—Amendment of section 80H—Cancellation of instruments

This clause makes an amendment to the section to standardise references to certificates of title in the Act.

30—Amendment of section 88—Entry as to easement to be made on certificates of title

This clause makes an amendment to the section to standardise references to certificates of title in the Act and another amendment consistent with the statute law revision process undertaken in the measure.

31—Amendment of section 90A—Application of sections 90B, 90C, 90D, 90E and 90F

This clause makes an amendment to standardise references to certificates of title in the Act.

32—Amendment of section 93—Execution and registration of Crown lease

This clause makes a technical amendment.

33—Substitution of section 96

This clause substitutes section 96 as follows:

96—Transfers

The proposed section incorporates the provisions of current sections 96 and 96A, amended consistently with the statute law revision process undertaken in the measure. In addition, the proposed section provides that both the transferor and the transferee must execute a transfer.

34—Repeal of section 96A

This amendment is consequential on the amendment in clause 33.

35—Amendment of section 97—Transferee of land subject to mortgage or encumbrance to indemnify transferor

This amendment is consequential on the amendment in clause 33.

36—Repeal of sections 98 to 100

This clause repeals obsolete sections.

37—Amendment of section 107—Transfer on sale under writ, warrant, decree or order

This clause makes an amendment to standardise references to registration in the Act.

38—Repeal of sections 112 to 115

This clause repeals obsolete sections.

39—Amendment of section 116—Leasing of land

The clause amends the section to require both the registered proprietor and the prospective lessee to execute a lease.

40—Amendment of section 119—Lease for 1 year need not be registered

This clause removes the reference to dealing with land, inserts references to registering and recording instruments and makes amendments consistent with the statute law revision process undertaken in the measure.

41—Amendment of section 120—Lease may be surrendered by separate instrument

The clause deletes a reference to 'signed' and replaces it with a reference to 'executed' to allow for instruments that may be executed in electronic form.

42—Substitution of section 121

This clause substitutes section 121 as follows:

121—Registrar-General may record surrender

The proposed section provides power for the Registrar-General to record a surrender of a lease in the Register Book in the circumstances outlined in the section.

43—Substitution of section 128

This clause substitutes section 128 as follows:

128—Mortgage of land

The proposed section provides for the form and requirements of a mortgage to be executed if land is to be charged or made security in favour of a person, matters of which the Registrar-General must be satisfied before registering a mortgage and the requirements that parties to the mortgage must satisfy before

a mortgage can be lodged for registration. Offences under the proposed section have a maximum penalty of $5,000.

128A—Obligations of mortgagee

Proposed subsection (1) makes it an offence for a person entering into a mortgage as mortgagee to fail to first verify the authority of the intended mortgagor to enter into the mortgage in accordance with the verification of authority guidelines.

Proposed subsection (2) makes it an offence for a mortgagee to fail to retain a copy of a document used to fulfill his or her obligations under subsection (1) for the period prescribed by the regulations. The offences in the proposed section attract a maximum penalty of $10,000 or imprisonment for 2 years.

128B—Encumbrance of land

The proposed section re-enacts the second part of current section 128 to provide that if land is to be charged with, or made security for, the payment of an annuity, rent-charge or sum of money in favour of a person, an encumbrance in the appropriate form must be executed by the registered proprietor and the person. The section only applies to land intended to be charged or made security under the principal Act by the registration of an encumbrance.

44—Amendment of section 129—Contents of mortgage or encumbrance

This clause makes amendments consequential on amendments in clause 43, and makes amendments consistent with the statute law revision process undertaken in the measure.

45—Amendment of section 129A—Standard terms and conditions of mortgage or encumbrance

The clause amends the section to provide that documents are to be filed in the Lands Titles Registration Office and not with the Registrar-General.

46—Amendment of section 143—Discharge of mortgages and encumbrances

Subclause (1) makes an amendment consequential on the definition of appropriate form. Subclause (2) substitutes the term 'signed' for 'executed' to allow for instruments that may be executed in electronic form. Subclause (3) deletes an obsolete provision.

47—Insertion of section 147

This clause inserts a new section as follows:

147—Cancellation of registration of mortgage by Registrar-General

The proposed section sets out the circumstances in which the Registrar-General may cancel the registration of a mortgage.

48—Insertion of section 152A

This clause inserts a new section as follows:

152A—Obligation of transferee if mortgage transferred

Proposed subsection (1) provides that a person must not execute a transfer of a mortgage, as transferee, without first taking reasonable steps to establish that the transferor complied with any obligation imposed under the Act on the transferor, as mortgagee, to verify the mortgagor's identity or authority to enter into the mortgage.

Proposed subsection (2) provides that a transferee must retain a copy of any document used for the purpose of fulfilling his or her obligations under proposed subsection (1) for the period prescribed by the regulations. The offences under the proposed section have a maximum penalty of $10,000 or imprisonment for 2 years.

49—Amendment of section 153—Renewal or extension of mortgage etc

This clause amends the section to provide that an instrument must be lodged in the Lands Titles Registration Office and not with the Registrar-General, consistent with other references in the Act.

50—Insertion of section 153A and 153B

This clause inserts new sections as follows:

153A—Requirements for renewal or extension of mortgage

The proposed section sets out the requirements for the renewal or extension of a mortgage.

153B—Obligations of mortgagee

The proposed section provides that a mortgagee must not execute an instrument renewing or extending the mortgage without first verifying, in accordance with verification of authority guidelines, the mortgagor's authority to enter into the transaction for the renewal or extension of the mortgage. The mortgagee must retain a copy of any document used for the purposes of fulfilling any such obligations for the period prescribed by the regulations, with a maximum penalty of $10,000 or imprisonment for 2 years.

51—Repeal of section 154

This clause repeals section 154 which is obsolete as a consequence of the new definition of instrument as inserted in the measure.

52—Amendment of section 154B—Effect of priority notice

This clause provides that the Registrar-General may give effect to an application under the Act by a surviving joint proprietor to have the death of a joint proprietor recorded in the Register Book even if a priority notice is in force in relation to the relevant land.

53—Substitution of section 156

This clause substitutes section 156 as follows:

156—Deposit of duplicate or attested copy

The proposed section updates current section 156—

- by substituting references to depositing a duplicate or attested copy of a power of attorney with the Registrar-General with a reference to the Lands Titles Registration Office; and
- to include a reference to noting the date and time of depositing the duplicate or attested copy; and
- consistent with the statute law revision process undertaken in the measure.

54—Amendment of section 157—Revocation of power of attorney

Subclause (1) amends the section to provide that a revocation of a power of attorney must be signed by the grantor. The amendments in subclause (2) provide that the date and time the revocation is deposited in the Lands Titles Registration Office must be noted on the copy. Subclause (3) makes amendments consistent with the statute law revision process undertaken in the measure.

55—Substitution of section 163

This clause substitutes section 163 as follows:

163—Insertion of the words 'with no survivorship' in instruments

The proposed section incorporates the provisions of existing section 163 but updates a number of references to allow recording of instruments and the entering of words in electronic form, as well as updating the provision consistent with the statute law revision process undertaken in the measure.

56—Amendment of section 164—Trustees may authorise insertion of 'with no survivorship'

This clause inserts into the section references to executing the appropriate form and recording on a certificate of title to allow for execution and recording in electronic form.

57—Amendment of section 165—Effect of record

This clause makes amendments to standardise the references to recording in the Act.

58—Amendment of section 168—Survivors may perform duties or transfer to new trustees

This clause amends a reference to the surviving and remaining trustee.

59—Amendment of section 169—Disclaimers

The clause contains amendments consequential on the proposed definition of instrument, as a disclaimer is a document that does not fall within the proposed definition. The clause also makes a number of amendments consistent with the statute law revision process undertaken in the measure.

60—Amendment of section 171—Transmission to be recorded in Register Book

The clause amends the section to standardise the references to making a record in the Act, and include a reference to executing an application in the appropriate form, to allow for an application which may be in electronic form.

61—Amendment of section 173—Bankruptcy or assignment of lessee

Subclause (1) amends the section to standardise the references to making a record throughout the Act. Subclause (2) inserts a new subsection (2) to provide that a lessor, mortgagee or encumbrancee must retain a copy

of any document used for the purpose of fulfilling his or her obligations under subsection (1) for the period prescribed by the regulations, with a maximum penalty of $10,000 or imprisonment for 2 years for non-compliance with the subsection.

62—Amendment of section 191—Caveats

The clause makes a number of amendments to section 191 including:

- outlining the purpose of a caveat, namely, to prohibit absolutely the registration or recording of any instrument dealing with the land, or to provide that the registration or recording of an instrument dealing with the land may only occur subject to the claim of the caveator, and provided that, if any conditions are expressed in the caveat, the instrument complies with those conditions;
- inserting a provision providing that if a caveator lodges a caveat providing that the registration or recording of an instrument dealing with land will be subject to the claim of the caveator, any instrument dealing with that land registered or recorded after the lodgement of the caveat will be taken to be registered or recorded subject to that claim;
- standardising references to the execution of caveats, and the registering and recording of caveats and instruments affecting land consistent with the use of these terms elsewhere in the measure;
- setting out the circumstances in which the Registrar-General may, after a caveat has been lodged, register or record another caveat or instrument or an instrument of a kind prescribed by the regulations;
- clarifying that a registered proprietor of land may lodge a caveat in respect of land for which he or she is the registered proprietor;
- amendments consistent with the statutes law revision process undertaken in the measure.

63—Insertion of sections 210A and 210B

The clause inserts new sections as follows:

210A—Value of land determined by market value

The proposed section provides that in determining the compensation payable from the Assurance Fund for any deprivation or loss under Part 18, the value of the land must be determined according to the market value of the land on the day on which the claimant institutes proceedings against the person or the Registrar-General.

210B—Registrar-General may use Fund money

The proposed section provides that money in the Assurance Fund may be applied for the purpose of meeting any expenses incurred by the Registrar-General in connection with any claim for compensation from the Assurance Fund.

64—Amendment of section 220—Powers of Registrar-General

The clause makes a number of amendments to standardise the references to registering or recording in the Act, as well as amendments consistent with the statutes law revision process undertaken in the measure. The clause also inserts a new paragraph 220(g)(iv) to give the Registrar-General power to enter caveats prohibiting the registration or recording of an instrument if the Registrar-General considers it is in the public interest to do so.

65—Amendment of section 221—Reviews

This clause inserts a new subsection (1a) providing that if a person is dissatisfied with a decision of the Registrar-General to cancel the registration of a mortgage under section 147, the person may seek a review of the decision by the Tribunal.

66—Amendment of section 223D—Caveats

The clause inserts a reference to lodging a caveat in the Lands Titles Registration Office instead of with the Registrar-General, consistent with other references in the Act.

67—Amendment of section 223L—Operation of corrections

The clause amends the section to standardise references to 'recording' in the Act.

68—Amendment of 223LA—Interpretation

The clause inserts a new subsection (7) to provide that an application or instrument under Part 19AB may not be executed under a client authorisation.

69—Amendment of section 223LD—Application for division

This clause substitutes subsection (2) to provide that an application under the section must be in the appropriate form, signed by the applicant and accompanied by the prescribed fee.

70—Amendment of section 223LJ—Amalgamation

The clause substitutes section 223LJ(2)(a) to provide that an application for amalgamation must be in the appropriate form and signed by the applicant.

71—Amendment of section 228—Declarations

This clause adds registered conveyancers to the list of persons before whom a declaration under the Act may be made.

72—Substitution of section 229

This clause substitutes section 229 as follows:

229—Offences

The proposed section updates the offences in current section 229 to include references to documents and instruments, signing, certification and execution, so that the existing offences may apply to client authorisations and documents that may be in electronic form. The proposed section also makes amendments consistent with the statute law revision process undertaken in the measure.

73—Amendment of section 230—Perjury

This clause removes a reference to dealing with land, and standardises the penalties that apply to similar offences in Part 20.

74—Amendment of section 232—Certifying incorrect documents

This clause deletes the current offence in section 232(1) and substitutes 2 new offences and a defence. Proposed subsection (1) makes it an offence for a person to falsely provide a certification under section 273(1) of the principal Act with a maximum penalty of $5,000 or imprisonment for 1 year. It is a defence to this offence to prove that the defendant was not negligent and the act or omission constituting the offence was attributable to an honest mistake on the defendant's part. Proposed subsection (1b) makes it an offence for a person to falsely provide certification under section 273(1) knowing that the certification is false, with a maximum penalty of $10,000 or imprisonment for 2 years.

75—Amendment of section 232A—Offences relating to verification of identity requirements

This clause updates all penalty provisions in line with other similar offences in Part 20. It also inserts a new subsection (7) to clarify that a certification provided under section 273(1) of the Act is not a statement for the purposes of the offences in this section.

76—Insertion of section 232B

This clause inserts a new section:

232B—Offences relating to verification of authority

This section includes a number of offences relating to the requirement to verify a person's authority to enter into a transaction in accordance with the verification of authority guidelines and the participation rules. It is an offence for a person to falsely state that a person's authority to enter into a transaction has been verified in compliance with the verification of authority guidelines or the participation rules with a maximum penalty of $5,000 or imprisonment for 1 year. A higher penalty applies ($10,000 or imprisonment for 2 years) if the person makes the statement knowing that it is false. There are also offences relating to making false statements in connection with verifying a person's authority to enter into a transaction for the purposes of the verification of authority guidelines or the participation rules, production of false or misleading records and retention of documents or records.

77—Amendment of section 233—Other offences

The clause adds the following new offences to the section with a maximum penalty of $50,000 or imprisonment for 10 years to apply:

- an offence if a person without lawful authority and knowing that no such authority exists intentionally alters or causes to be altered a client authorisation;
- an offence if a person fraudulently uses, assists in fraudulently using or is privy to the fraudulent using of a digital signature within the meaning of the *Electronic Conveyancing National Law (South Australia)*.

The clause also removes references to dealing in the section, makes an amendment consequential on the repeal of section 14 and makes a number of amendments consistent with the statute law revision process undertaken in the measure.

78—Insertion of Part 20A

This clause inserts a new Part as follows:

Part 20A—Client authorisation

240A—Client authorisation

The proposed section defines a client authorisation as—

- a document that is a client authorisation for the purposes of the *Electronic Conveyancing National Law (South Australia)*; or
- a document in the appropriate form by which the client of a law practice, legal practitioner or registered conveyancer authorises the practice, practitioner or conveyancer to execute 1 or more instruments, or do 1 or more other things, on behalf of the client in connection with a specified transaction or for a specified period of time.

240B—Effect of client authorisation

The proposed section sets out the effect of a client authorisation completed under the proposed Part.

240C—Termination of client authorisation

The proposed section provides for the requirements for terminating a client authorisation.

240D—Instruments to be executed by natural persons

The proposed section sets out the requirements for an instrument to be executed under a client authorisation in the case of a law practice or a registered conveyancer that is a body corporate.

240E—Client authorisation may be given by Crown or statutory corporation

The proposed section provides that the Crown (including an instrumentality of the Crown) or a statutory corporation may provide for a representative to execute instruments on its behalf by completing a client authorisation (irrespective of whether it has the capacity to delegate its powers).

240F—Legal practitioner and registered conveyancer must obtain authorisation

Proposed subsection (1) makes it an offence with a maximum penalty of imprisonment for 2 years for a legal practitioner or registered conveyancer to execute an instrument for the purpose of the principal Act or the *Electronic Conveyancing National Law (South Australia)* on behalf of a party to the instrument other than in accordance with a properly completed client authorisation, or without first complying with verification of identity requirements and verification of authority guidelines as set out in the proposed subsection.

Proposed subsection (2) sets out the circumstances to which an offence under proposed subsection (1) does not apply. Proposed subsection (3) provides a defence for the offence in proposed subsection (1).

240G—Retention of client authorisation

The proposed section provides that a client authorisation must be retained by the legal practitioner or conveyancer for the period prescribed by the regulations with a maximum penalty of imprisonment for 2 years.

79—Amendment of section 246—Unregistered instruments to confer claim to registration

The clause amends section 246 to include a reference to an instrument that may be executed other than by signing, to allow for instruments in electronic form. The clause makes other amendments consistent with the statute law revision process undertaken in the measure.

80—Amendment of section 247—Informal documents may be registered

The clause amends the section to include reference to a document being signed or executed to allow for instruments in electronic form.

81—Amendment of section 255—Confused boundaries

The clause amends the section to include and standardise references in the Act to registering or recording instruments on the certificate of title.

82—Amendment of section 267—Witnessing of instruments

The clause makes an amendment to delete reference to execution of an instrument requiring witnessing and substitute a requirement for witnessing in the case of signing an instrument.

83—Amendment of section 268—Improper witnessing

These amendments are consequential on amendments in clause 82. The penalty for the offence is increased in line with other similar offences.

84—Amendment of section 270—Execution of instrument by corporation

This amendment provides that a corporation may execute an instrument in any manner permitted by law.

85—Amendment of section 273—Authority to register

The clause makes a number of amendments to ensure consistency between certification requirements under the principal Act and the *Electronic Conveyancing National Law (South Australia)*, and to enable certification by a person who has executed an instrument under a client authorisation.

86—Insertion of section 273AA

This clause inserts a new section:

273AA—Proof of authority of unrepresented parties to enter into transaction

Proposed subsection (1) provides that if a party to the instrument is not represented by a legal practitioner or registered conveyancer, the Registrar-General must not register or record an instrument in the Register Book or the Register of Crown Leases unless the party has satisfied the Registrar-General that he or she is authorised to enter into the transaction to which the instrument relates.

Proposed subsection (2) provides that such a party must retain a copy of any document used for the purpose of fulfilling his or her obligations under proposed subsection (1) for the period prescribed by the regulations, with a maximum penalty of $10,000 or imprisonment for 2 years.

Proposed subsection (3) inserts a definition for the purposes of the proposed section.

87—Amendment of section 273A—Verification of identity requirements

Subclause (1) provides that the identity of a party to an instrument or a person executing a document for the purposes of the Act (other than a legal practitioner or registered conveyancer acting under a client authorisation) must be verified in accordance with the prescribed verification of identity requirements. Subclause (2) removes the limitation of a period not exceeding 10 years from the specified requirements in subsection (4)(b) of the Act. Subclause (3) provides that in civil proceedings (other than review proceedings under the principal Act) where it is alleged that a person failed to comply with a requirement under the verification of identity requirements, that person bears the onus of proving his or her compliance with the requirement. The amendment in subclause (4) is consequential on the new definition of instrument in the measure, and the amendments in subclause (1).

88—Insertion of section 273B

This clause inserts a new section:

273B—Verification of authority guidelines

The proposed section provides the requirements for the issue of verification of authority guidelines.

89—Insertion of section 276A

This clause inserts a new section:

276A—Evidence of instruments lodged electronically

The proposed section provides evidentiary provisions for a document certified by the Registrar-General that reproduces the contents of an instrument lodged electronically under the Act or the *Electronic Conveyancing National Law (South Australia)*.

90—Substitution of section 277

This clause substitutes section 277 as follows:

277—Regulations

The proposed section allows the Governor to make regulations under the Act.

Schedule 1—Related amendments

Part 1—Amendment of *Legal Services Commission Act 1977*

1—Amendment of section 18A—Legal assistance costs may be secured by charge on land

The clause makes a consequential amendment to the section to remove reference to an instrument being attested by a witness, as a result of changes implemented in the measure.

Part 2—Amendment of *Registration of Deeds Act 1935*

2—Amendment of section 6—Registrar-General of Deeds

The clause removes the requirement for the Registrar-General of Deeds to be appointed by the Governor, and provides that the Registrar-General under the *Real Property Act 1886* is to be the Registrar-General of Deeds.

Part 3—Amendment of *Stamp Duties Act 1923*

3—Amendment of section 2—Interpretation

The clause inserts the following interpretative provisions into the Act:

- if an instrument under the *Real Property Act 1886* is executed by a legal practitioner or a registered conveyancer on behalf of a person under a client authorisation (within the meaning of that Act), the instrument will be taken for the purposes of the Act to have been executed by the person who provided the authorisation;
- if a dutiable instrument to be registered or recorded under the *Real Property Act 1886* is in electronic form, a requirement under the Act for such an instrument to be duly stamped will be taken to be satisfied if a stamp duty identification number (as defined) appears on the instrument.

Part 4—Amendment of *Worker's Liens Act 1893*

4—Amendment of section 10—Lien to be registered

This amendment makes amendments consequential on other amendments in the measure relating to forms, execution, signing and witnessing.

5—Amendment of section 12—Notice to be deemed caveat

This amendment is consequential on certain amendments in clause 62 of the measure.

Schedule 2—Related amendments—duplicate certificates of title

The amendments contained in the Schedule remove references to duplicate certificates of title from various Acts.

Schedule 3—Transitional provisions

1—Registrar-General and Deputy Registrar-General of Deeds

The clause provides for the continuation of the appointment of the current Registrar-General of Deeds and any Deputy Registrar-General of Deeds.

Debate adjourned on motion of Ms Chapman.

Mr Pederick interjecting:

The DEPUTY SPEAKER: Order!

The Hon. A. Koutsantonis interjecting:

The DEPUTY SPEAKER: Order!

Mr Pederick: Go for it.

The DEPUTY SPEAKER: Order! Looking at me; the Treasurer is looking at me and speaking to me.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (PUBLIC MONEY) AMENDMENT BILL

Introduction and First Reading

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (12:10): Obtained leave and introduced a bill for an act to amend the Nuclear Waste Storage Facility (Prohibition) Act 2000. Read a first time.

Second Reading

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (12:11): I move:

That this bill be now read a second time.

The Nuclear Waste Storage Facility (Prohibition) Act 2000 was passed by the South Australian parliament to protect the health, safety and welfare of the people of South Australia and to protect the environment by prohibiting the establishment of certain nuclear waste storage facilities in this state. Section 13 of the Nuclear Waste Storage Facility (Prohibition) Act 2000 states:

Despite any other Act or law to the contrary, no public money may be appropriated, expended or advanced to any person for the purpose of encouraging or financing any activity associated with the construction or operation of a nuclear waste storage facility in this State.

The government has formed the view that the repeal of section 13 is necessary to remove barriers that prevent consultation with the community about the findings of the Nuclear Fuel Cycle Royal Commission. The repeal of section 13 is necessary because it has the potential to inhibit public consultation on the merits of a nuclear waste storage facility once the Nuclear Fuel Cycle Royal Commission hands down its final report to the government on 6 May 2016.

Once the royal commission hands down its final report, there will be a period of extensive community engagement that is expected to involve the commitment of public resources to facilitate the process. The repeal of section 13 does not signal a shift in the government's policy on nuclear storage and does not pave the way for a nuclear waste facility in South Australia. Section 8 of the act, which prohibits the construction or operation of a nuclear waste storage facility in South Australia, is retained in its current form. This means that any such policy decision would require new legislation to be brought to the parliament.

The bill is consistent with the government's commitment to South Australians that the government will discuss and deliberate on the risks and opportunities of further participation in all aspects of the nuclear fuel cycle. The bill includes a retrospective commencement clause to take effect from the date of introduction into parliament. The retrospective commencement date is to enable the effective government planning to support public deliberation on the royal commission's final report.

The royal commission released its tentative findings on 15 February and will deliver its final report to the government by 6 May. The government will then consult on the report's findings before a position is reached by the end of 2016. I apologise to the house for reading the second reading explanation in full, but I thought it deserved an explanation personally. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be taken to have commenced on the day on which it was first introduced into the Parliament.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Nuclear Waste Storage Facility (Prohibition) Act 2000*

4—Repeal of section 13

Section 13 is repealed by this clause.

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT (GENDER IDENTITY AND EQUITY) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 24 February 2016.)

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (12:15): Having only recently spoken on this bill, I will not make a long closing second reading speech. I merely thank all those who have been involved in preparing this bill, and I thank all contributors for their thoughtful contributions. I urge that as we

consider what is, essentially, a bill of tidying up language and removing unnecessary discrimination between men and women, that this bill be supported in its entirety.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr KNOLL: In the definition of 'gender identity'—and I suppose this is a little bit fundamental—we are obviously quoting a definition within the act of 'gender identity' separate from 'sex'. I appreciate and understand why we are doing it, but I am wondering whether any thought has been given, in drafting this definition, to where it is expected that this definition will be used in practice? We are putting it in there, and I assume it is not just as a token: 'Let's chuck it in there.' I assume it will have some practical or legal purpose, and I would be interested to know where it will have effect?

The Hon. S.E. CLOSE: Accepting the term 'gender identity' in the Acts Interpretation Act means that any time the term 'gender identity' is used in any act in the future, and through any amendment process, it will contain the meaning that is captured here. A specific example that this bill produces is in the Equal Opportunity Act.

Mr KNOLL: Out of an abundance of caution, and this may be a stupid question, its future use will only be defined by future changes to acts. I assume this is the first time we are talking about this?

The Hon. S.E. CLOSE: That is right. On my advice, 'gender identity' is not currently used in acts in South Australia. The bill introduces that term not only in the Statutes Amendment but in some of the other clauses, such as in Equal Opportunity. Then, subsequently, should the parliament so will it, it might appear in acts. That would be a decision consciously made by parliament.

Clause passed.

Clause 5 passed.

Clause 6.

Ms CHAPMAN: This relates to gender balance in the nomination of persons for appointment to statutory bodies. Obviously, we need to accommodate those, for example, who ultimately self-identify for a different sex than they had previously operated under. Where there is a provision in legislation which requires a certain number of persons on a board to be female, for example, and the eligibility or vacancy opportunity is for a female, how does the government propose to manage a circumstance where someone has been male, may or may not have gone through medical procedures but then self-identifies as female, could even do so for the purposes of achieving a vacancy option, and then goes back to what they were the day before?

Do you see what I mean? I am really talking about the potential misuse of the self-identification model for the purposes of gaining access to gender equity opportunities, so perhaps the opportunistic self-identification. Secondly, in getting advice as to how that is going to operate, can you also identify whether there is a limit on when a person can change sex? It may be to qualify for something in an armed force that might require a male person, or to qualify to do searches in a prison that requires a female person. Is somebody going to be able to change their self-identified status multiple times?

The Hon. S.E. CLOSE: I find it unlikely that such a scenario might happen, but it is worth testing every possible scenario when considering legislation. I think the crucial point here is that it is not about a single point of time when someone either qualifies or does not qualify for a position: it is the ongoing status of that person. So, the idea that someone would change their sexual identity in order to get on a board as a female but then immediately revert means that they would then no longer be suitable. They would no longer be qualified.

So, it is not about a single point in time: it is about their identity. Should that change in the course of their sitting on a board, then that changes their status and whether they are on the male or the female side of the ledger. I do not anticipate it being a problem that we have created an incentive for someone to identify briefly as an alternative gender.

Ms CHAPMAN: With respect, minister, it might be for the purposes of gaining that position for three or four years, and then changing. I perfectly understand that, if someone has accessed a vacancy based on a certain sex or gender identity as it currently stands and then changes, they may be disqualified from holding that office as a result of changing their gender, but I am talking about someone who might do that for the purposes of accessing that opportunity, take up that opportunity for a period of time and then change down the track.

The Hon. S.E. CLOSE: I think, as you have indicated, in that case, they would in all reasonable circumstances disqualify themselves. The a priori question of whether anyone would in fact change their identity in order to secure a position I think is fairly remote but, in any case, I think we are protected from someone going back and forth on a whim designed to gain a position by the fact that they would become disqualified by reassigning their own gender.

Ms CHAPMAN: Thirdly then, is there a number limit on how many times one is able to do this, or could one do this on a periodic basis, multiple times?

The Hon. S.E. CLOSE: No, there is no such limit countenanced in this legislation.

Mr KNOLL: Obviously, we are creating definitions around gender diversity and intersex people. How is it envisaged that they will be captured as part of the mandated minimum number of women on boards and committees?

The Hon. S.E. CLOSE: As I understand the question, the phenomenon that the honourable member is describing is where a person identifies as neither male or female and, therefore, what position might they be able to hold. I understand that there are extraordinarily few people in Australia—something like three—who consider themselves to be in that situation legally; therefore, we have not designed a provision that would deal with those people. What we would expect is a reasonable case-by-case judgement to be made on such a rare occurrence.

Mr PEDERICK: The clause states:

> …before the definition of *non-government entity* insert:
>
> > *man* includes a person who identifies himself as a man regardless of the person's designated sex at birth;

I guess this comment is along the lines of the member for Bragg's questioning. I struggle with the possibility that a person could turn up one day—and I use the word 'person' loosely, but it could be a man or a woman—and they just decide for the gender equity issue that perhaps they need to identify as a woman that day. Someone like myself could turn up proudly as a man, but for whatever reason the man involved could say they are a woman. Could they claim discrimination if they are not allowed equity onto a board, if we are looking for a 50 per cent split of men and women?

I have a real problem here, and I think this bill is farcical. We are taking out reference to men and women to look after what I see as a minority. I have no issue; I am all about diversity, but I think we are going one step too far in this. It seems ridiculous that we are even contemplating legislation like this. You might find that someone will end up on a board and decide that they are a man one day and a woman the next, or the other way around. I find it really confusing. I think someone could perhaps be put off a board for discrimination if someone decides to change their own gender identity. From everything I can see, there are no medical assumptions made here, it is all about self-identity.

The Hon. S.E. CLOSE: I think in large measure that was a commentary on the member's view of the clause rather than a specific question, but if I could perhaps give some advice to the member if he is interested in the nature of gender identity and its complexity. It is not a phenomenon that people take lightly or go from one to the other and back again in order to manipulate the system. It is a phenomenon that is not common, but not so rare as to be unnecessary to have regard to. When I was in my early teens, I think, I read *Conundrum* by Jan Morris, and I urge the honourable member to consider reading deeply about people who go through this experience of feeling that they are not the gender that has been assigned to them by their biology.

Mr KNOLL: On that issue, but maybe in a slightly different format, again, we are inserting gender identity as opposed to strictly sex as a way to define gender for the purpose of a number of these clauses. In the information that was given to us, the term 'gender identity' refers to a person's deeply held, internal and individual sense of gender, which obviously speaks to a deeper thought process than something that is so flippant. Mind you, that definition is not in the bill but, having said that, it was provided in the information session that we had.

Is there anything in that definition—the idea that it is deeply held—that helps in any way? I suppose what I am asking is: is that definition something that you would consider should be part of the understanding of the term of gender identity, that it is a deeply held, internal and individual sense of gender, and does that provide any protection against flippancy?

The Hon. S.E. CLOSE: I am satisfied that the definition is sufficient for the conditions under which it will be used. I do not see a great threat of people flippantly identifying for positions. If there is an amendment that is being countenanced, I am always willing to listen to amendments, or that could obviously be looked at in the other place. However, at this stage I am comfortable that this does the job it is required to do.

The Hon. T.R. KENYON: Sorry to be asking you a question from immediately behind you, minister. This is a weird experience, I can appreciate. The question really is, and coming back to the member for Bragg's point about the boards, there is the potential—likelihood I do not know—but there is certainly a potential for people to misuse the provision to gain positions on boards, and there is obviously a pecuniary benefit on some boards. Not all of them—obviously, a lot of boards are non-paying boards and they are voluntary positions that people contribute to.

But there is a potential for misuse of that, and also in fact to misuse what is obviously a very sensitive, personal topic—I obviously cannot profess to be an expert on this area—for someone who is transgender or intersex to have that misused by other people who are not in that position of being in maybe not a personal dilemma, but making that change in their life. To have that misused by people solely for the purposes of gaining a position on a board I think would be very upsetting; it might be upsetting to them or it may be offensive to them.

Obviously, it is too late to do it now because you would have to prepare an amendment, but it would be a reasonable thing, I think, for there to be some sort of penalty for misusing these provisions purely for gain of some sort where we are talking about what, for a lot of people or for everyone involved, is a very deeply personal thing. I just flag that as something to think about in the intervening period between this house and the other.

Another amendment that may be worth considering in between the houses is that, in the event that you do go about getting a board position, for instance, as the member for Bragg described in her example, you are automatically—if you decide to revert back or whatever else—removed from the board that you gained partly as a result of your gender identity.

Ms Chapman interjecting:

The CHAIR: Order, member for Bragg. You just picked him up on not going through me, so you must really not do the naughty thing yourself.

Mr Gardner interjecting:

The CHAIR: Order! No, you don't need to compound the problem. Have you finished, member for Newland?

The Hon. T.R. KENYON: Thank you, ma'am, yes.

The CHAIR: The minister is going to respond to the member for Newland without interjection.

Ms Chapman: What was the question? I didn't hear it.

The CHAIR: Well, you should have been listening. What can I say?

Mr Gardner interjecting:

The CHAIR: Listen to the answer and you might know.

The Hon. S.E. CLOSE: I feel that this area of questioning has come up four times now, which is essentially, 'Is this open to abuse by people who might temporarily claim to change their gender in order to have pecuniary advantage?' I find it an extraordinarily unlikely scenario, as I have said previously, but it is not unreasonable for people to ask questions about the implications of an act.

What this is doing is making sure that we are not discriminating against people who firmly identify as a certain gender but otherwise, by reason of their biology and their DNA, are not able to take up a position for that gender with which they identify themselves. The thought that we need to build in a whole lot of protection measures to prevent that from being abused I think is unnecessary in my judgement, and certainly there has been no amendment lodged that would suggest that other people have thought about this deeply enough to want to change the wording of the act.

As my good friend the member for Reynell has pointed out, there will also be the application of this legislation, with organisations choosing to have procedures around how it is applied. If they do regard that as some kind of threat, then they may well produce procedures that would govern it, but I see no need for that to appear within our legislation and I see no amendment to argue for it.

Ms CHAPMAN: Can I just say that, whilst in the course of this questioning there has been an indication of penalties for alleged misuse, and given that I have indicated my position that I will be supporting this bill, I just want to make it absolutely clear and have the minister's confirmation on this. It is quite reasonable, in my view, that the government advance a bill to ensure that people who self-identify as neither male nor female have some recognition. I totally support that concept, and I think that is reasonable. People who want to self-identify in that transgender/intersex/queer category are a small minority.

It is absolutely reasonable for members to identify circumstances where there may be misuse or an unintended consequence of someone else missing out as a result of the legitimate use of someone self-identifying. Whilst there have been questions on the potential misuse to get on a board for monetary gain or status, the equally concerning area—and, I do not doubt for a movement, perhaps inadvertent consequence—is that someone takes a position, whether it is on a board, or any other opportunity as a result of the Acts Interpretation Act being amended, and someone else complains.

I think it is much more likely that someone will say they are aggrieved that someone else has taken the opportunity, or is now eligible for something, or is disqualified for something which then results in another party missing out. That is where the problem is going to come about. I do not think the government should underestimate that, and I do not think the government should criticise questions being raised about dealing with unintended consequences. Nor do I think there should be a reflection on members who take a view as to whether legislation is necessary to deal with this, as though they are insensitive in some way to the plight of those who feel that they are on a ship on their own and are not being recognised.

I think there is a diversity of views about the necessity of some of this legislation. On the question of misuse, the minister herself has identified that, in her view, it would be extremely unlikely and a rare circumstance. I hope she is right. We are going to be coming to clause 9 in a minute and I will be asking for the detail in relation to that. It has been provided to me personally, and I have referred to it in the second reading debate.

On the basis that one person had been pregnant, and had not made any attempt to self-abort, or implicate someone else to do it—despite the remote possibility that it might never happen again or, in this occasion, has not happened at all, we are going to change the law under the Criminal Law Consolidation Act.

I am prepared to support that for the reasons I set out in the second reading contribution, but I am not prepared for there to be an attempt to reflect or in some way criticise the apparent insensitivity of people because they raise potential inadvertent consequences to legislation. I will be voting to support this bill, but be on clear notice: I will not stand in this chamber and allow my colleagues on this side or that side to be criticised.

Clause passed.

Clause 7.

Ms CHAPMAN: What happens at present, as I understand it, minister, is that if a search is to be done of a prisoner—and this is frequently the issue that is related to here—of one gender, there is an expectation that a correctional services officer of the same gender will be the person who is employed for the purpose of doing the search.

We have special provision under the discrimination law to sometimes give exemptions to enable persons to conduct searches. I think we have a special provision, for example, which is not able to be used as a basis for discrimination, to enable a person outside of the prison world. So, if the Queen comes to South Australia and she has to be searched, she is entitled to have a female person conduct the search. There is an exemption under the equal opportunity law from any prosecution, I think, to enable that to happen. That happens from time to time, and that is fine.

Again, I just highlight that whilst I entirely endorse that, what we have is a situation where someone who may have, for example, male genitalia who self-identifies as a female. Probably, in that situation, given the case I pointed out in the second reading speech, that person would be at Yatala or Mobilong, and not at the Adelaide Women's Prison, if it followed the example I used from Perth recently. However, in the event that, as I say, they have still got physical identification of a male but are self-identifying as a female, what is to happen then? Is there going to be some capacity to enforce the right to have a search as per your nominated or self-identified new sex, as such? How is that to apply?

The Hon. S.E. CLOSE: I think there are two elements to the response. One is that this is an on-request matter rather than a system that is geared around expectation. The other is the clause 'if practicable'. There is a recognition that it may not at all times be practicable to have, say, an intersex person searched by an intersex person.

Mr KNOLL: Some of the questions I raised at the briefing were around exactly what the deputy leader has talked about and the answer was given that correctional services and police already have policies about how they deal with these things. I then went back and had a look at the base legislation and the minister is right that in both those instances it has the caveat 'if practicable', which satisfied me that I did not need to bring an amendment here. But, is there any way to understand what the policies of Corrections and police are? That is something I asked at the time and I suppose I am asking the same question now, whether there is any understanding of what the protocol is.

The Hon. S.E. CLOSE: I would be very happy to facilitate a briefing between the houses on that. We do not have the advice here in this chamber for me to be able to give you, but we would be very pleased to provide what we can to you in between houses.

Mr PEDERICK: I think this clause could lead to a whole lot of issues, certainly in Corrections, and certainly where people are held or assessed, especially if they stick to their guns and go to the legislation and say they want to be assessed by someone, whether they are lesbian, bisexual, gay, transgender, intersex or queer. I suppose where I am going with this is I think this will raise a whole heap of issues for our correctional facilities, which have enough issues at the moment, especially in capacity. I have Mobilong in my electorate that was built for 160 prisoners and, with the current extension which Public Works Committee is looking at, I believe very shortly it will go up to 432 prisoners. That is just the prison in my electorate, and we have correctional facilities spread across the state.

The issue for me with this clause is, apart from the fact that the prisons are overflowing, I am just wondering what we do with custody if someone who is a male prisoner or a female prisoner clearly has the physical assets of either and suddenly decides that they should not be housed in Yatala and want to go to the women's prison but, clearly, physically, they are a male—or the other way around: if they are a female. I know you say 'if practicable', but the issue I have is that in the Correctional Services Act, relating to the initial and periodic assessment of prisoners, it states that:

> The CE must, as soon as practicable after the initial admission to a prison of a person who has been sentenced to a term of imprisonment exceeding six months, to life imprisonment or to a sentence of indeterminate duration, and thereafter at regular intervals of not more than one year, assess the prisoner and his or her circumstances and determine whether or not the prisoner should be transferred to some other prison.

Apart from the whole custody issue that I think is going to happen here, and I know the minister said 'where practicable', my concern is that if someone wanted to stick to the law they could stand their guns and say, 'Well, no, I'm not going to be assessed unless you find', let us say, for instance, 'a transgender person'. Corrections suddenly needs to find a transgender person. I just want a bit more explanation on that.

The Hon. S.E. CLOSE: I believe the intention is to allow the recognition of such a request but not to compel Corrections to fulfil it. 'If practicable' in that subclause is essential in that sentence because, as you point out, there could be circumstances in which the course of the Correctional Services service is interrupted or halted through the decision-making of the prisoner in question. So, this clause very clearly seeks to not allow the concern that you have to happen.

It would have no legal basis to be able to stop the assessment, the transfer or whatever. However, it is about saying that we recognise that some people are in certain circumstances where they would have preferences on sexuality, gender and so on and that that ought to be at least considered by Correctional Services, and if practical responded to but if not practical then not. I am not sure whether there is a particular alteration that the member would like to see to this, but I believe that legally this is giving Corrections the protection that I understand the member is seeking.

Mr PEDERICK: I have just one more question. Essentially, this is catering for, I am assuming, a minority of prisoners who may want to identify under this legislation, but at the end of the day, as the minister has explained, no-one has to stick to their request, anyway. From the minister down, but the chief executive as tabled in the legislation, could just say, 'Well, it's not practicable. We're not going there.' So, it is a bit of a sop to political correctness, I think.

The CHAIR: That's an opinion, not a question. Deputy leader.

Ms CHAPMAN: My question is really as to what appears to be an omission at this point, that is, there seems to be no provision in this bill for police searches. I distinguish them because, obviously, police are managed by the Police Act and other legislation and frequently there are police officers present for the purposes of pending charges or pending determination by courts for bail applications and, ultimately, sentencing.

The reason I ask it is this, and particularly the question is: has the government considered, in relation to police, whether there should have been any inclusion in this act as to the same 'if practicable' access to a male or female person? In particular, I raise it because I can recall on one occasion there had been the disclosure of a woman who was stripped searched and left naked for a prolonged period.

I made a public statement about how outrageous that was, and that that practice should not be pursued. There was an assertion at the time by, I think, a Police Association representative that it had been a one-off, and, in fact, we found that it was not. Issues were raised at the time with the then police minister, and I would certainly hope today that that situation does not occur, that is, prolonged nakedness of a person in detention, which, of course, can be used tactically to have them submit to whatever the interrogator wants to pursue.

Clearly, the police do, from time to time, have to completely strip a person who has been taken into custody to undertake procedures; some of them are forensic and some of them are for photographing, inspection, medical assessment, identification if they are carrying drugs, and so on. Some of that is quite invasive. I understand that that can occur, so I just wonder: what is the situation with the police, and has the government considered the same applying to them?

The Hon. S.E. CLOSE: I thank the member for her question. I believe the response is to be found in clause 41, which is the amendment to the Summary Offences Act—

Ms Chapman interjecting:

The Hon. S.E. CLOSE: That's right—where it says amendment to section 81(3)(d) 'after "sex" insert "or gender identity".' I believe that that clause refers to searches by police.

The CHAIR: Does that satisfy the deputy leader?

Ms CHAPMAN: I hope so.

The CHAIR: You will check on that, no doubt. We will not be finished with this before lunch.

Clause passed.

Clause 8 passed.

Clause 9.

Ms CHAPMAN: Here is this issue of 'for the purpose of abortion'—this is when you take a poison to try to dispose of an unwanted foetus—and there is a maximum of life imprisonment. As I pointed out, the information that was given to me during the briefing was that there was a situation where a person had changed their identity (gone, in this case, from female to male) and subsequently found that they were pregnant. Therefore, they could have been in a category where, if they had attempted to procure their own abortion, they would have potentially avoided prosecution on the basis that they were not a woman who is pregnant.

That being the case, even though the person who had done that, or at least had been identified as having done that, in no way indicated that they were going to attempt to abort the child or to commit any offence, but the potential was always there. I raise that issue because of the comments made by the minister in previous matters here that, sure, we are dealing with a minority; in this case, we are dealing with someone who has not even attempted to do the wrong thing, but it has highlighted the capacity that someone could.

It always reminds me of the former premier, who used to sit in your seat, who came in here one day and said he was going to introduce a law that says that it will be an offence to eat cat food or dog food. Even though there was already a law that said that restaurants could not serve it, freeze it, cook with it, and all sorts of other things, he was going to introduce a law that said you could not eat it. When he was asked why it would be necessary to go on radio and save the world from dog and cat food eating, he said because there was a woman who rang up talkback radio in Victoria and said that she thought she had been to a premises where this might have happened. Well, I mean, really!

I accept that that is an outside risk, an outside chance, the 500 to 1 at the Melbourne Cup, that there is a possibility that somewhere out there sometime that could happen; and because it is the Criminal Law Consolidation Act I am prepared to support it. Today, I read in the paper that the Hon. Tammy Franks is considering amending this legislation, when it gets up there to the other place, to reduce the penalty from maximum life imprisonment. Has the government considered this and are they sympathetic or supportive of a reduction in penalty for a self-abortion from less than life imprisonment?

The Hon. S.E. CLOSE: I had not read that in the paper, so that is the first that I have heard of that. It is, of course, a matter of conscience, so there is no government position when it comes to amendments to the restrictions on abortion. The only way I can answer that question is by answering for myself, and without having considered it I do not see an argument for making that change.

This clause is about removing the distinction between man and woman and just saying 'a person'. As we had the tussle with the first clause that we discussed about whether or not rareness is a cause for making legislative change, I suppose my point in the previous one was that I felt that the likelihood of someone abusing the legislation was vanishingly small. However, if people wanted to come up with an amendment perhaps between the houses that would protect the legislation from being disputed, then that is always something that would be countenanced.

Ms Chapman interjecting:

The Hon. S.E. CLOSE: We would have to see what the amendment looked like and see whether that made sense. It is always good to have the strongest possible legislation. This clause is simply not choosing to define a person by their gender, and I think in more cases than not that is a good idea, but in terms of amendment to abortion that is the first I had heard of it.

Mr KNOLL: As I have said from the outset, I am supportive of the intent of this bill. I think that it includes people who could otherwise have felt excluded and I think that is an extremely important thing. Again, like the Deputy Speaker—well, not to put the Deputy Speaker in the same category—as a conservative, it is not my desire to always say no to everything. It is merely my desire

to make things as good as they can be and to look at the practicalities of certain legislation so that the intent can match the reality.

The first question I would like to ask on this clause is: is the only change that is being suggested here the change from 'pregnant woman' to 'someone who is pregnant'? Is there any other practical application? As an adjunct to that, is this the only time that that phrase is used in legislation?

The Hon. S.E. CLOSE: I understand that that is correct, that the only change is linguistic—to stop referring to a woman and to refer to a person. It is not changing the operation of that piece of legislation at all.

Mr PEDERICK: I may have a differing view to some. In relation to abortion, I have had plenty of feedback from people around the state but also my electorate who are concerned with this clause and the bill. When I made my contribution, I spoke about 54 women who identified as men in 2014 who gave birth in Australia. It is a simple known fact that unless you have female reproductive organs, because the artificial womb is a little way off I think—and I spoke about that in my speech, if anyone is keen to have a look.

Ms Chapman: You can have both.

Mr PEDERICK: Potentially you can have both sets, as indicated by the member for Bragg. For all eternity I will believe that women do a great job in our community and I find this discriminatory against women because not one of those 54 people who identified as men were men at birth. My question is, and I do not ask it flippantly: is the minister aware of anyone who was born a man who has given birth or is likely to?

The Hon. S.E. CLOSE: I do not have an exhaustive knowledge of all of the different genetic types that humanity can be blessed with. I know that there are genetic disorders, if disorder is the correct term, which involve XXY and XYY and, therefore, when you are dealing with changes to the XY category (XX being female, XY being male) when you are dealing with people who are born with different combinations, then it is very difficult to say: is the child a boy, is the child a girl?

As I believe I overheard the member for Bragg saying, there are people who are genuinely born with more than one gender's set of reproductive organs. Again, it is extremely rare but it does happen. Whether those people are then able to look anatomically male but bear children, I believe I have read that in the past that that is possible, but I would like to try to slightly change the emphasis on what this clause is doing. This clause is not seeking to say men and women, it is simply removing the word 'woman' and replacing it with 'person' which comprises women as well. I do not think it is in any way trying to step away from acknowledging the role that women have at birth. I seek leave to continue my remarks.

Progress reported; committee to sit again.

Sitting suspended from 13:00 to 14:00.

REAL PROPERTY (ELECTRONIC CONVEYANCING) AMENDMENT BILL

Message from Governor

His Excellency the Governor, by message, recommended to the house the appropriation of such amounts of money as might be required for the purposes mentioned in the bill.

Ministerial Statement

MINERAL AND ENERGY RESOURCES

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:02): I seek leave to make a ministerial statement.

Leave granted.

The Hon. A. KOUTSANTONIS: I am delighted to inform the house that I have recently approved a mineral lease for WPG's gold project at Tarcoola in the gold arc of the Gawler Craton. Tarcoola has a probable ore reserve of 900,000 tonnes containing 74,000 ounces of gold. WPG is now required to prepare and lodge its detailed operating plans for the mine—a Program for

Environmental Protection and Rehabilitation (PEPR)—so that the company can move to the next stage of mine development.

Tarcoola Gold has successfully negotiated and registered a native title mining agreement with the registered native title holders for the mine area—an important prerequisite for the approval of a mining lease. If the PEPR is approved, and subject to WPG raising the required financing, construction will be able to begin later this year on the mine located west of Glendambo. WPG plans to invest $16.7 million to construct the mine, employing about 68 full-time equivalent workers during production to produce about 20,000 ounces a year of gold.

WPG has big plans in South Australia, with a regional gold strategy in the Gawler Craton, building on this new mining lease in Tarcoola; its Tunkillia gold project; and the execution of the final agreements with Kingsgate Consolidated Limited to acquire the Challenger gold mine and its exploration assets just last month.

The nearby Challenger gold deposit was discovered with funding support from the South Australian Exploration Initiative, established by my predecessor, the late Frank Blevins. This initiative was a forerunner of the Plan for Accelerating Exploration (PACE) which has been running in South Australia for more than a decade and which supported the important deep drilling to extend the mine life at Challenger.

Challenger was the first major gold mine to open in South Australia in 100 years when it began production in 2002. Now, South Australia is home to the White Dam gold mine in the Curnamona province west of Broken Hill, and Havilah Resources is racing towards extracting first ore at the nearby Portia gold mine, and the list will continue to grow. Progress on the Tarcoola project highlights the foresight of the state's long-term investment in the significant economic potential of the original Challenger gold mine and our mineral resources across our most remote regions.

Fifteen years ago, Challenger was developed in an area that had no previous history of major mining developments. We can now imagine the very real prospect of Challenger becoming the epicentre of satellite operations as further gold discoveries in the region provide ore for the processing facilities at the mine site. The Challenger mine has operated successfully for more than a decade to produce more than one million ounces of gold.

WPG's strategy will extend the life of that mine and generate even more gold production from South Australia. I am also delighted to note the comments made by WPG executive chairman Mr Bob Duffin in the company's statement today to the ASX:

> It has been a pleasure dealing with the Department of State Development, which is clearly strongly supportive of South Australia's growing mining industry.

Everyone who knows Bob knows he is not usually overly optimistic. The Department of State Development will continue to work closely with WPG through the assessment of its detailed operating plans. If approved, WPG has indicated that the mine construction and production at Tarcoola are targeted to begin in the second half of this year. Even in the middle of the downturn in the resources industry, South Australia remains an attractive destination for investment, and that is not just my word.

The highly regarded Fraser Institute Annual Survey of Mining Companies has again ranked South Australia at the top of the list, with the latest results putting South Australia in the top 10 of 109 mining jurisdictions for investment attractiveness. The South Australian government will continue to work with the resources sector to ensure the search for new discoveries and the build-up of the capacity of successful explorers to transition to successful mining companies.

ARRIUM

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:06): I seek leave to make a further ministerial statement.

Leave granted.

The Hon. A. KOUTSANTONIS: I am delighted to inform the house that the Prime Minister has today announced that the commonwealth government will bring forward an investment of

$250 million to upgrade 600 kilometres of rail infrastructure between Adelaide and Tarcoola. Over the past month, the South Australian Steel Taskforce developed a series of options for the commonwealth to consider. We have been working closely with the Minister for Industry, Innovation and Science, the Hon. Christopher Pyne, on this very proposal and we welcome today's news and acceptance of this proposal.

Historically, Arrium has supplied high-quality rail to the Australian Rail Track Corporation, which manages and maintains more than 8,500 kilometres of rail infrastructure in this country. By bringing forward this investment, Arrium will be in a position to bid to supply rail from its Whyalla Steelworks, improving the profitability of the company's steel division.

Although we are awaiting further details from the Prime Minister's office, ARTC estimates this upgrade to be about $80 million of rail which can be smelted and provided by Arrium. If the company were to win the order, this scale will help Arrium ride out the current low-price environment for steel. The Adelaide to Tarcoola track is about 50 to 60 years old, and the ARTC has indicated that work on this project can begin within three to six months of official approval, with the first orders placed for steel rail placed during that period.

This project will take two to three years to complete, creating about 130 jobs at the ARTC, mostly in Port Augusta and the Upper Spencer Gulf region, as well as hundreds of indirect jobs. It has also the potential to create supply opportunities here in South Australia during the laying of rail, sleepers and ballast.

This is not the only solution to the situation facing Arrium, but it will be a major part of the government's response, and I thank the Prime Minister and minister Pyne for agreeing to the proposal as a way of supporting Arrium and its workforce. South Australia is the birthplace of Australia's steel industry. As a nation, there is a strategic imperative to continue to be a country that manufactures steel. The South Australian government, through its Steel Taskforce, continues to work with Arrium and the commonwealth to identify other options for supporting the long-term future for the Whyalla Steelworks.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:09): I bring up the 20th report of the committee, entitled Subordinate Legislation.

Report received.

Question Time

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:10): My question is to the Minister for Education and Child Development. Which minister is responsible for the culture of Families SA that, according to former chief executive David Waterford, 'had a siege mentality and was often more concerned with protecting its reputation than the safety of children'?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:10): I thank the Leader of the Opposition for the question. We are certainly in a position now where a number of staff at the—

Mr Knoll: Are able to tell the truth.

The Hon. J.R. RAU: I need some protection, Mr Speaker, from the member for Schubert. We are in a position—

Members interjecting:

The SPEAKER: The member for Morphett will be the only member called to order out of that melee.

Mr Marshall interjecting:

The Hon. J.R. RAU: I am trying to assist them, Mr Speaker.

Members interjecting:

The Hon. J.R. RAU: I am concerned that some of the members at the front are being made cat's paws of by the member for Kavel.

Members interjecting:

The Hon. J.R. RAU: I would like to finish, but I keep getting interrupted. As I was saying, the situation is that there is no doubt that a large number of people who work in Families SA have felt the pressure and the attention that has been directed towards the work that they do—very difficult work indeed—

Mr Marshall: The question is: which minister is responsible?

The Hon. J.R. RAU: I'm coming to that.

Mr Marshall: Building up to it.

The Hon. J.R. RAU: I'm building up to it.

The Hon. T.R. Kenyon: He's got four minutes. He can take as long as he wants.

The Hon. J.R. RAU: I've got another three minutes to develop this argument.

Mr van Holst Pellekaan: No, two minutes and five seconds.

The Hon. J.R. RAU: Okay, fair enough, but I've still got time to develop it.

The Hon. T.R. Kenyon interjecting:

The SPEAKER: The member for Newland is called to order; he's been doing it all day.

Members interjecting:

The Hon. J.R. RAU: They have obviously heard enough, Mr Speaker.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:11): Supplementary: does the Attorney-General concede that there is confusion about the responsibilities in this house for child protection between the Minister for Education and Child Development and in fact his own portfolio of child protection reform?

The SPEAKER: I don't see how that question arises out of the previous answer.

Mr MARSHALL: Of course it does. We don't even know who is going to answer it and then, when they do answer it, they don't even say anything, because they don't know who the minister responsible for the culture is.

The SPEAKER: There wasn't a great foundation on which to build. Still, the Deputy Premier.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:13): I have reflected on the question that I have just been asked by the Leader of the Opposition and I think the answer is: no, there is no confusion.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:13): Supplementary: can the minister perhaps outline to the house then the breakdown of responsibilities for child protection between the Minister for Education and Child Development and his own portfolio of child protection reform?

The SPEAKER: Would the Deputy Premier care to enlarge on what is publicly available?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:13): Yes, I would appreciate the opportunity. Thank you, Mr Speaker. The situation is that there are a number of reports which are presently being considered by government. One of them was a report produced by the Coroner, Mr Johns, some time ago in relation to the tragic death of Chloe Valentine. That resulted in a series of actions, some of which needed to be taken here—when I say 'here', I mean in the parliament—and that is proceeding, albeit not quite as quickly now as it was when it was in here. There is also obviously the baby Ebony report and we also, as you know, have a royal commission.

My primary responsibility is to, in coordination with the minister, work on a cabinet committee which is trying to draw together the various people within government who have responsibility in this area. There are a number of ministers here, including the Minister for Health for example, who clearly have an interest in this area because of things like hospitals and other things. Primarily, I am the coordinator of that committee. I am also there to work with the Minister for Education and Child Development on higher policy issues about the—

Mr Pisoni interjecting:

The SPEAKER: The member for Unley is called to order.

The Hon. J.R. RAU: The day-to-day administration, or line administration of the department, as it is often described, is a matter for a ministerial colleague, and she deals with that matter. I am there to—

Mr Knoll interjecting:

The SPEAKER: The member for Schubert is called to order.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:16): My question is to the Attorney-General. Who has responsibility for determining whether child protection remains in or out of the education department, and does the Attorney-General concede that Mr Waterford was correct when he stated that child safety suffered once the child protection department was rolled into the education department?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:16): I thank the honourable member for his question. I obviously was not present during Mr Waterford's contribution, but I have read in the media reports of what he had to say, just as others have, and that clearly was his perspective on things. But I think the fact is that Mr Waterford was making a contribution to Commissioner Nyland's inquiry. My expectation is that Commissioner Nyland will consider the views of Mr Waterford and many other people as to whether or not that particular formula for the alignment of agencies has been beneficial.

Mr Marshall: Who is responsible is the question: is it you or is it the Minister for Education and Child Development?

The Hon. J.R. RAU: Ultimately, my view is that it will probably proceed in this way. At some point in time, Commissioner Nyland I expect—well, not at some point in time, I think it is about August.

Mr Marshall: Who's making the decisions is the question, and do you support the current arrangement?

The Hon. J.R. RAU: I am happy to take supplementary questions on this.

Mr Marshall: That is the question. That is the original question. We're onto the third question and we haven't had any answers.

The Hon. J.R. RAU: Please, let me get to it.

Members interjecting:

The Hon. J.R. RAU: I am trying to actually divine what the substance of the question is. If the question is actually, 'What are you doing right now about changing the structure of the education department?—

Mr Marshall: That wasn't the question.

The Hon. J.R. RAU: Okay, well, I'm trying to make sense of it because—

Mr Marshall: Who will be making the decisions?

The Hon. J.R. RAU: The cabinet. The government will in due course make a decision. It may well be that the committee of which I am chair and my ministerial colleagues are members will put a proposition to the cabinet, but ultimately that will be a matter for the cabinet. But can I say this: I think it would be impertinent, rude and disrespectful for the cabinet to go off and make a decision about that matter in the full knowledge that Commissioner Nyland is presently conducting an inquiry into that matter, and we fully expect that the commissioner will have something to say about that topic. I would have thought for us to go off and make any sort of pre-emptive move in any direction would be—

Mr Tarzia interjecting:

The SPEAKER: The member for Hartley is called to order.

The Hon. J.R. RAU: For us to make any sort of pre-emptive move in that space I would have thought would be most discourteous.

Ms Sanderson interjecting:

The SPEAKER: The member for Adelaide is called to order.

The Hon. J.R. RAU: I would expect that there will be—

Mr Knoll interjecting:

The SPEAKER: I warn the member for Schubert.

The Hon. P. Caica interjecting:

The SPEAKER: I call the member for Colton to order.

The Hon. J.R. RAU: My expectation is that we would be in a position as a government to deal with a response to that question subsequent to receiving the report from Commissioner Nyland.

Parliamentary Procedure

VISITORS

The SPEAKER: Before the leader asks his next question, I welcome to parliament students from Mary MacKillop College, who are guests of the Leader of the Opposition, and students from the Adelaide Secondary School of English, who are guests of mine.

Question Time

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:20): Has the government sought any interim recommendations from the royal commissioner regarding where the child protection agency should be located?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:20): Mr Speaker, no we don't, and it would be—

Mr Marshall: Why?

The Hon. J.R. RAU: Why don't we? Because Commissioner Nyland has not chosen to provide us with an interim recommendation at this point in time. However, I would be happy to say

to members present today that the minister and I did actually have a meeting with the commissioner this morning, and—

Members interjecting:

The Hon. J.R. RAU: We had a meeting with her this morning and I did convey to her the notion that, so far as the government was concerned, if she did wish to offer any sort of interim recommendations or give us an early heads-up as to where she was going, then that would be beneficial, because we could commence the process of considering whatever it was that she was recommending sooner rather than later.

I have left her with that thought. I think, judging from her response, she saw some merit in that. If she came to a clear decision about something and it was inevitably going to be in her report, and she got to that point, I think she sees the wisdom in sharing that with us at the moment, as a recommendation. But, at this point in time, as to the question asked: no, we don't, but I have certainly encouraged her to feel free to do that.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:21): My question is to the Minister for Education and Child Development. Does the current minister agree with Mr Waterford that under the former minister, some Families SA staff were 'verging on incompetent to the point of impacting on the agency's capacity to fulfil its mandate to protect children in South Australia'?

Members interjecting:

The SPEAKER: The member for Unley is warned.

Mr Marshall: How on earth could you be responsible for this? This is a line of responsibility.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:22): No; I just want to—

Mr Marshall: How is this a reform issue?

The SPEAKER: The leader is called to order.

The Hon. J.R. RAU: Mr Speaker, I don't think it is appropriate for me or the minister to be giving a running commentary about the thoughts that may or may not have been in the mind of the former minister, as reflected through the evidence given by Mr Waterford.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:22): My question is to the Minister for Education and Child Development. Has the minister instructed her chief executive to undertake an audit of Families SA staff to ensure that there are no incompetent employees remaining?

Members interjecting:

The SPEAKER: The member for Chaffey is called to order, as is the Treasurer, and the leader is warned.

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:23): The house is no doubt aware that the previous minister and chief executive arranged for Mal Hyde, the former commissioner of police, to undertake an extensive piece of work to look at the people who were working in the residential care facilities within the department. That was completed some time ago and prior to my taking on this role.

Since then, the chief executive has been acting as a diligent leader of the public sector and working with Families SA, not only on processes and procedures but also on recruitment, in order to make sure that we have best maximised the number of people working on child protection matters.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24): Supplementary, sir: has the minister or her chief executive sought any advice from Mr Waterford as to who he thinks the people were that posed a threat to child protection and safety here in South Australia?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:24): I have had no interaction with Mr Waterford.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24): Is the minister aware of the comments made by Mr Waterford and, if she is aware, is she not concerned that there are people that he has clearly identified as being incompetent in that role and she now expects the parliament to accept that she is not even going to follow it up?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:24): I think when you say something in the past it does not mean it necessarily is true for the future. I understand that Mr Waterford has given evidence to the royal commission and I have read the newspaper reports on that. I do not intend, to use the phrase used by the Deputy Premier, to give a running commentary on what I am reading in the media that has been purportedly said by a former worker in Families SA.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:25): My question is to the Minister for Education and Child Development. Can the minister inform the house whether the department is still meeting-focused and incapable of making decisions, as described by Mr Waterford and confirmed by the Peter Allen review?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:25): As I said, I have only had the benefit of reading the media reports of what is purported to have been said before the royal commission by a former employee of Families SA, the person who formerly ran Families SA within the department. I very much look forward to the considered views of Margaret Nyland on all of the evidence that she has heard and, therefore, the advice that she gives on what ought to take place in order to continue to improve child protection within this state. The allegation that is being transmitted via, presumably, media reports and then into question time of being meeting-focused is not my observation of the department.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:26): My question is to the Minister for Education and Child Development. Given the former CEO David Waterford said a lack of staff resources resulted in 50 per cent of child abuse notifications being prematurely closed, can the minister guarantee there are now no child abuse cases closed before completion?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:26): No; as has been discussed previously in this chamber, last year as well as early this year, I believe, there are notifications that are made that are then not proceeded to investigation, and there are multiple reasons for that occurring. If the suggestion is around the staffing of Families SA, as I responded a week or two ago in this chamber, we are very earnestly working on meeting our FTE cap. We are in the order of around 100 staff off that now, out of 1,900, and that is absolutely crucial to our being able to fulfil our responsibilities.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:27): Can the minister inform the house, now that she has had the question in the parliament several weeks ago which asked how many additional Families SA staff had been recruited, what the net increase is in the Families SA staff after recruitment as part of this program?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:27): No, I don't have those figures with me but I think what is important is that we have—

Mr Marshall interjecting:

The SPEAKER: The leader is warned for the second and final time.

The Hon. S.E. CLOSE: I think what is important is that we have a certain staffing complement that we are able to employ to. We do struggle with retention and we also struggle to make sure that we are getting the right calibre of staff, given that we are trying to do a big recruitment drive in a relatively small state. However, we have been very successful in bringing on more and more workers, both youth workers and social workers and, indeed, also some administrative workers. That is being done diligently and successfully and, as I say, we are closing around the 100 vacancy gap out of 1,900.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:28): Can the minister outline to the house what the target staffing for this agency is and what the current staffing is? What is the difference between the two?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:28): As I thought I was explaining but perhaps not sufficiently clearly, we have a staffing complement FTE cap of 1,900 staff and we are around 100 off that at present. That is not an unusual gap.

Ms Sanderson interjecting:

The SPEAKER: The member for Adelaide is warned.

The Hon. S.E. CLOSE: We are around 100 off the 1,900 at present. I was unable to give a precise answer a couple of weeks ago because positions come and go all the time and I do not want to give an exact number, but it is in the order of around 100—which is not an unusual vacancy gap. Nonetheless, we are working to close the gap still further.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:29): Supplementary, sir: how many additional carers would be needed to ensure that children in state care are not left alone with carers overnight?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:29): The difficulty is that the vast majority of children are in family-based care, and they are often, therefore, alone overnight with one carer and it would be impossible for me to estimate the gap if we were to regard that as our obligation.

CHILD PROTECTION

Mr GARDNER (Morialta) (14:29): Supplementary: how many extra carers would be required to ensure that no children are left alone overnight in institutions, in emergency settings or the other institutions, residential care?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:30): In residential care, I would have to seek advice on the precise number.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:30): Could the minister inform the house whether she has discussed with her colleague, the former minister for child development, whether she was aware the department believed it was a calculated risk to allow only one carer to take night shifts caring for vulnerable children?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:30): I have not had that conversation, no.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:30): Supplementary to the minister: is the minister concerned now, having read the allegations made by Mr Waterford in respect of the concerns raised and the risks in these circumstances, that the calculated risk, as has been described, is still not being taken, given the recruitment shortage she has just outlined?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:31): I am simply not going to provide a running commentary on statements that may have been made yesterday by a former employee that are mediated through the newspaper. We have a royal commission running. The royal commissioner is asking questions and receiving evidence, and she will contemplate what recommendations she makes on the basis of that.

This should not be interpreted as a lack of interest in what is being said to the royal commission, but it is completely unhelpful for me to try to make policy on the run or responses on the run via commentary that has been made yesterday in the royal commission and in the newspaper this morning.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:31): Supplementary: isn't the minister concerned enough, having read those summaries of the issues raised, to make inquiry, even in her own department, about whether children being left at risk, with one carer, is an unacceptable—

The SPEAKER: The deputy leader has asked a question, now she is debating the question. Minister.

Mr Marshall interjecting:

The SPEAKER: Minister.

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:32): The question of what is being presented to the royal commission is something that simply has to wait for the royal commission. It is not something that is coming directly to me. I am not in a position to be able to ask questions of the people making those statements to the royal commissioner, and she is doing her job as well as possible so it is not helpful for me to try to offer running commentary on that.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:32): Supplementary: having been alerted to the circumstances that have been raised in the last 24 hours particularly, are you saying to the house, minister, that you are not going to do anything about that until we get a report maybe in August this year?

Mr Marshall: Already delayed.

Ms CHAPMAN: Twice!

The SPEAKER: Minister.

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:33): I am not going to accept the premise of the question that I should be responding to something which has been allegedly said yesterday and which has been received by us via the media. However, if the suggestion is that we are doing nothing and we are not improving or changing our practice then that is untrue.

Mr Duluk interjecting:

The SPEAKER: I call the member for Davenport to order!

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:33): Supplementary.

The SPEAKER: No. That will be your fourth supplementary. How about just a question?

Ms CHAPMAN: Please? Minister, given that we now know that the royal commissioner's report is not going to come down before August this year, why don't you pick up the phone or make an appointment with the royal commissioner and get her advice about whether some action should be taken to look at, audit or inquire as to what is happening in your own department until then?

Mr Marshall: Hear, hear! Stop using it as an excuse.

The SPEAKER: Deputy Premier.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:34): Mr Speaker, I was trying to share information with the house a little while ago about a very interesting visit that the minister and I had this morning with the royal commissioner. For those who weren't listening very carefully when I said it before, I'll just go over the ground again.

We went to see her. It was a very cordial meeting, and the conversation turned to whether or not the royal commissioner was likely to make any interim recommendations or if she had come to a conclusion so clearly at this point in time that she could share it with us now so that we could get on with whatever we needed to do to, first of all, inform our cabinet colleagues about that, secondly, form a government view about that and, thirdly, if necessary take whatever steps we needed to implement that.

Ms Chapman: If children weren't dying that would be laughable, John.

The SPEAKER: The deputy leader is called to order.

The Hon. J.R. RAU: And so, I thought, the impression I got, was that the royal commissioner was amenable to that proposition, and she said—I'm not meaning to attempt to quote her word for word—to paraphrase her: okay, look, if there are things that I get to, which are so clearly going to be things I will recommend to the government, I'll share them with you so that you can—

Mr Marshall: It doesn't exonerate the minister from taking action to run her department—

The SPEAKER: The leader will be silent. His next utterance outside standing orders will see the sessional orders applied to him. Deputy Premier.

The Hon. J.R. RAU: Mr Speaker, the point is this: as things stand presently I have only the vaguest of ideas as to exactly what Commissioner Nyland will ultimately recommend. If the minister were to take her staff down a particular path now in ignorance of what Commissioner Nyland might say, there would be a number of consequences of that which were not satisfactory.

Members interjecting:

The Hon. J.R. RAU: No, look, they've asked a question; I'd like to try to answer this. The first point would be this: it might be that we wind up taking a direction which the royal commissioner ultimately does not endorse and we have not had the benefit of hearing her reasoning as to why we shouldn't do that—point number one.

Point number two: change is difficult, Mr Speaker. Change is difficult and it requires enormous effort for it to be successfully managed. The notion that the minister should be embarking on major change now, which might need to be redirected or even undone in a few months, only possibly resulting in further confusion and lack of satisfaction in the jobs of the people—I don't think it is prudent for the minister to be contemplating taking the department off in some direction without any regard to what the royal commissioner might say, because we don't have the benefit of her views; and, Mr Speaker, if we were to take that path and it turned out to be at odds with her, what are we then going to do? Wrench the steering wheel another 180 degrees for the staff?

Members interjecting:

Ms CHAPMAN: Supplementary.

The SPEAKER: Before the supplementary, I call to order the members for Stuart and Kavel. I warn the members for Morphett and Hartley and the deputy leader and the Treasurer. I warn for the second and final time the members for Morphett, Hartley, Unley and the deputy leader, and, strictly, the members for Morphett and Unley should have been out already, with the number of interjections, but I will give them one more chance. The deputy leader.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:39): My supplementary is to the Attorney-General, or Minister for Child Protection Reform: what is the extra cost of the now further extension of the royal commission?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:39): That is a good question. I can't actually recall what it is but I will find out, because there undoubtedly would have been an estimation of the cost of this as part and parcel of the rigorous process that my colleague the Treasurer insists upon before we bring matters to the cabinet; so I would have to check.

CHILD PROTECTION

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:39): A further supplementary: why wasn't there a published statement via the government as to the extension of the time and the extra cost, as the government did on the nuclear industry royal commission?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:39): I actually do not know the answer as to why a particular communication strategy was chosen or not. We certainly were not intending to hide Commissioner Nyland in a cupboard for the next six months. We were not trying to pretend that we were not doing it. If the Deputy Leader of the Opposition sees some difference in the methodology of this and the—

Ms Chapman interjecting:

The Hon. J.R. RAU: There was certainly no plan to—

Ms Chapman: The date just slipped out on her website.

The Hon. J.R. RAU: I do not know whether it slipped out on her website or it slipped out of a press release from our office; I do not know.

Ms Chapman interjecting:

The SPEAKER: The deputy leader is on two warnings, as is the member for Unley.

The Hon. J.R. RAU: There is certainly no secret about it. If I remember correctly, in the latter part of last year I might have foreshadowed in answers to questions here in the chamber that it appeared likely that there would be an extension required.

An honourable member interjecting:

The Hon. J.R. RAU: Yes. I have never run away from the fact that if she was not finished, we would have to give her more time.

Mr Knoll interjecting:

The SPEAKER: The member for Schubert is warned for the second and final time. The member for Giles.

MINERAL AND ENERGY RESOURCES

Mr HUGHES (Giles) (14:41): My question is to the Minister for Mineral Resources and Energy. Can the minister inform the house of the outcomes of the latest Fraser Institute Annual

Survey of Mining Companies, specifically South Australia's performance measured against 109 other mining jurisdictions?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:41): Yes, I can. I am delighted to inform the house that I have—

Mr WILLIAMS: A point of order, Mr Speaker: the minister has already given this information to the house in a ministerial statement this very day.

The SPEAKER: What date was that?

Mr WILLIAMS: This day. It was a ministerial statement before question time.

The SPEAKER: I will listen carefully to what the minister has to say. I will expect some elegant variation.

The Hon. A. KOUTSANTONIS: Thank you very much, Mr Speaker. I am sure you will cut the baby in half. Each year before the opening of the Prospectors and Developers Association of Canada's conference in Toronto, the Fraser Institute publishes the results of its survey of the mining industry.

Members interjecting:

The Hon. A. KOUTSANTONIS: It is a quote from the bible. A total of 449 responses was received for the most recent survey, providing sufficient data to evaluate the 109 jurisdictions worldwide. The responses to the various survey questions are distilled into an Investment Attractiveness Index that takes into consideration both mineral and policy perceptions.

This attractiveness index combines a Best Practices Mineral Potential Index that ranks regions based on geological attractiveness and a composite Policy Perception Index that measures the effects of government policy on attitudes towards investment in exploration. So, if you have a mining policy, that is good; if you do not have a mining policy, that is bad.

I am pleased to say that South Australia has climbed into the top 10 most attractive jurisdictions in the world to invest in, based on the Fraser Institute's Investment Attractiveness Index. Australia surpassed both Canada and the United States to become the most attractive region in the world for investment when both policy and mineral potential are considered. South Australia played its part in that outstanding result for our nation.

South Australia achieved top 20 rankings in the survey's Policy Perception Index, its Best Practices Mineral Potential Index and the Current Mineral Potential Index. Again, South Australia's Geological Database was ranked highly at ninth, although in this category South Australia scored first in the world for geological databases that encourage investment, and that was before the opening last month of the new State Drill Core Reference Library at Tonsley, which has a brand new Goldsworthy Room named in honour of the former deputy premier.

These latest results were achieved in challenging circumstances for the mining industry as companies battled significant headwinds from low commodity prices and a reluctance to finance mine expansion and mineral exploration, and a hostile South Australian opposition. The new core library, our plan for accelerated exploration, and our now long-term comprehensive copper strategy—backed by the $20 million PACE copper initiative—demonstrate this government's continued support for the resources industry. Here is what a couple of the respondents to the Fraser survey had to say about investing in South Australia's jurisdiction:

> Best mineral potential in Australia with a government that wants to be a world producer in copper and encourages exploration more than any other state in Australia.

The president of an exploration company also stated:

> Government departments involved in the resources area have a 'can-do' attitude to assist companies wanting to invest.

This government supports exploration with one of the world's best geological databases, a modern core library with state-of-the-art facilities, investment in surveys to better target drilling campaigns,

and partnerships for exploration companies that want to drill. Those explorers that make discoveries know that Labor stands with them while the opposition fights them.

Mr Williams interjecting:

The SPEAKER: I don't think the member for MacKillop's anticipated concern was borne out by the answer. The member for Kaurna.

MEDICAL RECORDS

Mr PICTON (Kaurna) (14:46): My question is to the Minister for Health. What correspondence has the minister received regarding proposed amendments to the Health Care Act?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:46): I thank the member for Kaurna for a very insightful question, and I can confirm to the house that I have received a very, very interesting piece of correspondence which I will read to the house, to the benefit of members:

> Dear Minister,
>
> You may recall the incident [that] occurred in August 2014 when my mother died suddenly at the Noarlunga Hospital.
>
> At that time Mr Wade, the Opposition Health spokesman obtained or received confidential information from her personal medical records which he used to create a false allegation that she had died as a result of not receiving proper care at the hospital.
>
> I note with interest that Mr Wade is now seeking to criminalize the conduct that he sought to benefit from in 2014.
>
> Whilst I do not condone in any way what occurred in the [high profile case last week], I consider his current position on the matter to be demonstrably hypocritical. I note with particular interest his statement in his press release of 3 March 2016
>
> 'If you are admitted to hospital, you have the right to your personal information being kept private.'
>
> My family believe it is a pity that Mr Wade didn't apply this philosophy when he chose to disseminate information that had been unlawfully provided to him in 2014.
>
> If Mr Wade believes that this type of conduct is criminal, was that also his belief in August 2014? If so, then why was he prepared to use the product of criminal conduct for his advantage? Furthermore, if he did believe this was criminal conduct, why didn't he disclose the identity of the person to the appropriate authority?
>
> Alternatively, if Mr Wade's belief has emerged subsequent to that event, what was the epiphany event that brought about his change in philosophy? Is it the result of self-reflection on his unconscionable conduct and his willingness to exploit someone's confidential medical information for personal gain?
>
> Does Mr Wade's proposal also extend to those who, without reasonable lawful excuse, take possession or further disseminate that type of information? If so, does this mean that Mr Wade would consider that he had committed a criminal offence in August 2014? If he receives any information of this nature in the future, will he refrain from using it and forthwith report the 'offender' to the appropriate authority?

This piece of correspondence speaks for itself. The opposition speaks with a forked tongue on matters when it comes to privacy of patients.

Members interjecting:

The SPEAKER: Before the next question—could the deputy leader be seated—I call to order the member for Mitchell, who interjected during that answer; I warn the member for Kavel, but not because the Deputy Premier beseeches me to; and I warn the member for Chaffey for the first time and for the second time. A supplementary.

MEDICAL RECORDS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:50): Since becoming the Minister for Health, has the minister been informed of any major South Australian health record breaches other than those identified in the house in the past week?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:50): Other than that which Mr Wade and the Leader of the Opposition

brought to this house, when the Leader of the Opposition made false allegations based upon information improperly provided to him, causing massive distress to a family, not that I recall.

MEDICAL RECORDS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:50): A supplementary: in the past four years, have there been any external attacks or unauthorised access to South Australian health patient record systems?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:50): Not that I have been particularly informed of or recall, but it would not surprise me. Government computer systems are regularly subject to attacks from hackers. Not just the health system but, I imagine, other government departments are subject to attacks. It's not unusual for computer systems across government to be subject to attacks. We are not necessarily informed every time that that happens but, certainly, to my knowledge, there has been no case I can recall in my time as minister of any of these attacks being successful.

MEDICAL RECORDS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:51): A final supplementary: could the minister then make some inquiries and report back to the house, preferably today or tomorrow, to confirm if he has in fact received advice on the same?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:51): I will happily make inquiries, but I won't be told by the deputy leader when I will bring such information to the house. I will do it when I am ready.

DOMESTIC AND FAMILY VIOLENCE

Ms HILDYARD (Reynell) (14:52): My question is to the Minister for the Status of Women. What is the state government doing to address violence against women and their children?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for the Status of Women, Minister for Ageing, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers) (14:52): I thank the member for Reynell for that question. I know she has a keen interest in supporting the important work that the government is undertaking to address violence against women and their children. In Australia, one in three women has experienced physical violence and almost 61 per cent had children in their care when the violence occurred. The effects of domestic and family violence can remain with victims for a lifetime and can be passed from one generation to another. Violence against women is one of the greatest threats to justice, equality and productivity.

The South Australian government continues to take strong action to address this crime. We participate in and contribute to a range of initiatives that build strong evidence to guide policy and develop effective responses to the unacceptable, high rates of domestic and family violence. One of these initiatives is ANROWS—Australia's National Research Organisation for Women's Safety. ANROWS is a national leader in the production, translation and dissemination of evidence to reduce the prevalence and effects of violence against women.

Based on domestic consultation and analysis of gaps in our knowledge about violence against women, ANROWS produced the National Research Agenda, which equips us with important information about how to protect Australian women and their children. The National Research Agenda was launched at the ANROWS inaugural conference. I was pleased to speak at the conference and engage with experienced delegates from our women's sector for whom ending violence against women and their children is a true passion and focus.

The National Research Agenda builds on the work of our women's sector and brings to fruition the state government's long-term commitment to the National Plan to Reduce Violence against Women and their Children. It encourages us to explore collaborative approaches, particularly in regard to first-responder agencies and screening management. When we allow evidence to drive our responses, we become more innovative and smarter in our approach. I welcome the National Research Agenda, and I look forward to working with our women's sector to ensure that South Australian women and children live without violence.

DOMESTIC AND FAMILY VIOLENCE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:54): Supplementary: given the minister's expressed concern about the protection of women against domestic violence, what action has she taken in response to the fact that, since the Premier's announcement to do a review on domestic violence law, announced in November last year, an issues paper has not even been issued yet to progress that reform?

The SPEAKER: The Deputy Premier.

Mr Pisoni interjecting:

The SPEAKER: The member for Unley is on the edge.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:55): The reason I am rising to answer this question is: I think you might recall, Mr Speaker—I think it was even last week—that the deputy leader was asking me questions about this. I accept that it is my department that is supposed to be coordinating the response across government to this. We are active—

Mr van Holst Pellekaan: Why was the other minister going to answer then?

The Hon. J.R. RAU: She was probably going to tell you what I am telling you.

The SPEAKER: I warn the member for Stuart.

The Hon. J.R. RAU: She is probably happy for me to tell you what she was going to tell you, I think. We are coordinating a whole-of-government response to this. Actually, I think members need to just bear in mind too—and this is a very important piece of work. All of us on this side take this very seriously, as I know people opposite do—all of us do. But can I say this—and it is something that often is not acknowledged—the cohort of people who are the people who are suffering from the effects of domestic violence and the people who are the perpetrators of domestic violence have a strong correlation with the cohort of people who have children who are not being properly cared for or children who are at risk. They also have a strong correlation with those people who are in minister Bettison's housing—

Ms Chapman: Where did you pluck that out of?

The Hon. J.R. RAU: I am telling you something which is a self-evident truth as you start looking at the facts.

Ms Chapman: Well, don't give us that drivel. We don't need a lecture: we want an answer.

The SPEAKER: The member for Bragg can leave us under the sessional order for a full hour, being a repeat offender and having had so many chances.

The honourable member for Bragg having withdrawn from the chamber:

The SPEAKER: Is the Deputy Premier finished?

The Hon. J.R. RAU: Yes.

MARK OLIPHANT COLLEGE

Mr GEE (Napier) (14:57): My question is to the Minister for Education and Child Development. Can the minister advise the house how the Better Schools funding is supporting students at Mark Oliphant College?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (14:57): Yes, I am delighted to talk about this. The Gonski funding, as it is colloquially known—it is also known as the Better Schools funding—is about providing the additional funding to make sure that student need is being responded to, and it is why we have committed to the full six years. We are hoping that we might see some shift at the federal level to also commit to years five and six at some stage.

Mark Oliphant College is one of the schools that I think were labelled super schools when they were first built. It caters to about 1,600 students in the northern suburbs of Adelaide. It is a category 1 school, which means that it is the lowest SES category and therefore is responding to amongst the most socioeconomically disadvantaged kids in our state. What we know is that it is absolutely crucial that all kids—category 1 or category 7; all kids—attend school and complete school.

Mark Oliphant has made the decision to spend some of their additional money through the Better Schools funding to employ extra school counsellors to work with students on making sure that they stick at school, that they turn up and that they stay all the way through. So there are additional school counsellors and additional school support officers in order to provide some one-on-one help. They have also been able to use a cap on class sizes from reception to year 9 in order to make sure that attention is being focused on the kids who need the most assistance.

The counsellors work not only with the vulnerable students but also with their families to get them into school and to also help regulate behaviour once they are there. The results that the school is starting to see are that students are showing up to class, but also they are engaged, they are more motivated and they therefore have a higher capacity to learn.

The SSOs that have been employed are providing individualised and targeted support to the students who need it most in the areas of literacy and numeracy, which, as we know, are foundational skills and absolutely essential. I have a quote here from principal Frank Mittiga, who said:

> The programs the counsellors and leaders deliver also help senior students stay focused on achieving their SACE or gaining the vocational qualifications which will equip them for jobs or further study.

What he has been able to see in the time this has been running (which is only from 2014) is that, in 2015, Mark Oliphant College achieved a 100 per cent SACE completion rate. That is an extraordinary statistic and an absolute tribute not just to the Better Schools funding that has assisted that but actually to the school and the school community. It is extremely impressive.

The money that is being spent through education is an investment in our next generation, and targeting it to where students have higher needs means that we are going to be much more likely to remedy the social disadvantage and educational disadvantage that exist in some parts of our state and give every kid a fair chance.

The SPEAKER: The member for Elder.

Mr Gardner: Sir, six in a row.

Ms DIGANCE: Thank you, Mr Speaker.

The SPEAKER: The member for Elder will be seated. The opposition received a full half hour of continuous questions on the matter of the royal commission, on the trot, and in response to a small number of Dorothys—government questions, I am very sorry—

Members interjecting:

The SPEAKER: —there were four supplementaries asked by the opposition on those government questions. The member for Elder.

MONEY SCAMS

Ms DIGANCE (Elder) (15:01): My question is—

Mr Marshall interjecting:

Ms DIGANCE: It will be. Listen. My question is to the Minister for Consumer and Business Services. Minister, could you provide an update to the house on how members of our community can actively avoid falling victim to money scams?

The SPEAKER: Is the Deputy Premier able to assist?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister

for the City of Adelaide) (15:02): Yes, I am, Mr Speaker, and can I thank the honourable member for her question. Members would be really, I think, interested to know about this, because when it comes to scams, self-defence is the best policy. This could not be more relevant than in the case of a recent series of tax office scams that are targeting a diverse range of South Australians. I am one such South Australian, and I am going to share with you what happened to me. I came home from work one evening at about midnight, as I usually do, and there was a message on my answering—

Ms Sanderson interjecting:

The SPEAKER: The member for Adelaide is warned for the second and final time. Any more utterances outside standing orders will be met by the application of the sessional orders. Deputy Premier.

The Hon. J.R. RAU: There was a message on my answering service and it was a woman's voice, but it was clearly a voice that was manufactured. Mr Speaker, you know the sort of sound when some lifts speak to you. They are speaking English, but they often have an American accent—

The Hon. J.J. Snelling: Sounds like Siri.

The Hon. J.R. RAU: Siri—that's right.

Mr GARDNER: Point of order.

The SPEAKER: Point of order?

Mr GARDNER: Standing order 98: the minister is debating the quality of Siri's voice rather than letting the member for Adelaide raise important child protection issues.

The SPEAKER: The member for Morialta will leave the house for an hour for an entirely bogus point of order—and tomorrow we can go back to the old question system. Deputy Premier.

The honourable member for Morialta having withdrawn from the chamber:

The Hon. J.R. RAU: Thank you, Mr Speaker. I am actually trying to provide some information to the parliament. This bogus computer-generated female voice with a slight American accent said to me, 'As soon as you get this message you must ring the taxation department. This is very urgent. You need to contact the taxation department. You are in serious trouble. If you do not return this call immediately, the consequences will be severe.' Then the person gave what I assume to be a bogus name, which I wrote down, and a bogus phone number. I thought this was an accident. Three days later, it happened to me again—same voice, different name, different phone number. It happened again a week after that, by which time I became so concerned I spoke to my driver, Malcolm—

The SPEAKER: As you do.

The Hon. J.R. RAU: —and, Mr Speaker, he had a similar thing done to him. And not only did it happen to Malcolm, but my mother received one as well. Now, I immediately contacted consumer affairs and said, 'What is going on?' and consumer affairs—

Members interjecting:

The Hon. J.R. RAU: This is serious; the fact is that these people are trying to pinch identities from people. They are trying to pinch your identity. What they want you to do is ring that person back, and then they will ask you a bunch of questions like, 'Is your name so-and-so? We have to check. What is your bank account number? What is your tax file number?' That is where they are heading. It must go from this place forward today, to all South Australians—

The Hon. A. Koutsantonis: 'Let the word go forth from this time and place'—

The Hon. J.R. RAU: Let the word go forth: don't respond to these bogus phone calls. Don't be a sucker when it comes to people trying to steal your identity.

The Hon. A. Koutsantonis: —'to friend and foe'.

The Hon. J.R. RAU: They are definitely foes; they are not friends. Many of these things are operating from overseas, so I just think it is very important. These scam artists use phone calls,

emails, letters and, of course, as I have mentioned, these recorded voice messages. If this occurs, you should either disconnect the phone or hang up. Do not respond, and do not in any way engage with these people, because they mean you no good. They mean you no good, Mr Speaker; they will cause trouble. They are known to be able to replicate government logos. The key—

The SPEAKER: As much as I am enjoying this, the member's time has expired. In response to the member for Morialta's bogus point of order, if anyone cramped the member for Adelaide's style in question time today, it was the members of the opposition who asked four supplementaries on government questions. The member for Adelaide.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (15:06): My question is to the Minister for Education and Child Development. Can the minister confirm that, even after concerns were raised about Families SA carer Shannon McCoole, police ruled there was not enough evidence for a detailed investigation?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:07): No, I cannot confirm that; I have had no briefing to that effect.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (15:07): Supplementary: can the minister confirm that Mr McCoole's contract was extended and he was promoted, despite concerns being raised about his behaviour on a number of occasions?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:07): No, I can't. The member will be well aware that what occurred was that we set up a royal commission that is now investigating all matters. We are all privy to information that is coming through the media on what is being stated there, but it is not my place to make a commentary on that, and certainly not to confirm what is being stated by witnesses.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (15:08): Supplementary: can the minister confirm if any new victims have been identified from the 100,000 photos and 600 videos found at the home of Shannon McCoole, which police were still working through?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:08): These are matters for police, and they are working through these matters. Can I just make one point about this: if there have been victims identified by the police, I think the last thing we should be doing in this place is attempting to point fingers at those people. The opportunity should be there for the police to investigate, because it might well be that that leads police into other investigations in other matters.

So, I think we should just leave that alone and let the police deal with it. If there are victims that are identified, obviously there are questions about what support is offered to those people and such like as well. So, let us let the police deal with those matters.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (15:09): My question is to the Minister for Education and Child Development. How many children are currently living in residential care who have been there for longer than 18 months, given that David Waterford, former head of Families SA, identified the emotional and psychological damage done to children if left in residential care for longer than 18 months?

The SPEAKER: The last bit was just commentary.

Mr Goldsworthy interjecting:

The SPEAKER: The member for Kavel is warned a second and final time.

Members interjecting:

The SPEAKER: He may be suspended for the rest of question time. Minister.

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (15:09): Naturally, to give a precise answer, I will take that on notice, because that will vary from day to day, given the length of time the member is asking about. If what sits behind that question is: is it acceptable that there are any for that length of time, then, essentially, no. What we are looking for is more families to take these children into their homes. We cannot make people become foster carers: all we can do is create the opportunity for them to take these children into their homes and to look after them. Short of that, we must provide accommodation to look after them out of their own biological family where the court has decided they are no longer safe.

Grievance Debate

CHILD PROTECTION

Mr BELL (Mount Gambier) (15:10): I rise today to talk about the failed experiment between Families SA, child protection and the education department, and it is a failed experiment and it is an absolute disgrace. I call on the leaders within the Labor Party to stand up to the Premier and separate these two departments.

Back in 2011, when Jay Weatherill became Premier, he amalgamated these two departments and put out a press release after one of the inquiries, and I want to go through some of those inquiries. First, we had the Layton inquiry, which was about children: 'Our best investment'. I do not know whether or not people have actually read that, but the key points in that were that 50 per cent of social workers were in their first two years and 50 per cent of those were in their first year. So you had this situation in Families SA where you had a very young, inexperienced cohort, coupled with an extremely old cohort, and the report talks about 'policy paralysis'. It is quite interesting that David Waterford, head of Families SA, now talks about a siege mentality and policy paralysis. They have known about this for a very long time.

After that, of course, we had the Hon. Ted Mullighan inquiry in about 2004, then we had the Debelle royal commission, now we have the Nyland royal commission and, of course, Coroner's reports. To sit here today and hear the Labor government say that they cannot do anything because they do not know what the latest recommendation from the royal commission is going to be is quite unbelievable and flabbergasting. How many reports and recommendations do you need before you act on this very serious point? Back in 2013, Premier Jay Weatherill put out a press release titled 'State Government's Response to Independent Education Inquiry'. Quite interestingly, one of the points is:

> Since January the Government has undertaken a range of measures to improve child protection including:
>
> - Appointing the Executive Director of Families SA, David Waterford, to Deputy Chief Executive Child Safety—to oversee the implementation of Mr Debelle's findings.

So here we have a press release saying that this will be the answer to this. From that, you have Mr Waterford implementing the Debelle findings, and what he has now shed a light on is how dysfunctional this department has become. And I know firsthand, because I have been in the education department when all of this has been going on and can I say to this house that it is extremely serious. There is a siege mentality.

David Waterford also talks about the department being more focused on protecting its reputation rather than keeping children safe. What a disgrace! I have been in meetings where education is actually the last thing that we get to talk about—in fact, we do not talk about it—because it is all about reputation and making sure that the department is kept off the front page of the paper.

He also says that the department has become meeting-focused. That is so true. In fact, I have been prompted to stand and talk today because, when I was watching the report last night on the Channel 9 News, everything he was saying is deeply concerning but even more so because it is true. No-one would make a decision. You have a department in total paralysis. It will not take a risk,

it will not do anything, and the people who are suffering the most are actually children, and not only child protection but also the education standards of children, and that is what I want to talk about.

We have now sunk to pretty much the bottom of all NAPLAN testing, and it is an absolute disgrace. So, what is the answer to it? This is what really annoys me. Now we are starting to talk about the validity of that test and in fact not even needing that test. That is a disgrace. We need to make sure that these departments are separated and that we have a focus on education and a focus on child protection.

INTERNATIONAL WOMEN'S DAY AWARDS

Ms BEDFORD (Florey) (15:15): International Women's Day was celebrated worldwide yesterday, 8 March, and I acknowledge other contributions made in the house yesterday and the art installation out the front of Parliament House, which I know everyone will look at before it finishes on 20 March.

Here in Adelaide, the UNIFEM breakfast last Friday was again a sell-out with 2,400 women and men gathered at the Adelaide Convention Centre. Hosted by Senator Penny Wong and her staff, and we must commend them for the amazing work they do in making the day such a success, it is now the largest event of its kind in Australia. The guest speaker that day was Fran Kelly, a South Australian girl of Radio National fame, who gave a thought-provoking address, and it is always good to leave an event thinking about what you can do to be active and promoting the causes dear to your heart.

Yesterday saw women and men gather again at the Adelaide Convention Centre for the International Women's Day Committee (SA) lunch, and in honour of that event I again dressed as Muriel Matters, that wonderful South Australian born suffragist and activist who has inspired me and many others since the formation of the Muriel Matters Society in 2009.

The International Women's Day Committee of South Australia's patrons are Robyn Layton and Maude Tongerie. The death of Auntie Josie Agius was remembered at the beginning of the event, and we must also remember her connections as she did the Welcome to Country every year for as long as I can remember. Uncle Lewis O'Brien very kindly stepped in yesterday and welcomed all the important guests, including the wife of our Governor, Mrs Lan Le.

Karen Ashford again acted as mistress of ceremonies and Professor Tanya Monro, Vice Chancellor Research and Innovation at the University of South Australia, was a very welcome guest speaker. A wonderful committee supports President Toni Jupe, and we thank her and all of the committee for their dedication and commitment. The Feisty Feminists Choir performed for the assembled guests, including the Minister for the Status of Women and the Minister for Education and several other of our parliamentary colleagues, including federal colleague Senator Anne McEwen.

Award nominees this year for the Irene Bell Community Award were: Nan Berrett, a Clare Zonta member with a lifelong volunteer commitment to her community; Grace Falland, a Riverland volunteer with, among other groups, an involvement with Meals on Wheels for over 20 years; Allison Murchie, with an extensive commitment to conservation, animal issues and the Adelaide Zoo, as well as women's groups; and Yvette Reade, who is involved with Rotary, women's groups and the Cora Barclay Centre. All four of these nominees were considered so worthy that they were awarded the joint prize.

The Young Women's Community and Spirit Award nominees were: Glory Gatwiri, an African community leader and educator and advocate; Nava Revalk, who shines in many performing arts areas, a really inspiring young woman; Lauren Zwaans, an inspirational role model, leader, advocate and mentor of young professional women, and she was named the winner.

The Irene Krastev Award, an award dear to your heart, too, no doubt, sir, recognises achievement in the multicultural community. The nominees this year were: Dr Joy Penman, a leader, educator, mentor and advocate from Whyalla with Filipino heritage; Vivian Shae, a leader, educator and advocate in the Chinese community; and Emily Tanui, a passionate advocate, leader and mentor in the African community. Dr Joy Penman was named the winner.

It was a very good lunch, heavily supported by school students. It was unfortunate that International Women's Day fell on a sitting day, which means that we cannot attend to the very end

of the event, but I hope that one year it will happen on a non-sitting week so that we are able to attend and see all the wonderful things that happen at the lunch.

Earlier in the week, at the invitation of the Northern VIEW clubs, 'Muriel' gave a presentation on Sunday at the Gawler Racecourse. I acknowledge that in attendance that day was their local MP, the member for Light. What a wonderful group of women the VIEW club ladies are. They are involved in so many areas, fundamentally to assist The Smith Family. Their energy is infectious and their good works reflect the ideals of International Women's Day.

Earlier this year, I was able to attend a function, where I saw some of the outcomes of the work of The Smith Family. It is to these good ends that the VIEW clubs not only get together to have a good time, but also to make sure that their fundraising is targeted. In particular, the Tea Tree Gully VIEW Club, of which I am a member, meets regularly. Again, it is really committed group of women who have made community work in their area fun as well as functional.

I commend the work of the VIEW clubs and all the women's groups that have worked so hard to celebrate International Women's Day. The marches that used to happen—I am not sure if any of my members can assist me—is there a march this year?

Ms Cook: I don't think so.

Ms BEDFORD: No, and I think that is lamentable, because there is nothing like a good march or a rally, is there? So, perhaps that is something we can get involved in next year to make sure that the rally or the march actually happens irrespective of the weather, because, as we know, nothing holds a good woman back.

GOYDER ELECTORATE

Mr GRIFFITHS (Goyder) (15:20): I wish to take the opportunity to talk about two important events that occurred in the Goyder electorate on 27 February. The first one is a Two Wells RSL function. I will reflect upon the fact that the member for Taylor, the minister, is a very keen supporter of the Two Wells RSL. Unfortunately, she was unable to be there that day, but I know that she was there in spirit.

It was an important day because of the rededication of the World War I memorial and also the dedication of memorial stones honouring the lives, service and sacrifices of the 48 Australians who lost their lives in the Middle East conflicts from 2001 to 2015. It was a very sobering day. The member for Taylor and I have contributed to an aspect of the memorial, and I was provided with the opportunity, on behalf of both of us, to stand next to the memorial for Private Nathan Bewes.

The Hon. L.A. Vlahos interjecting:

Mr GRIFFITHS: Yes, and it was. It was an outstanding evening. Unfortunately, I could only be there for about an hour and a half, but there were probably close to 400 people in attendance. The memorial area itself is absolutely magnificent. I think the Two Wells community can be very proud of what RSL members from across that region have developed, and it is more than just the local community; it is people from across that region who have done it. It is an outstanding effort that they have worked towards for probably a good five years now. It has not been universally supported by all from around the place, but they made some decisions, created some actions, and it is an area that they can be proud of.

State RSL was significantly represented at the function in emceeing it and saying some very fine words about the sacrifice of Australians in conflicts. I found it to be an emotional experience and certainly appreciated the opportunity to be there, and I know the member for Taylor also wishes that she had the opportunity to be there.

I congratulate, as part of that, one particular person—and there are many who contributed towards it—Mr Tony Flaherty OAM, who only two days after the event was also elected as Mayor of the Mallala council. This is the second time in recent years that he has tried for the popular vote to be elected as mayor. There were only three or four votes in it last time; it was relatively close. He has been elected to replace Mr Duncan Kennington, who retired because of ill health matters in October last year. Councillor Marcus Strudwicke was another candidate for the election, and he is a good man also. The community will be exceptionally well led, I believe.

The second function that I had an opportunity to attend that day was a comedy night. It is important that we all laugh, but this was a comedy night to raise funds for the Pinery fire victims. The event itself is held on a regular basis at Mallala and the funds raised for it are normally for Relay For Life events. Mrs Trish Konzag and a vast number of supporting people put together not just a relay team but raise a lot of dollars each year.

Mr Anthony Lamond, who is a comedian from the Adelaide Plains area, has been the coordinator of the comedians who attend and keep us entertained. I must say, he did a great job again. I think the first comedian, Micky D, went for probably 50 minutes, and it was fantastic; I am pretty boring, but he was fantastic.

They had a series of auctions afterwards. Importantly, the evening was not only an uplifting experience, but they also raised $17,000, and it is all going towards Pinery fire victims—just from the one event. That is an example of events that are occurring all across the Pinery fire ground area on a regular basis. One of my staff attended a quiz night at Owen last week, so it continues to occur.

There was a significant day at Long Plains in December which raised $100,000, all because the community needs to support those who have suffered. It empowers us, it gives us faith in the fact that no matter what the challenges presented to us there are good people around us who recognise that and want to be involved. At the comedy night, as part of the auction, a lot of people who bought things were those who have suffered. I know that with one family two generations have lost their home, but they were still there and still had a smile on their face when they are dealing with the psychological impacts of this, but it was an impressive one.

Mr Vince Monterola, who is the fire recovery coordinator, keeps me advised regularly on things that have been occurring. There has been a series of barbecues to help with men's health issues and they have had 250 people attend. There is an ongoing program to assist those who are suffering from challenges as a result of dealing with impacts of the fire, but it goes to show that no matter what level is involved in it, there is a continued level of support for the victims of the Pinery fire.

Time expired.

KAURNA ELECTORATE

Mr PICTON (Kaurna) (15:25): It has occurred to me that next Tuesday is the second anniversary of the last state election and the second anniversary of my election to this place, representing the good people of the electorate of Kaurna. I thought it was a good time to give my constituents an update halfway through the term on what has been happening in our area and what I have been working on. I have produced a mid-term report card on everything that is happening in the Kaurna electorate.

It has been a very busy two years with all of the activity that we have been doing from our office in helping hundreds if not thousands of constituents over that time. We have held dozens of street corner meetings, shopping centre visits and train station visits. I was even at the train station this morning visiting people. I have attended hundreds of community events, door knocked on thousands of homes and also held lots of forums, including budget forums and seniors forums.

We have been working on some very important improvements for the good people of the southern suburbs. As people would know, this is a growing area, there are significant numbers of new houses being built every day in my electorate, hence there are new needs happening all the time for extra resources and services in the area.

Some of the things that I have been working on which have been very important have included health care. We know that Noarlunga Hospital is getting a $10 million upgrade at the moment, it has two new operating theatres going in, the emergency department is staying, and it is also having a new paediatric treatment area installed. There will be a new dialysis service.

We also have a new ambulance station being built at Noarlunga, which is a $4.5 million investment, which is going to be much bigger than the current Christie Downs-Morphett Vale station. There is also going to be a new ambulance station built at Seaford for the first time which will fix a problem for a lot of my constituents where ambulances take too long to travel to that area. We have

also had extra mental health support brought into the Noarlunga Hospital where there is a new $2.8 million mental health centre.

In terms of education, we have had some big successes in education. Over the past two years we have had two great new facilities open, firstly at Port Noarlunga Primary School. We have had a big upgrade of a lot of their facilities and classrooms. Secondly, we have had the new Aldinga Beach Children's Centre opened by the Minister for Education who came to open that last year. That is a tremendous new facility providing a whole range of education and health facilities for people in Aldinga.

We also have new upgrades happening for students with disabilities, particularly at Seaford Secondary College and Seaford Rise Primary School. There are upgraded facilities there and there are also soon-to-be upgrades at Christies Beach High School and Christie Downs Primary School where a lot of students with disabilities in the south go for their schooling. That is very exciting news as well.

In terms of transport, we have had over the past couple of years the opening of the two-way Southern Expressway which is always a delight to drive on. I feel sad for the previous member for Kaurna who served the electorate since 1997 and fought for this upgrade that was only after he finished that it was completed and, as the local member, I am able to travel on it both ways which I am very thankful for. We also have the electrified railway to Seaford which is getting more popular all the time for people in the south.

We have upgrades happening soon on Main South Road at Aldinga, which is a significant safety issue for people in the southern suburbs. There is going to be a new roundabout installed, wider lanes installed in the overtaking area, and crash barriers installed to make that safer for people because, unfortunately, there have been too many crashes down there. There have also been some other improvements, including a daily express bus between Aldinga and Seaford to help people get to the new train services. We have also had road resurfacing on Main South Road with investment to the tune of about $1 million.

A small thing recently that we were able to fight for was getting access opened to the western side of the Seaford-Meadows train station, which has enabled better access for people to get the train and encourage more people to do that. I have also outlined in my report a whole range of different community grants going to different sporting groups—different surf lifesaving clubs across the electorate—and I am continuing to advocate for them as well. There is lots more to do over coming years. I think we have had a good record of achievement over the last two years, and I am looking forward to fighting more for the people of Kaurna.

WATER INFRASTRUCTURE

Mr TARZIA (Hartley) (15:30): As we have seen this week, under this state Labor government South Australia's water infrastructure is being partly neglected in parts of my area. It is unacceptable for SA Water to oversee a century-old crumbling pipe system while it delivers record dividends to this state Labor government. With the increased financial strain and financial burden on South Australian families, you would think the least that this government could do is ensure that water infrastructure is maintained and, when it does fail, that those families be at least compensated.

I visited residents affected by floods created by the burst water mains on Monday night. I have asked questions of this government in the house, and I will continue to assist residents wherever I can on this matter.

I rise to speak on a recent series of burst water mains that have actually left areas of my electorate, especially in Campbelltown, but also parts of Paradise, under water on late Monday afternoon. That area, and the surrounding areas, have had a history of burst water mains, with this most recent event leaving dozens of homes affected by flood damage: muddy water as deep as, I believe, one metre flowing through some areas.

I would like to thank all of the volunteers. I saw a number of volunteers and workers on Monday night from the local SES, SA Water and SA Power Networks who certainly went out of their way to make sure that the issues with the homes of residents could be addressed as soon as

possible, and I know that they continue to work very hard to make them as comfortable as possible. I commend their efforts in bringing this situation temporarily under control.

I also believe that bottled water and temporary housing have been provided for affected residents. I thank the volunteers for working hours well into the night and overnight to stop the water from flowing into their houses, and also for the clean-up. SA Power Networks were also on the scene cutting off power where needed, because there was a risk from that point of view as well. They properly and promptly investigated the issue in an effort to restore power as quickly as possible.

The SES volunteers, and also local residents who used shovels, sandbags, brooms—whatever they had—are to be commended in the way that they fended off the torrent of water that was facing them. These bursts cover quite a large area, and the damage caused by the mains bursts on Monday was quite immense.

We saw footage on television whereby cars were actually engulfed by the huge mass of water. I visited the site in the afternoon, but at night when I visited the site it was something like I have never seen before: mud and water all over the homes of these people—it was absolutely awful. In fact, I am told that nearly 40 homes were flooded externally by the water, with seven homes internally flooded.

There was water that rushed through yards. In some cases, it pulled up plants and much soil, which ruined the aesthetics of the street. This government has a responsibility. This government cannot just sit here, milk profits from SA Water and not do anything about this. This government has a duty to compensate residents and to provide them with temporary housing and any other assistance it reasonably can.

Due to electricity being cut off, many frozen items of food basically became instant throwaways. Of course, we all know the hot weather that we have had this week as well. Many frozen items of food had to be disposed of but, not only that, there were also personal belongings that faced the same fate. Even pets were at risk, which was absolutely awful. The bursts have certainly created a lot of issues locally for residents, who are now on the long road of cleaning up and sorting out insurance claims. I am always here to help as the local member, and I will continue to assist residents wherever I can in regard to this issue.

HENLEY BEACH PRIMARY SCHOOL

The Hon. P. CAICA (Colton) (15:35): Today, I want to speak about two of my most recent engagements with my electorate over the last week or so. Deputy Speaker, one of the many excellent schools in the Colton electorate is the Henley Beach Primary School, and you would be pleased to know that it happens to be my old primary school.

Early last week, I was invited to attend Tracey Burner's year 4 class to discuss aspects of government and answer well-prepared and thoughtful questions on our democratic system and my role as a member of parliament. The students were pleased to learn that Henley Beach Primary School was my old primary school but appeared somewhat shocked that I attended the school from 1963 to 1969, with the sad truth being that I was a student at that school before many of their parents were even born, but it is the truth.

As you would expect from Henley Beach Primary School, teacher Tracey Burner had properly and well prepared the students for my visit. It is safe to say that I enjoyed myself as much as I hope the students did. What was originally meant to be a half-hour session extended to almost an hour. One might ask the rhetorical question: are kids in year 4 too young to learn about our government and democratic system? I do not think so, providing it is pitched at the correct age level.

Ours, as you are fully aware, is a participative democracy. It is incumbent upon all of us to participate. We know the national curriculum now includes a civics component for primary school students, and it is certainly my view that this should then build our students' knowledge and understanding of our democracy and the three tiers of government. Our young people should learn about our Public Service which, then in turn, will better prepare them to be informed participants in our democratic system.

I want to congratulate and thank Tracey Burner and, in fact, all of the teachers and support staff at Henley Beach Primary School for the outstanding work they do in educating the students. It

is an outstanding primary school occupied by equally outstanding staff and well supported by an engaged broader school community. This classroom that I was in has about 15 beautiful cockatiels which the kids take home each night and bring to the class there. It is just outstanding to see the way they nurture and look after these birds not only at school but at home as well.

On Sunday that has just gone, I attended, as I am sure many members did, a Clean Up Australia event. The event that I attended was conducted by the Grange Baptist Church. I am pleased to also inform you, Deputy Speaker, that I was accompanied by my friend the former federal member for Hindmarsh and now candidate, Steve Georganas, who certainly got his feet dirty whilst we were collecting rubbish.

We joined with a couple of dozen young members of the Grange Baptist Church congregation, and of course a few adult supervisors and fellow rubbish collectors, in collecting rubbish around the Kirkcaldy Park lake. This is the third year in succession I have attended this particular event. I want to acknowledge and thank church member Jill Hinton, who has organised this event on behalf of the Baptist Church. Certainly, at the start she was a little bit worried about the numbers, but as we got closer to 10 o'clock we probably had in the end as many, if not more, volunteers than previous years.

It was also pleasing that we did not find as much rubbish as we had in previous years, and I think that in itself is a positive thing. As one of the youngsters said last year, 'We wouldn't need to do it if others did the right thing,' and that comment still holds true. It is up to each of us to make sure that we do dispose of our rubbish properly.

The Grange Baptist Church is a very good church, well attended by a vibrant congregation across all ages. It is pleasing that this church, a pillar of our community, extends itself to events such as Clean Up Australia. Again, I congratulate organiser Jill Hinton and thank her and the Grange Baptist congregation for all they do. One of the members of the congregation, Mary, was not there this year, but every time she sees me at the church she says, 'We're going to try to convert you, Paul. Are you converting to become a Baptist?' I think they have given up on that, because the answer is no. Notwithstanding all that, it is an outstanding church that is doing outstanding things in and around our community.

Parliamentary Procedure

SESSIONAL ORDERS

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (15:41): I move:

That for the remainder of the session, standing and sessional orders be so far suspended as to enable parliamentary secretaries to act on behalf of ministers, and reference to ministers in the standing and sessional orders shall be taken to include reference to parliamentary secretaries, except in respect to the following standing and sessional orders:

Sessional orders—

- Extension of sitting beyond 6pm
- Motion for adjournment
- Time limit for answers to questions without notice

Standing orders—

- No. 11 Inform the house when the Governor will receive the house with its new Speaker
- No. 13 Inform the house when the Governor will give reasons for opening of parliament
- No. 34 Address in reply, nominating mover of address
- No. 49 Adjournment of the house
- No. 55 Extend sitting beyond 6pm
- No. 56 Next meeting of the house
- No. 57 Early meeting of the house

- No. 80 Arrange government business
- No. 86 Referral of petitions to ministers
- No. 96 Questions to ministers
- No. 107 Ministerial statements
- No. 114 Limitation on debate
- No. 194 Orders of the day (government business)
- No. 198 Orders for papers
- No. 213 Messages communicated
- Nos 232 and 362 Money bills, increase tax
- No. 255 Clauses in erased type
- No. 265 Grievances appropriation bills
- No. 267 Referral to estimates committees
- No. 268 Consideration in estimates committee
- No. 277 Question proposed estimates committee reports
- No. 278 Time limits appropriation bills

The proposed sessional order would enable parliamentary secretaries, acting on behalf of ministers, to give notice of, introduce and have carriage of government business. It should be noted that the role of parliamentary secretaries in federal parliament has changed considerably since their introduction in the early 20th century. In the federal parliament, parliamentary secretaries are authorised to exercise the powers and perform the functions conferred upon ministers, with some important exceptions, including:

- Parliamentary secretaries are appointed to assist or represent ministers in various aspects of their work, including parliamentary responsibilities.
- In the proceedings of the house, they can act in place of a minister in all respects, except for answering questions.

A number of interstate parliaments also allow for parliamentary secretaries to introduce and take carriage of bills, including New South Wales and Western Australia. It should be noted that the additional authorisation proposed by this sessional order is restricted to the introduction and carriage of bills in the House of Assembly, and includes the following exclusions:

- It does not provide for a parliamentary secretary to answer questions in question time.
- It does not provide for a parliamentary secretary to appear and answer questions in estimates hearings.
- It does not provide for a parliamentary secretary to appear and answer questions in the examination of ministers in matters contained in the report of the Auditor-General.

It is envisaged that parliamentary secretaries will use these additional powers to take carriage of specific legislation in which they have particular expertise in order to aid the government's busy legislative agenda. These measures are not permanent. Of course, that is why we have sessional orders for matters worth exploring between parliaments. I think most of the current sessional orders adopted by the House of Assembly have been welcomed and have provided for the effective business of the house. I commend the proposed sessional order to the house.

Mr TRELOAR (Flinders) (15:43): I move:

That the debate be adjourned.

The house divided on the motion:

Ayes 20
Noes 24

Majority 4

AYES

Bell, T.S.	Chapman, V.A.	Duluk, S.
Gardner, J.A.W.	Goldsworthy, R.M.	Griffiths, S.P.
Knoll, S.K.	McFetridge, D.	Pederick, A.S.
Pengilly, M.R.	Pisoni, D.G.	Redmond, I.M.
Sanderson, R.	Speirs, D.	Tarzia, V.A.
Treloar, P.A. (teller)	van Holst Pellekaan, D.C.	Whetstone, T.J.
Williams, M.R.	Wingard, C.	

NOES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Caica, P.	Close, S.E.
Cook, N.	Digance, A.F.C.	Gee, J.P.
Hamilton-Smith, M.L.J.	Hildyard, K.	Hughes, E.J.
Kenyon, T.R.	Key, S.W.	Koutsantonis, A.
Mullighan, S.C.	Odenwalder, L.K.	Piccolo, A.
Picton, C.J.	Rankine, J.M.	Rau, J.R.
Snelling, J.J. (teller)	Vlahos, L.A.	Wortley, D.

PAIRS

Marshall, S.S.	Weatherill, J.W.

The SPEAKER: Before I mention the result of the division, it has become an unfortunate practice of the house for members to interject reflecting on the decision that has just been taken in the aftermath of a division. If anyone does that today, they will be named.

Adjournment thus negatived.

The DEPUTY SPEAKER: The member for Schubert, are you the lead speaker for your side?

Mr KNOLL (Schubert) (15:51): No, Deputy Speaker, I am indicating that I am not the lead speaker. I rise to make as expansive a contribution on this motion as I need to. The motion as it is presented on the Daily Program is:

> That for the remainder of the Session, Standing and Sessional Orders be so far suspended as to enable Parliamentary Secretaries to act on behalf of Ministers and reference to Ministers in the Standing and Sessional Orders shall be taken to include reference to Parliamentary Secretaries, except in respect to certain Standing and Sessional Orders as detailed on the Notice Paper.

It is an interesting idea that we elevate non-ministers to ministers. As is normally understood, we have two parliamentary secretaries that are recognised, and they receive an added stipend to their otherwise base salary. We have two at the moment—the member for Reynell and the member for Kaurna—and they are the two people we are talking about today, as this motion is intending to give them increased powers.

I did note in the member for Playford's contribution that he talked about the fact that this is necessary because the government has such a busy legislative agenda. I do not want to take focus away from our lead speaker, but I wonder how busy the legislative agenda was between 12.30 and 1pm yesterday.

It is interesting whether or not adjournment grieves were taken yesterday or whether they are going to be taken today or, indeed, tomorrow. The government program for today's proceedings came through rather late, seemingly because other things that we may have talked about have

already been talked about, and maybe someone needed to make up their mind as to what it is we are actually doing today.

It would seem to me, in my simple sausage-making mind, that if there was such a significant backlog we would have these bills backed up like a substandard toilet, and we would be rushing through to complete these things, but unfortunately I do not think that is the case.

Essentially, some of the research that I have been doing of late has taken me to look at the numbers of ministers around the country and how many constituents are represented by each minister. In South Australia, we have 14 ministers, which is roughly the same as a number of other states but, interestingly, our population is far less, and so on that score South Australia has many ministers. In fact, back in the days of Sir Thomas Playford, he ran this state with only five ministers.

Members interjecting:

Mr KNOLL: In fact, when it comes to the number of ministers that are required and the number of departmental staff who are required, there was a great quote from Sir Thomas Playford who, after he retired, went to Mrs Dunn, who was his long-term secretary (this was years after having finished in parliament) and he said, 'I feel so sorry for you. I would like to apologise to you for all the things I put you through,' and she said, 'Sir Playford, what are you talking about?'

The Hon. J.J. Snelling: I think she might have said 'Sir Thomas'.

Mr KNOLL: He was never that informal.

Members interjecting:

Mr KNOLL: Okay, there you go, thank you. He said, 'Now, when I look at the Premier's department, which used to be three people and now I see a department with hundreds of people, I feel I have overworked you to the bone, to see how many people it now takes to do your job.' I thought that was quite an apt quote on the growth of government. And certainly Sir Thomas was able to double the size of South Australia with five ministers. Sir Thomas was able to oversee an unprecedented expansion of the South Australian economy. He was able to oversee a change from an agricultural-based state to a manufacturing-based state, with only five ministers.

It seems odd to me that, here we are these days with 14 ministers, up from 12, and that this motion becomes necessary. With those few words, pertaining completely to the substance, I would like to call myself out as the team player that I am and I look forward to intently listening to the next speaker as the next speaker prosecutes very strongly our case on this matter.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:57): I rise to speak on the motion—

The DEPUTY SPEAKER: And you are the lead speaker?

Ms CHAPMAN: Yes, thank you. I rise to speak on the motion presented by the Minister for Health which, essentially, is to suspend standing and sessional orders of this parliament, for the first time ever, to allow for, in certain areas, parliamentary secretaries to conduct business of the house that would otherwise be within the purview of ministers, most specifically:

1. to allow them to sit in the front seat;

2. to provide for advisers to be able to sit adjacent to them and provide advice during the conduct of debate on a bill; and

3. to have the benefit of the unlimited time limit as the lead speaker for the government in progressing the bills.

That is what is being asked of us, for the first time in the history of the parliament. And why? It is because we have parliamentary secretaries, two of them, nominated by the government, who I am sure do important work in aiding the Premier and the Treasurer. In this instance, they have been appointed in those two roles—not to any other ministers generally, just to those two. There are going to be some questions raised as to whether they should have responsibility for anything else other than bills introduced by the Premier or the Treasurer—which, frankly, is not very much. There is not too much actually introduced by those two roles in this parliament.

What I am about to say does not have any reflection personally on the two persons who are currently parliamentary secretaries in those roles—one to the Premier and one to the Treasurer. Tomorrow, the Premier might announce that he is going to have six parliamentary secretaries, or give the whole backbench a parliamentary secretary role and trot them all over to Government House and swear them in and give them all higher salaries and the roll will continue. We have, what is it, 15 ministers? We have two extras in the group, of course, who have added a couple of spaces and a few million dollars a year for the member for Waite to be a minister.

Mr Knoll: That's $2.1 million a year.

Ms CHAPMAN: Yes, $2.1 million a year to be able to come in here. Never before have we had so many ministers so often able to deal with the work of the day of ministers. So, for these three requirements, to have the right to sit in the front row, to be the lead speaker and to be able to have an adviser sit next to them, the government is saying, 'We're all so busy. We have got such a huge parliamentary agenda.' Well, I mean that is laughable, of course. Of course it has not got a huge agenda, as has been aptly pointed out by the member for Schubert.

We have had adjournments even before lunch; it was half an hour before lunch yesterday. We have just spent last week dealing with legislation on the constitution bill, which has no hope of getting anywhere in this parliament—wasting time again in the parliament. We have had a situation where the Minister for Planning, the Attorney-General as the Minister for Planning at the time, introduced a Planning, Development and Infrastructure Bill without going out to consultation and it has wasted days and days, and it will probably be weeks in the other place of the parliament, because the government has been so incompetent in not actually addressing the amendments that should have been looked at before a bill comes to the parliament.

That is done by the simple process of going out and consulting with stakeholders before so that when a minister walks in with a bill and is able to present it to the parliament it is in as good condition as it possibly can be consistent with what the government is prepared to support and to sponsor through the parliament. So, it has an unprecedented number of ministers. We are sitting less time in the parliament. We never sit here at night anymore.

Mr Pederick interjecting:

Ms CHAPMAN: Even the member remembers that we would be sitting here at night and early hours of the morning—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.M. Rankine interjecting:

Ms CHAPMAN: Oh, that squeaking from the other side. Thank you.

Members interjecting:

The DEPUTY SPEAKER: Members on my left need to be mindful, too. I do not need their assistance. It would be remiss of me not to draw the attention of all members to standing order 131. We must hear the deputy leader in silence. The deputy leader.

Ms CHAPMAN: We have an unprecedented number of people to do the job. They have less sitting times to actually be in here, so they have plenty of other time to do their work. There are a number of reasons why you would ask: what is the real reason why the government wants to be able to send bills across to a parliamentary secretary, to delegate that responsibility to a parliamentary secretary? One, ministers want to have more time at home, doing what they like, partying. Well, that is one option. I would not say it is likely but it is an option. They can just have a sleep, go to a party, whatever. The second—

An honourable member interjecting:

Ms CHAPMAN: No, indeed it is not, because you see the government is asking to relieved—

Members interjecting:

The DEPUTY SPEAKER: Order!

Ms CHAPMAN: —of the responsibility for being here in the house to promote a bill and to take it through the passage of parliament.

The DEPUTY SPEAKER: There is room for another whole group of ticks here so don't worry.

Ms CHAPMAN: Thank you. The second consideration which I think is more likely is that the government wants to be able to avoid the responsibility of dealing with bills that are just a little bit difficult, the ones that are a little bit ticklish, the ones that are a little bit sensitive, the ones that cause some friction amongst groups, whether it is the Liberal Party or Labor Party, or other political parties, where they just do not really want to be quite next to it, and one of them is before the house as we speak in relation to the gender equity legislation.

It is topical; it is a little bit controversial. I personally am supporting it, but each of the political parties has made a determination on that bill that they are not going to have a party position on it and that each can come in and vote independent of any commitment to their political party's position. So, what does the government do? The Premier comes in, grandstands with presenting it to the parliament and then wants to flick it to somebody else. In this case the Minister for Education has taken the responsibility and carriage of managing that bill, and ably, too. I cannot see any reason why she would not.

If leadership from the cabinet is not available then there are other ministers who can competently take on that role. However, we were informed that the government decided that they wanted to move it to one of the parliamentary secretaries; so that is what we are actually here for. We are being asked to support a motion to cover a circumstance that allows somebody else to come in and deal with controversial issues. I do not doubt for one minute that the Attorney-General has run away from this at 100 miles an hour. He is responsible for the South Australian Law Reform Institute, which has done the legwork on this, prepared documents to deal with gender equity, provided the report, and published it.

The Attorney-General has been responsible for preparing the draft, the legislation around it, and suddenly the Premier has come in, made the big announcement of introducing the bill, and then runs 100 miles away from it, having been exposed. This was in a flurry of trying to be the great protector of a person who was holidaying in South Australia in January when his same-sex partner sadly died and there was an issue about registration on the death certificate. There is fanfare when it suits the Premier, but in this instance, bring in somebody else who can take all the flak in dealing with it.

There is a fundamental reason why it is not practical for just anybody—a parliamentary secretary in this instance—to have the management of the bill. Whilst the advisers are available to give assistance to a minister in answering questions (and ably they do), the parliamentary secretary is not privy to what has been discussed in cabinet, because they did not attend cabinet, they are not a member of cabinet, they are not participating in it, and nor do they have any contribution to make about cabinet decisions. Therefore, they do not know what has happened in the inner sanctum of government, save and except what cabinet determines it will issue in a public statement. So, they are as much in the dark as all the rest of us in relation to cabinet decisions and, of course, the confidentiality that sits around that.

It is very important that we have the minister who is responsible for the legislation, who is privy to the progress of it through the cabinet, who understands the decisions that have been made in cabinet, who is responsible for the implementation of the bill, has an understanding (we would expect) of how the machinery of the bill operates, is familiar with briefings of the advisers (and is able to get some supplement to that but otherwise is familiar with the bill), and not have someone brought in to deal with it in isolation of being fully informed about the proposal, the effect and the operation of the legislation they are asking us to pass. That is the reason why it is important that the minister, any one of them, is responsible and ought to continue to be responsible here in the parliament to progress the bill.

One aspect that has been raised by the Minister for Health is that other jurisdictions have considered this, and in other jurisdictions it has been permitted. He did not elaborate on this, but I

am familiar with, for example, the opportunity in the federal parliament for parliamentary secretaries to have the carriage of a bill. They are not, in this instance, there to answer questions in question time or to move adjournments on debates, or any other things; that is true. They do have, however, limited power to progress a bill.

The fundamental difference that the Minister for Health failed to tell the parliament about is that they have a totally different practice. It is quite a good one that they have over there. They have debates in the chamber as to the contribution, effectively, on the second reading of the bill, and then outside of the chamber they progress the committee. Instead of having the Minister for Health and shadow minister here, or the Attorney-General and myself, standing here (with lonely contributions from others who have made contributions to the debate) going through the bill in detail, it is done outside of the chamber. It is a bit like allowing committees to continue to proceed in other formats in the parliament, to be able to convene and conduct their business while the parliament continues.

It is a very different procedure. If the government says, 'We want to have a look at what operates in the commonwealth jurisdiction,' I am happy to look at that. I am happy to consider whether there are some merits in doing that, but do not just pick out the bit that suits. What is important is that the government comes to us and says, 'Let's look at the whole practice that operates in the commonwealth parliament,' and if it is of merit we will have a look at it and consider it.

Finally, I say this: it is absolutely rude and presumptuous of the government to come in here and issue a motion, demand against all precedent that we be expected to debate this and to deal with it without the requisite precedent period of seven sitting days (a full week) to elapse before we be asked to progress it. From time to time we are asked to advance bills, pass motions, deal with circumstances that reasonably need to be tidied up or some pressing matter of state which requires us to deal with it.

Last year, for example, we were asked to deal with a special indenture bill in a hurry to deal with Arrium, a very topical issue at the time, having relief from EBA supervision and that we be able to continue to operate under the supervision of the Department of State Development. We were asked because of the time expiry that was about to occur on the indenture and the conditions of that indenture to deal with it in a much more timely manner. We acquiesced. We were not happy about it.

We are not happy about pushing things through but from time to time it is necessary and we are prepared to accommodate that. In this instance, the government has just come along and said, 'We want to press this now. We have said our bit, we do not want to adjourn as we normally do, we require you to make a contribution now if you want to, speak now or forever hold your peace. We are going to push this through anyway.'

There are no parliamentary secretaries in the other place, so there is apparently no similar motion or proposal to deal with their sessional orders or whatever relief they would be seeking to deal with it. There has been and there could be again; we need to deal with this issue of whether the government intends to appoint more than two and we need some answers on this about whether the two who have been appointed are going to be interchangeable irrespective of whether they are parliamentary secretary only to the Treasurer and the Premier. If the Minister for Health is not here, can they tap into one of the minister's parliamentary secretaries, bring them on down, let them sit in the front seat? That is relief number one. Let them have an adviser—that is relief number two—and, of course, to have no time limit.

I do not mind listening to a time-limited speech from either of the two current parliamentary secretaries in the parliament, but I say this: we have all of these ministers here, we have hardly enough work to fill up the government space as it is, it is already puffed up with bills that frankly should never be brought back in before the parliament on the way to a kiss a death but which the government continues to pursue.

These ministers are paid a lot of money to do a job. They are privy to the information from cabinet. They have a special responsibility with that knowledge to be able to provide support for each other, if one is not available, and particularly if the leader or deputy leader are not available. That is enough. There has been no persuasive case put to us to suggest that this is acceptable. We do not accept it. We think it has been done for political reasons and it is not acceptable to us. However, if

there is a wholesale reform proposal going to be presented, then let us look at the whole of the picture consistent with other jurisdictions and we would consider that on its merit.

The house divided on the motion:

Ayes 24
Noes..... 20
Majority..... 4

AYES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Caica, P.	Close, S.E.
Cook, N.	Digance, A.F.C.	Gee, J.P.
Hamilton-Smith, M.L.J.	Hildyard, K.	Hughes, E.J.
Kenyon, T.R.	Key, S.W.	Koutsantonis, A.
Mullighan, S.C.	Odenwalder, L.K.	Piccolo, A.
Picton, C.J.	Rankine, J.M.	Rau, J.R.
Snelling, J.J. (teller)	Vlahos, L.A.	Wortley, D.

NOES

Bell, T.S.	Chapman, V.A.	Duluk, S.
Gardner, J.A.W.	Goldsworthy, R.M.	Griffiths, S.P.
Knoll, S.K.	McFetridge, D.	Pederick, A.S.
Pengilly, M.R.	Pisoni, D.G.	Redmond, I.M.
Sanderson, R.	Speirs, D.	Tarzia, V.A.
Treloar, P.A. (teller)	van Holst Pellekaan, D.C.	Whetstone, T.J.
Williams, M.R.	Wingard, C.	

PAIRS

Weatherill, J.W.	Marshall, S.S.

Motion thus carried.

Bills

STATUTES AMENDMENT (GENDER IDENTITY AND EQUITY) BILL

Committee Stage

In committee (resumed on motion).

Clause 9.

Mr KNOLL: This is obviously the most contentious part of this bill. Certainly, I have discussed this previously tongue in cheek, as I said on the record when I gave the speech about the change we are seeking to make here. The argument I would like to put—for those who are listening, I understand that this is a clause that we are going to potentially be dividing on—is that we have talked a lot here about the difference between sex, which we understand to be a biological expression of someone's gender, and we have talked about gender identity, which is an individual, deeply-held belief, and I understand those two things have different meanings.

For instance, at the moment, on a birth certificate, we are talking about a statement of biological fact; therefore, it is the sex that is recorded on the birth certificate. When we talk about gender identity, we are now inserting 'gender identity' as a term within the Acts Interpretation Act. Presumably, we are going to open up gender identity for use in various circumstances, and we are seeing the first of those uses when it comes to its application for searches by Correctional Services officers and police. We are also seeing gender identity being used for determining what gender people consider themselves to be for appointment to government boards.

What we are talking about in this provision is something that I think relates more closely to sex than to gender identity, and it is the reason why I oppose this clause. I think one of the fundamental things about being a woman is being able to give birth. Indeed, I think the definitions are so closely tied together that the idea of having working parts—I am trying to be gentle here—of a woman's body that allow that woman to give birth is inherently what makes her female.

I do not want to open up this debate or can of worms, but it is not something that is only related to humans. We understand that with a lot of mammals, in relation to male and female, an animal giving birth is of the female gender.

Members interjecting:

Mr KNOLL: I know there are exceptions to this rule, but what I would contend is that what we are seeking to change here is not anything to do with gender identity: it is to do with sex. What we are talking about here is changing something that should otherwise be a statement of biological fact, in that a woman is the person who can get pregnant, and trying to turn it into a gender identity issue.

Whilst I am extremely supportive of the vast majority of what is in this bill, and indeed will be supporting it in the third reading, on this clause, I think that we need to understand what it is we are doing. I think that this is one of those times when sex is the primary consideration, or sex is what is appropriate to define a person in this area, as opposed to the broader concept of gender identity.

The Hon. T.R. KENYON: I think the member for Schubert has put it quite eloquently. He certainly made a distinction that I would not have thought of about the role of gender and the role of sex in this instance, and he grasped that quite technically. For me, it is a little bit more basic and, again, echoes what the member for Schubert said. The female of a species is so often defined by the reproductive role. The member for Bragg has pointed out a noble exception and, of course, in nature there are always noble exceptions. However, in this case they are so deeply intertwined: it is an objective truth that only women can give birth, and that is just how it is. I am no more erudite than that: that it is, and that is the case.

When voting on this, I will be opposing this clause. The reason I will be opposing this clause is that I think they are so closely intertwined and it is not possible for a man to give birth. Given that it is not possible for a man to give birth, there is no point in changing it. I think this clause—'undermines' is probably too strong a word. Despite my best intentions, it is very difficult to find any sort of objection to the rest of the bill, because it is entirely reasonable. Like the member for Schubert, I will also be voting on the third reading in the affirmative, but I will be voting against this clause. I will be voting against this clause because I think it detracts from the bill, because it gets past the point of gender identity and gets into what is an objective truth: that it is women who give birth and get pregnant.

Mr PENGILLY: I am at one with the member for Newland, the member for Schubert and others on this clause. I find it completely absurd that we are even discussing this in this chamber. I remain adamantly opposed to it. This particular clause is a laughing stock in the wider community and I see no good reason to change where we currently are.

I recognise why the bill has been brought in and I understand parts of the bill. I do not object to parts of the bill, but I do object to this clause. I will be voting no to it, I can assure you. I have been given the thoughts of many in my electorate who think parliament is just wasting its time and debating rubbish on this sort of thing, and they want jobs, etc.—that is their view and they are entitled to it. When this clause comes to the vote shortly, you can rest assured that I will be voting for my principles, and my principles do not include this clause.

Mr PEDERICK: Despite the interesting answer I had from the Minister for Education earlier, I am still not convinced that any form of male can give birth. As has been evidenced in history and as I indicated in my second reading speech a couple of weeks ago, it has not happened yet. I want to be given the time to reflect on some of the comments from people not only in my electorate but also further afield. Anyone following this story would have come across some of those comments from further afield. A constituent from my electorate (Jeanette Eckert) writes:

Dear Adrian

The Woman in our Family are outraged at not being recognised as woman, who for 9 months carry their child in the womb, and then go through, usually, many long hard hours of labour to deliver their little miracle. The Nation owe a great debt to these wonderful Woman and their partners who have contributed to the building of the Australian Nation.

I think that sums it up, because I do not think any bloke would like to go through what ladies go though in childbirth, and I certainly salute them for what they do in keeping peoples on this earth going. As someone else has said, 'Totally agree. Political correctness gone mad,' and another one: 'Just more useless crap we don't need.' I am not sure if we can use that word, but I have.

Ms Chapman: Quote.

Mr PEDERICK: Yes, I'm quoting—thank you, member for Bragg. Another comment:

Further to your agenda of challenging the amendment to the bill, I too was perplexed enough to write to the editor about the same thing. I'm glad that 54 'men' have not actually given birth to babies in Australia.

Further than that, a lot of these comments were readily available. Someone makes the comment:

Disgusted that this will actually be discussed in Parliament. We are actually paying for your stupidity—

So, they are summing us all up.

Hang your heads in shame you politicians who make South Australia the joke of Australia.

Another person says:

Jay—this is stupidity in the extreme just fix it NOW.

I think the Premier actually made those comments to the media that he might have a look at it when he was asked questions about it. Another person says:

Bizarre. And they are going to waste time debating this in Parliament? Just goes to show how serious they are about the important issues facing this State.

Someone else:

What a total wast of time and money. Anyone would think that Parliament has nothing else on its plate. I am fed up with political correctness.

So what is next. The late George Carlin proposed that rape victims will end up being referred to as involuntary sperm recipients.

Changing a name does not change the condition.

Another comment:

Wonder how long before the title 'person' is considered politically incorrect...surely there must be plenty of cats & dogs offended by that description.

Another one:

Well it does have the word 'son' included in it just the like the word 'woman' has 'man' included in it. It is all quite disgusting and something should be done about it!

Another one:

I can't wait for the legislation to remove references to male and female and have everyone classified as person.

Some more commentary:

This just shows how stupid things can grow into mountains. And to be honest it borders on being offensive to women (you know.. females, not males) who are or have been pregnant. Any woman who has been pregnant should have respect, everyone knows that even these days a person who is or has been pregnant has female reproductive organs. Duh? It is not political correctness, it is some baboon that is not busy enough in their work thinking up anything to get attention. Grow a brain. And a brain should be mandatory, and stop trying to manipulate our lives. Sorry, persondatory and personipulate. Is that better? Grow up.

Still quoting:

The problem is now, do male/female, man/woman mean anything at all? Or are the meanings totally relative and so mean whatever anyone happens to want them to mean?

If the latter then they are totally useless and we need to get words that actually mean something. If the former—then please stop all this rubbish.

Another quote:

Should we go a step further and say a pregnant perchild because person is not gender neutral...

In answer to that, someone says:

Absolutely!

I have long been deeply offended a those who refer to us as a species as 'humankind' for the same reason. 'Humankind' becomes "hupersonkind' which then becomes 'huperchildkind' as the correct gender-neutral designation.

Another comment:

Question of the future—

'Why does my birth certificate have IT? And what is an IT?'

Answer by the person (homosexual, lesbian, transgender, or my goodness a straight thing) 'An It is undecided being which may or may not produce the next generation of ITs. It has been legally addressed in such a style that you, the IT, get to choose whatever you decide you might wish to be.'

In another comment about how we refer to gender:

The next thing will be that we should not call people 'he' or 'she' depicting gender.

Another comment:

This has gone way past Political Correctness, this is now social insanity.

Can you imagine the confusion and the size of the titles if we can no longer call a spade—

and this is a great comment—

a 'concave ferro metallic manually operated tool for the bi-bifurcation and physical transposition of organic and inorganic semi slumping materials?'

I think that is a great quote.

It's just madness I say.

Another comment:

Surely to goodness they start all this to try and divert us from the fact that politicians are not doing anything constructive within their roles. I can only shake my head in disbelief.

I think this next comment sums up the idea that men can fall pregnant:

The only 'men' to have fallen 'pregnant' are transgender persons. They are living their lives as a man but were previously living their lives as females. As yet, they had not had any operations to transform their genders completely to a man. This is why South Australia is the laughing stock of Australia, and a backwater. Other states have real issues to deal with, not this time wasting namby pamby crap. You really have to wonder, how we manage to even get where we are given the idiocy in this state.

Another comment:

Just the other day, I was thinking that there were a lot of pregnant men around. Utterly ridiculous, no wonder the state in as bad as it is when time is wasted on crap like this.

Another one:

Is it legislated that men can have maternity leave? could be discriminatory action pending.

We are governed by idiots, meanwhile Rome burns to the ground and we are white-anted from within.

Another comment:

Perhaps we can have a title of Parliamentary members, 'The Most Honorable MP', changed to the 'The Most Idiotic MP'. To me this would be a far better description of our politicians if we are to be 'Politically Correct'.

Here we have a another comment: 'Social engineering by the left.' Just to finalise these few comments:

In my 70 plus years of life I have never seen a pregnant person just a pregnant Woman/Girl. To suggest they are gender neutral is an insult to commonsense & all the women of the world.

I think that just sums it up, Madam Chair.

Ms HILDYARD: I think I will take all of those points as comments, rather than a question. I think there is a broad question there, and I will try to answer that, but I think most of those are commentary. I did want to say thank you to all of the speakers who have contributed in relation to our debate about this particular clause. It is very clear that this clause within the bill has elicited a lot of attention and a lot of feeling from many members in this house.

I am very pleased that we have been able to have an open debate, and that people have been able to air their views. What I have been able to get from listening to people's views is an insight into the various sets of values of the members in this house. I know that, in supporting this particular clause and this bill as a whole, I do so with my values very firmly in my heart and mind. I do not think that any of this is 'crap', as the member for Hammond referred to—

The Hon. S.E. Close: Quoted.

Ms HILDYARD: —or that other people referred to. I also want to say that I think I and members on both sides of this house are able to get across a range of issues facing South Australians at one time. What I did want to say in relation to this debate about an expression of one's values is that I absolutely value the ability for all members of the South Australian community to be included in all of our laws.

This particular bill speaks very much to my values and my commitment, and I hope the commitment of many members in this house, to actually aim, as lawmakers, to make laws that do include all members of our South Australian community. To me, that is what this particular clause and indeed this whole bill is about.

I did also want to make another couple of points. First of all—and I think this just picks up on some of the comments that have been made about only women biologically being able to give birth—again I go to the point that if we actually value all community members being included, those people who identify as women must be included in terms of having all of the rights, responsibilities, obligations and, indeed, penalties in relation to clause 9 apply to them equally.

That applies to people who identify as a woman but, also, it applies to a group of transgender people. There are circumstances where transgender people who have begun to change the gender that they had at birth through medical procedures, etc., have chosen to delay the last parts of that procedure to enable them to give birth, so this particular clause also applies to them.

Finally, what I wanted to say in relation to this clause is that, as the member for Hammond pointed out in our debate the week before last, there are 54 people who identify as men who have now given birth in Australia and two of those are in South Australia. If I value the inclusion of all of our South Australian community members, I want to make sure that we stand up for all of those citizens, whatever people's views about them are. It is incumbent upon us, as law-makers, to stand up for them and make sure that they are equally, as I said, able to access all of the rights, obligations, responsibilities and, indeed, in relation to clause 9, the penalties that come about through the Criminal Law Consolidation Act.

Ms CHAPMAN: I will just indicate that, whilst I am going to ask a further question, as we have had a change of person responsible for the bill on behalf of the government, can I say that I have listened with interest to some of the recent comments on this question, on clause 9, because, in fact, this clause is not about the rights of adults at all: it is about the rights of a foetus not to be poisoned illegally, irrespective of the status of its parents.

This is about a Criminal Law Consolidation Act amendment which says that it is illegal, it is an offence, to poison yourself and cause a foetus to be aborted, and it is to cover a situation where someone does move from being a woman to a man. It is exactly the same argument we had when we dealt with the entitlements of children in the last 20 years. We have had this debate over and again. Irrespective of the marital status of their parents, they have the same entitlements and rights.

Now we are talking about in vitro and we are talking about children who are entitled to be protected. This is a criminal law reform. It is the only significant one in this bill. The rest is, as all the speakers have said and the new lead speaker for the government has acknowledged, about giving

people the rights of recognition. This is about imposing an obligation on whoever is carrying the baby. If they do something to deliberately kill it, then they will face a penalty of up to life imprisonment.

So my question to the new representative on behalf of the government is this. It was published this morning that, while this section of the Criminal Law Consolidation Act is open, it is the intention of the Hon. Tammy Franks to move an amendment to reduce the penalty for killing an unborn foetus in these circumstances. What is the parliamentary secretary's view, and will she be supporting a reduction of the penalty from the maximum of life sentence to anything less?

Ms HILDYARD: I must say that I was completely unaware of the member of the Legislative Council Tammy Franks's indication that that is what she was going to do until today, very early this morning, and I have not had an opportunity to discuss that particular matter with her. I agree with the member for Bragg in terms of her analysis about what this particular clause will do in terms of, as I said before, ensuring that the same rights, responsibilities, obligations and penalties are conferred upon all of our South Australian community members.

As I said, I have not had an opportunity to discuss at all what that bill will look like that the Hon. Tammy Franks is putting forward, so I do not really think I can comment in relation to that, and I am not sure whether that really goes to the question that we are actually looking at at the moment in terms of this clause.

Ms CHAPMAN: Can I ask the parliamentary secretary then to take that question on notice. She now has the conduct of this bill on behalf of the government. It is on its way, clearly, from the statement that has been made, and I think it is academic, frankly, as to whether it is going to be a proposal to substitute a lesser offence to be a fixed term of five years, 10 years imprisonment, a fine, whatever she has in mind, I do not know. But so far the law is clear—

The Hon. J.M. Rankine interjecting:

Ms CHAPMAN: Don't mind her.

The Hon. J.M. Rankine: Never mind you.

The CHAIR: Order!

Ms CHAPMAN: —that the parliament has considered this to be a most heinous crime with a penalty not less than what we give murder. It does not have a 20-year non-parole period as we do with murder, which is a separate clause in the legislation. I think we need to know what the government's position is going to be, and if it is going to be, 'We are not going to have a joint party position on that', everyone can just float around and do what they like. Whatever reduced sentence is to be introduced by the Hon. Ms Franks we need to know what it is.

The Hon. J.M. Rankine: That will be considered by the government.

The CHAIR: Unfortunately, we cannot hear up the back.

Ms Chapman interjecting:

The CHAIR: Order!

Members interjecting:

The CHAIR: Order!

Ms HILDYARD: There are a few things. I think the member for Bragg has raised some really interesting questions. What I would say in relation to those questions is that I am just not sure that they actually go to the intent of this bill. My support for this bill, as I said before, comes about because I wholeheartedly believe that in all of our legislation we must ensure that all of the rights, responsibilities, obligations, penalties, etc., contemplate all of the citizens to which that particular bill applies. The first thing I would say is that I do not really think that question has anything to do with the content of this. What I would say is that, as I said, I think the issues raised are really important, so I am happy to talk with the member for Bragg privately at any time about those matters.

In terms of the position of the government, obviously you have just brought this question up now, but generally in relation to those matters or matters of that type it is a matter of conscience on this side of the house, but that is not something that I can determine right here.

The CHAIR: Member for Schubert, this is your last question.

Mr KNOLL: Yes, ma'am. There has been some discussion that what we are essentially doing here is closing a loophole. I struggle with that concept because in an answer to a previous question I was told that 'gender identity' is a term that we are creating for the first time in legislation, and, again, we have just passed a number of clauses where 'gender identity' will be used. However, I understand that currently 'gender identity' is not something that can be used for the clause that we are talking about here.

So, if the definition stays as it is and a pregnant woman is subject to this part of the Criminal Law Consolidation Act, the only way that someone cannot be subject to that is if somewhere down the track we change the definition from what it currently is. The idea that 'pregnant woman' means that anyone who is pregnant is a woman means that everybody who has the chance to abort a foetus is captured by the current legislation. I do not see how there is a loophole unless we create one down the track.

I do not think that, by voting against this clause, we are allowing there to be a loophole because, again, the clause as it stands, and as I understand it, is a statement about sex as opposed to a statement about gender identity. It is only if we turn it into a statement about gender identity that there could, potentially, be a loophole and that is reductive because we would be closing a loophole. However, as it stands currently I do not believe there to be a loophole, but I am asking whether there is one.

Ms HILDYARD: I hope I heard your question correctly. If I have heard it correctly, my answer is that the intent of this clause is to capture all of the people in our South Australian community who have the possibility of becoming pregnant or are pregnant. I am not quite sure I heard your question properly or if it was just a statement.

Mr Knoll: It was a question.

The CHAIR: Does that satisfy the question?

Ms HILDYARD: Yes.

The Hon. T.R. KENYON: Just on that point, taking the view that the member for Bragg has put, that there would be potentially people who are not caught up in this and those penalties, which I support, by the way, I do not want to see a situation where it is possible that we could create that loophole. My understanding of the situation is that, for the purposes of the Criminal Law Consolidation Act (where these provisions are), if you are pregnant, in the eyes of the law you are a woman regardless of how you view yourself and how you identify and regardless of the gender that you assign yourself. In the eyes of the law for the purposes of the Criminal Law Consolidation Act you are in fact a woman; therefore, we are not creating a loophole. I just want the parliamentary secretary to confirm whether or not that is correct.

Ms HILDYARD: Yes, I can confirm that is correct: we are not creating any sort of loophole through this clause.

Mr PISONI: Can the parliamentary secretary advise whether there was any consideration of this amendment to this clause other than the change of language? Was there consideration as to whether this clause is still relevant, when we have quite liberal abortion laws in South Australia that allow legal abortion quite late in a term? Are you are able to advise (and if you cannot do it now perhaps you can share that in the Legislative Council debate) how many prosecutions there have been where people have put themselves through this?

I cannot imagine anybody of sane mind or any person who is not in a desperate situation—either through social pressure, through family pressure, a 13 year old girl, or someone like that, who does not want their parents to know that they are pregnant and then tries to attempt an abortion on their own—how it is possible that in this day and age we can have a life imprisonment penalty for

someone who is so desperate that they would attempt to do this to themselves. It is almost like having the death penalty for someone who attempts to commit suicide.

Ms HILDYARD: Two comments: first of all, the advice and consideration in relation to this clause and the others came principally from the SA Law Reform Institute report. In terms of your question about how many prosecutions in relation to this particular matter, I do not have that information, but I am happy to provide it through the Legislative Council debate.

The CHAIR: The member for Unley has another question?

Mr PISONI: Thank you, yes, I have, on the same clause. The question I do not think was answered. We are updating the language but are we also using the opportunity to update the law?

Ms HILDYARD: In relation to the Criminal Law Consolidation Act as it pertains to the procurement of abortion, there is absolutely no intention at this time from the government to change the content, the thrust, of that law. There is an intention in this clause and throughout the bill to make sure that we change the language, though, that it does contemplate all of our South Australian citizens, and in relation to this particular clause all of those citizens who have the possibility of becoming pregnant, or are pregnant, or could be pregnant in the future.

Mr PEDERICK: The member for Reynell has repeated what I have stated before about 54 men (allegedly men) giving birth, and I believe it was in 2014. The question I pose is: how have all the jurisdictions managed the legalities around clauses like this and the current amendment we are discussing in regard to abortion, also in regard to going through to full pregnancy and giving birth as women identifying as men?

Ms HILDYARD: In terms of being able to give you precise information about how every other jurisdiction in Australia has dealt with this particular matter, I will have to take that question on notice.

Ms CHAPMAN: I have another question.

The CHAIR: Deputy Leader, you have had three.

Ms CHAPMAN: I understand that, but can I just put my case as to why it is necessary?

The CHAIR: No, just ask the question. Let's cut to the chase. Just ask the question.

Ms CHAPMAN: On the next page, because this is quite an extensive clause, it relates to an issue other than what we have been talking about, and that is the penalties that apply to a medical practitioner, a person who causes the abortion of a foetus. I raised during the debate the use of the word 'patient'. This is in the proposed section 82A amendments so that now the word here is going to be 'patient' instead of 'woman' instead of 'person' so that there is an inconsistency of language.

I think I have this correct; I think the Minister for Education who had the carriage of the debate a week or so ago indicated that she would be prepared to look at this question of making sure we have consistent language anyway. Is that something the government has considered and are you proposing to tidy up the language here so that we do not have 'woman', 'person', 'patient'?

Ms HILDYARD: Yes, I think I can commit that we will ensure that the language is consistent throughout that clause.

The committee divided on the clause:

Ayes 15
Noes 27
Majority 12

AYES

Bettison, Z.L.	Bignell, L.W.K.	Caica, P.
Chapman, V.A.	Close, S.E.	Cook, N.
Hildyard, K. (teller)	Hughes, E.J.	Key, S.W.
Odenwalder, L.K.	Picton, C.J.	Pisoni, D.G.
Rankine, J.M.	Redmond, I.M.	Wortley, D.

NOES

Atkinson, M.J.	Bell, T.S.	Brock, G.G.
Digance, A.F.C.	Duluk, S.	Gee, J.P.
Goldsworthy, R.M.	Griffiths, S.P.	Hamilton-Smith, M.L.J.
Kenyon, T.R. (teller)	Knoll, S.K.	Koutsantonis, A.
McFetridge, D.	Mullighan, S.C.	Pederick, A.S.
Pengilly, M.R.	Piccolo, A.	Rau, J.R.
Snelling, J.J.	Speirs, D.	Tarzia, V.A.
Treloar, P.A.	van Holst Pellekaan, D.C.	Vlahos, L.A.
Whetstone, T.J.	Williams, M.R.	Wingard, C.

Clause thus negatived.

Clauses 10 and 11 passed.

Clause 12.

Mr PEDERICK: In regard to clause 12, the issue for me is that the long title of the amended Domicile Act 1980 is defined as:

An act to abolish the dependent domicile of married women and otherwise to reform the law relating to domicile.

As I have said before, I have come from a very conservative background, and I certainly uphold marriage as being between a man and a woman. It concerns me that there are a few clauses here in relation to where 'wedlock' and 'marriage' are going to go, by the looks of it.

What concerns me is that the parliamentary secretary has been saying that she is wanting this legislation for all South Australians. However, I can assure the member for Reynell that there would be a lot of South Australians not happy to have the word 'marriage' taken out of any legislation, so I wonder what she has to say.

Ms HILDYARD: I will resist, on this occasion, entering into a debate about marriage only being confined to a relationship and a marriage between a man and a woman, but what I will say is this clause does not take away any rights from those people in our community who are in a more traditional marriage. What it does do is ensure that people of the same gender who live together, people of a different gender who live together and people who are in a domestic partnership are actually conferred the same rights as all of those people who live in a traditional marriage situation. So, it certainly does not take away any rights from them.

I think the member for Hammond and most members in this house would agree that, all over South Australia, there are people who live in marriage-like or domestic partnerships, whether they are people just living together or otherwise, who also deserve those rights, and those people are in communities right across South Australia. It certainly does not take away any rights from people who are married, but it makes sure that our language is up-to-date and reflective of our community in terms of the number of people of opposite sex but also of same sex who live together in a marriage-like relationship or in a domestic partnership.

Ms CHAPMAN: Forgive me if I am wrong in this, but it seems to me that this deletion under the Domicile Act has actually nothing to do with what the parliamentary secretary has just said. It has actually to do with getting rid of an obsolete provision in a 1980 act because it, at the time, recognised that a married woman's domicile is not dependent on a husband.

It was to rid ourselves, from 36 years ago, of what had become an obsolete provision and, therefore, its reference, even in legislation which otherwise is still relevant today—that is, to recognise the domicile of a person, including children—should go. I saw it as a tidy-up clause. If I am wrong, I want that clarified, but that is the way I understood it to be.

Ms HILDYARD: Can I just clarify that you are not wrong. I probably just reacted to the member for Hammond's comments and spoke about needing to include people in all different sorts of relationships in our laws, but the member for Bragg is correct.

Clause passed.

Clause 13 passed.

Clause 14.

Mr PEDERICK: This is certainly very similar to the previous clause 12. This is an amendment of section 8 of the Domicile Act 1980, which is the domicile of certain children. It is about deleting the words 'in wedlock'. Certainly, for the very same reasons, there will be many hundreds of thousands of people who would, apart from appreciate, believe that in wedlock is the right way to be. Section 8(3) in its full reading provides:

> Where a child is adopted, his domicile—
>
> (a) if, on his adoption, he has two parents—

it is interesting that it uses the word 'his', but anyway—

> is, at the time of the adoption and thereafter, the domicile he would have if he were a child born in wedlock to those parents…

And it goes on. I had not picked up in my quick reading of the section before that it is very gender specific in referring to a child as 'his', and I wonder if we will have to come back and amend this act again. If the member for Reynell believes she is doing this legislation for the whole of South Australia, I would like that explained, and especially how that section has the word 'his' in it and not another term that includes 'his or her' in regard to children.

Ms HILDYARD: The intention of this clause in terms of removing the words 'in wedlock' is to make sure that all children are contemplated in this act. I am sure that right across South Australia children are born out of wedlock as quite a regular occurrence. I know that shocks the member for Davenport, but it is true. This clause is simply getting rid of something that is outdated to make sure that the provision actually reflects what happens in the community. I would also add that I think generally the term 'in wedlock' is one that would be considered outdated by many in our community.

An honourable member interjecting:

Ms HILDYARD: Not marriage, but 'in wedlock' is probably a term that is not regularly used.

Clause passed.

Clause 15.

Ms CHAPMAN: Subparagraph (3) relates to 'potential pregnancy', which is to delete 'woman' wherever occurring and substitute in each case. This relates to an amendment to the Equal Opportunity Act, so we are not talking about protecting a foetus to ensure that, irrespective of who the carrier is, he or she will be prosecuted if the baby is killed. We are talking here about equal opportunity legislation. Essentially, this legislation is there to protect against unfair discrimination for somebody in a workplace, etc., such as the opportunity to be employed or the opportunity for advancement. We have protection against ensuring that somebody is not refused access to tenancy in a property if they have children and the like. We do not need to go there. We have accepted that in a civilised world it is reasonable that someone who is pregnant or has children should be free of unfair discrimination—that is a given.

I am trying to understand this clause where we have 'potential pregnancy', because here we are talking about a future event. Deleting 'woman' from here I think is unnecessary, because here it is someone who has to be capable of being pregnant, as distinct from the reverse. So we are going from a criminal situation where someone might be a woman and becomes a man and therefore might avoid prosecution, but here we are talking about the potential pregnancy of a person who can only have that if they are a female. Do you see what I mean?

Ms HILDYARD: Yes.

Ms CHAPMAN: I know there was a comprehensive rejection of the law in relation to abortion. I do not want to reflect on the vote of the house, but can I say in a positive sense that I think your proposal was appropriate. However, what I would say here is that I am struggling to see how it would work and how it would be necessary.

Ms HILDYARD: I think that is actually a really good question. This particular area is an area that I dealt with a lot as an industrial officer and an organiser in the union movement. I am trying to think of circumstances where it would be relevant. I was thinking that in any workplace, if you take the example of discrimination against a woman—a person—who is pregnant or could become pregnant in the future, there are many cases where people of a particular age, etc., are discriminated against in terms of their securing of employment.

I am just wondering perhaps, and I think this is possible—I am just casting my mind back to particular industrial issues I have dealt with—if, for instance, a transgender person was going through the procedure to change their gender and, as part of that process, as you would in a workplace, you were talking about your hopes and aspirations for the future, etc., and you were talking about potentially being pregnant in the future, I think that unfortunately there are some employers who would discriminate against that person in terms of promotion just as much as they may discriminate against a woman who talks about being pregnant, etc., in the future.

So, I think that, yes, I am thinking of the sort of circumstances, and I do think that we could come up with circumstances where a person who has the possibility of being pregnant in the future could be discriminated against, just as women in many circumstances have been discriminated against in terms of securing promotion, accommodation, all of those things. I am sure we can't predict all of those circumstances, but I can certainly, casting my mind back to working in that environment, think that there is that possibility for discrimination.

Ms CHAPMAN: It is just that, at present, under the Equal Opportunity Act, it states:

Potential pregnancy of a woman means that the woman is likely, or is perceived as being likely, to become pregnant.

So, unlike the previous debate, this is clearly to deal with people who are (unfairly usually) denied employment or denied advancement or promotion because they could get pregnant. 'Now or in the next five years, she's a high risk. We won't put her in; we'll put the bloke in'—we have all heard that, and that is what is here in the act.

At present, we do not have a situation where someone who might be calling themselves transgender, intersexual, queer, whatever title they want to be, is capable or even likely to become pregnant unless they are a woman, because that is the reality, that at present only a woman can do that. If somebody was in the workplace who is a bloke and says, 'I want to apply for a job,' but openly says, 'I actually want to go through a change to my gender identification and I am going to become a woman, so be ready, guys,' no employer is going to be in a situation like that where they would be saying, 'This person could likely have a baby. I won't advance the new employee.'

A classic example is a colleague of mine from the law, Mr Stokes, who is now Ms Stokes—a competent criminal barrister, but now a woman, having moved from a bloke. Nobody who would be employing in that situation would be thinking, 'I won't advance them because they might be perceived to be becoming pregnant,' because they simply can't. They might adopt a baby, like any other male or female, but they are not likely to be pregnant, because that is actually physically impossible. Do you see what I mean? I am struggling here as to why we would change that, as distinct from me being completely with you in relation to the abortion law.

Ms HILDYARD: I do absolutely accept the member for Bragg's point and I do agree that it is a much less likely situation that what does happen in workplaces where women of a particular age and particular intention that is spoken about, etc., are discriminated against.

I guess what I was trying to articulate before is that I think there is a potential for men who are undergoing surgery, etc., and necessary medical procedures and identify as transgender to become a woman. If they were open about their situation and open with their employer about their intention to become pregnant at the end, or through the partial completion of that process, I do see that there could still be grounds for discrimination. Do you understand what I mean?

Ms CHAPMAN: I think I am hearing correctly, but if somebody in that circumstance said, 'I'm a bloke but I'm going to be a woman soon, and I hope to have children; I am going to have my breast enhancement and I am going to do what I can to do this,' nobody in their right might would not advance them on the grounds of potential pregnancy because we all know that at present this is completely impossible.

They could not physically have a baby; that is not even possible. In fact, if they walked around saying, 'I'm going to change my gender and I'm going to be having a baby,' they would not be advanced or employed for the fact that they are potentially going to be pregnant; they would not be advanced because they are in need of mental health services. If you can give me an example, I am happy to look at it, but I just cannot see that in this context.

Ms HILDYARD: One other circumstance potentially could be if a person who was born a woman but was in the process of transitioning to become a man and was considering pregnancy before that process—

Ms Chapman: But they are still woman.

Ms HILDYARD: Yes, but the point of this legislation is that if they are in the process of identifying their gender differently, we actually include—

Ms Chapman interjecting:

Ms HILDYARD: I understand that it is harder to think of those circumstances, but I think that in workplaces and in that process of transition, there is potential for that circumstance, so I would rather include them than not.

Mr KNOLL: Not that I am reflecting on a vote of the house, but we were dealing with an issue in clause 9 where we were talking about deleting the reference to 'woman' and going to 'someone who is pregnant'. Unfortunately, we have a similar situation in the middle of the amendment to this clause to remove reference to 'woman' and replace it with 'person', which is manifestly the same thing. That is a bit of an issue.

There are a couple of other clauses down the track which also deal with the same thing, which I think, again, we can either decide to vote on or not vote on. Because this is part of a whole heap of other clauses, this is an issue. I do not have an amendment—unless somebody else has an amendment?

The CHAIR: And you are looking at someone when you say that, obviously. The member for Newland has sprung to his feet.

The Hon. T.R. KENYON: I move:

Amendment No. 1 [Kenyon—1]—

Delete subsection (3) and renumber accordingly.

Amendment carried; clause as amended passed.

Clauses 16 to 35 passed.

Clause 36.

Mr KNOLL: Very quickly, again we are dealing with the same thing. We are dealing with the reference between a woman to someone. So, both parts of it again, the same deal. We are talking about the same issue and accordingly we are going to vote against it.

The committee divided on the clause:

Ayes 15
Noes 25
Majority 10

AYES

Atkinson, M.J.	Bettison, Z.L.	Bignell, L.W.K.
Caica, P.	Close, S.E.	Cook, N.

AYES

Hildyard, K. (teller)	Hughes, E.J.	Key, S.W.
Odenwalder, L.K.	Picton, C.J.	Pisoni, D.G.
Rankine, J.M.	Redmond, I.M.	Wortley, D.

NOES

Bell, T.S.	Brock, G.G.	Chapman, V.A.
Digance, A.F.C.	Duluk, S.	Gee, J.P.
Goldsworthy, R.M.	Griffiths, S.P.	Hamilton-Smith, M.L.J.
Kenyon, T.R. (teller)	Knoll, S.K.	Koutsantonis, A.
Mullighan, S.C.	Pederick, A.S.	Pengilly, M.R.
Piccolo, A.	Snelling, J.J.	Speirs, D.
Tarzia, V.A.	Treloar, P.A.	van Holst Pellekaan, D.C.
Vlahos, L.A.	Whetstone, T.J.	Williams, M.R.
Wingard, C.		

Clause thus negatived.

Clause 37.

Mr PEDERICK: This is a bit of a different angle to this bill.

An honourable member: A mangle.

Mr PEDERICK: An angle to the mangle. This is in relation to Part 12—Amendment of Landlord and Tenant Act 1936, and clause 37—Repeal of section 44 seeks to delete the section. I will read through it in a minute but I would like the member for Reynell to explain what deleting the section actually means in real life, for people to understand it. Section 44 is:

> Exemption of sewing machines etc
>
> It shall not be lawful to distrain any sewing machine, typewriting machine, or mangle, the property of or under hire to any female person, whether belonging to the tenant or otherwise, for any rent claimed in respect of the premises or place in which such sewing machine, typewriting machine, or mangle may be: Provided that any such person shall not be entitled to have more than one sewing machine, one typewriting machine, and one mangle protected from distress under this section.

I note it certainly has the reference to 'female'. I am just wondering if the member for Reynell can explain what is happening with the deletion of that clause.

Ms HILDYARD: Well, where do I start? How long do we have?

Mr Pederick: Is this another angle to the bill?

Ms HILDYARD: It is another angle to the bill in that a lot of the issues that we have traversed so far have been focused on gender identity and equality in that regard. Other parts of the bill, particularly this part, focus on gender and outdated notions of what is attributed to each gender, particularly women, given most of the outdated clauses, funnily enough, do not refer to men in a particular way.

This clause really has no relevance in current community life. It is predicated by saying that women are going to be particularly engaged in occupations where they are, if I am understanding what a mangle actually is, wringing out clothes, typing or sewing. By its very nature this clause basically relegates women being contemplated as engaged in occupations that require that equipment.

It is outdated in terms of current community life, because I think most, or certainly the mangle at least, does not exist anymore, or if it does it is in various historic places around the community; but it is also outdated in terms of the type of employment that it attributes to women, when we all know that women fully and actively participate in most areas of life. We do have some way to go,

member for Hammond, but certainly we are getting there in terms of moving away from the mangle and the sewing machine and our typewriters. I hope that answers your question.

Ms CHAPMAN: Can I just raise one other aspect of this? I totally support the removal of these as distress items. I understand the explanation given for removing it, because these are items that as tools of trade are no longer contemporary. I say that notwithstanding that I still own a couple of sewing machines and I still sew, but fortunately I do not have to rely on it for income. There is probably an old mangle at the farm still, but I would not be rushing to resuscitate some income earning opportunity with that, and get out the old Bluo, hot water, and so on. I think it has probably been converted into a cray pot, that old machine.

In any event, it does raise an interesting point, though, not because of the removal of those items but similarly, as we have in bankruptcy, the protection of certain assets which are deemed tools of trade. Is there any provision to protect any assets under the Landlord and Tenant Act—and I have not looked at this yet—from distress when trying to enforce unpaid rent, which is basically what this is about?

It is a rule that says that landlords can recover their rent in certain ways, namely a distress order, but if you confiscate assets for the purposes of paying unpaid rent or damages to property you are not allowed to take certain things. We are taking those out for good reason. I totally accept that, but is there going to be some substitute, or is there already a substitute in the act which allows for items that are able to be established as tools of trade to be protected against distress?

Ms HILDYARD: I understand the member's point. What I can say at this point is that it certainly has not been contemplated in terms of the Landlord and Tenant Act 1936. We have not had that discussion or contemplated any clause that could provide that ability for landlords to collect or hold onto assets, etc. I think that could be another discussion; but the main intention of this clause is to rid ourselves of a completely outdated notion of how women earn an income.

Clause passed.

Clause 38.

Mr KNOLL: This is the same deal as what we have been doing with the previous ones, and again we will be looking to oppose it on the same basis.

Ms HILDYARD: I sensed that was so. I do not have anything further to add to my earlier comments in relation to clauses 9 and 15, so I will leave it at that.

Mr PICTON: I would like to ask about this clause and preface my comments in saying that, as I said in my second reading comments, I think that a lot of these debates have been a bit overblown in their importance. I have voted in favour of the previous sections but I have not really been too excited one way or the other because I do not think it will make a big difference.

Members interjecting:

The CHAIR: Order!

Mr PICTON: In terms of this clause, this looks to me as though it would make a difference in terms of not just being about payroll tax for maternity leave, but it would broaden the definition to be about payroll tax for paternity leave as well. I wanted to ask the parliamentary secretary whether that would broaden it to men who were getting paternity leave to look after their children which is more common now.

Ms HILDYARD: I think that is a really good question from the member for Kaurna. What this clause contemplates is payroll tax in relation to leave, etc. for a person who is pregnant. In the strict definition of paternity leave, that is generally provided at the moment in the act to the male partner of a person who is pregnant. It is not what is subject to payroll tax. However, I think that is a really interesting issue that we could explore.

Mr PICTON: To clarify, this would not cover the male partners; it would only cover the person who is pregnant.

Ms HILDYARD: Yes, it is talking about the person who is pregnant and their leave.

Clause negatived.

Clause 39.

Mr PEDERICK: I am very conservative and I guess the issue for me is that we are losing the title of a married woman in these three clauses that will be excluded if this legislation goes through. Perhaps I am appealing, sadly, to what is becoming an older age and perhaps a better age, but it is just another loss where our laws are being more socialised. I ask the parliamentary secretary, the member for Reynell, if these clauses come out, is there any effect on de facto partners or is that covered in other parts of the legislation that are being amended with these clauses coming out?

Ms HILDYARD: No, there is absolutely no effect in terms of de facto partners. This one is simply about removing wording that implies that a married woman could only be heard in court in relation to the settlement of estates, inheritance, etc. with the consent of her husband and that there is an application that had to be made to be able to give evidence separately from her husband, so that is simply about getting rid of that outdated language. It does not go to any other issues.

Clause passed.

Clauses 40 and 41 passed.

Clause 42.

Mr PEDERICK: I could say ditto, but that would not be giving due respect to married women. This is an amendment of the Trustee Act 1936, and repeal of section 22. This clause will delete the section that states:

> When any freehold hereditament is vested in a married woman as a bare trustee she may convey or surrender it as if she were a *feme sole*.

Can the parliamentary secretary, the member for Reynell, explain whether taking out this clause impacts negatively? I do object to the term 'married woman' being taken out, but I think I am on the losing side of that argument. Perhaps she can explain how the clause works at the moment.

Ms HILDYARD: In terms of how the clause works at the moment, I do not think it does, because it does not have relevance in this day and age to talk about a married woman being able to convey land as if she were a single woman, because the same rights are conferred to all women—to all people—in relation to conveying land. Again, the repeal of this clause is simply about removing outdated language that has no place in the current context.

Ms CHAPMAN: Just in case my colleagues were in some way excited about the prospect of trying to salvage this clause, can I say that we have come a long way since the married women's property act of about a hundred years ago, and I applaud the government in getting rid of this clause. Whilst it attempts to recognise that married women have the same right as single women as property owners—and that clearly is the legal position—that has not always been the case.

It has been necessary for us to pass these laws in the past, and then to remedy the inequity of dealing with married women's property rights back with infants and imbeciles. It is just unacceptable that we have ever had that, but that we can say it now in the clear light of 2016. Nevertheless, if we understand the history, this was necessary to say, 'Hang on a minute; we're not going to restrict a married woman's rights because of the historical impediment that she suffered.' So, just in case the honourable member is getting excited, I will be voting with the parliamentary secretary.

Ms HILDYARD: Thank you.

Clause passed.

Title passed.

Bill reported with amendment.

Third Reading

Ms HILDYARD (Reynell) (17:47): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LOCAL GOVERNMENT (STORMWATER MANAGEMENT AGREEMENT) AMENDMENT BILL

Introduction and First Reading

Received from the Legislative Council and read a first time.

Second Reading

The Hon. S.E. CLOSE (Port Adelaide—Minister for Education and Child Development, Minister for Higher Education and Skills) (17:48): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

The *Local Government (Stormwater Management Agreement) Amendment Bill 2015* will enhance the governance arrangements for cooperative stormwater management in South Australia. With this Bill, the State Government upholds its commitment to introduce legislation to give effect to the Stormwater Management Agreement, as executed by the State and the Local Government Association of South Australia in late 2013.

Members may recall that the Government and the Local Government Association originally entered into a Memorandum of Agreement on stormwater management on 14 March 2006. That was a significant milestone, with the Agreement clearly setting out for the first time responsibilities for stormwater management.

Historically, stormwater has been viewed more often than not as a nuisance issue. In recent years, stormwater has come to be seen also as a potential resource for harvesting and reuse. A contemporary and integrated approach is warranted if we are both to manage the risks and to harness the benefits of stormwater.

As I said, that original Agreement addressed responsibilities for stormwater management and provided the basis for joint and collaborative action by both levels of government to deal with the threat of flooding and to better manage the use of stormwater as a resource. Fundamentally, the Agreement provided a basis for whole-of-catchment approach to planning for stormwater.

As part of the Agreement, the State Government committed to a long-term funding arrangement for stormwater management and flood mitigation works, providing $4 million per annum, indexed, over 30 years. The Agreement was given a statutory footing via amendment of the *Local Government Act 1999* in 2007.

Amongst other things, the insertion of Schedule 1A to the Local Government Act 1999 established the Stormwater Management Authority as a statutory corporation and established the Stormwater Management Fund. Consistent with the Agreement, the Authority was tasked with being the facilitator and coordinator of stormwater management planning, including through the administration of the Stormwater Management Fund.

Under the auspices of the Agreement, a total of $34.5 million has been approved between September 2006 and 30 June 2015, supporting 105 projects worth $81 million. These projects comprise both floodplain mapping and planning projects, and infrastructure works, across the metropolitan area and in regional South Australia, undertaken in partnership with local councils. To date, 59 projects have been completed.

The Local Government Association and councils are to be commended for these outcomes.

The Government has continued to work closely with the Local Government Association to develop long-term solutions for better managing stormwater. In 2011, the Government released the *Stormwater Strategy – The Future of Stormwater Management*.

One of the key recommendations arising from the Stormwater Strategy was to establish a new operational model for the Authority by giving it on a more strategic outlook. In that sense, the Strategy was a catalyst for the State and Local Government Association to enter into a new Stormwater Management Agreement in 2013.

The new Agreement provides for the Authority's functions to include supporting the development of an urban water plan for Greater Adelaide and leading the implementation of the stormwater elements of that plan. The urban water plan will establish a framework and agreed priorities for how stormwater resources are developed and managed with other water resources available to Adelaide, and work is already underway to develop this plan.

The Agreement requires the Authority to develop a ten-year strategic plan setting out the strategic approach to be taken by the Authority in relation to implementation of the urban water plan for Greater Adelaide (as it relates to stormwater), and in relation to stormwater management in regional South Australia. The Authority recently prepared its first strategic plan, and is due to be published shortly.

The Authority will also now prepare three-year business plans to clearly articulate how the Authority will conduct its operations and prioritises catchments where stormwater management plans and works are to be focused.

In renewing the Agreement, the State and Local Government also agreed a number of refinements to the governance and operations of the Authority, including as to the composition and procedures of the Authority. The renewed Agreement rightly places the emphasis on members' skills as a primary consideration, while retaining an equal number of local government-nominated and State-nominated members.

In other respects, the fundamentals of the Agreement are unchanged: the Authority will continue as a statutory corporation to work closely with councils to progress stormwater management plans and implement stormwater infrastructure works with the support of the Stormwater Management Fund.

The renewed agreement foreshadows the need for legislation to give statutory effect to certain aspects of the agreement. This has culminated in the Bill that is being introduced into this House today.

The Bill is necessary to recognise the revised Agreement itself, and to give effect to changes contained therein. There has been an extensive consultation process with the Local Government Association to develop the revised Agreement in the first place and now on the specific measures set out in the Bill, which the LGA supports.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Local Government Act 1999*

4—Substitution of Schedule 1A

Schedule 1A—Implementation of Stormwater Management Agreement

This clause substitutes a new Schedule 1A into the *Local Government Act 1999* dealing with implementation of the Stormwater Management Agreement entered into by the State of South Australia and the LGA on 30 August 2013.

The Schedule contains the following provisions:

- an interpretation provision containing definitions for the purposes of the Schedule;
- a provision approving the 2013 Stormwater Management Agreement;
- a provision setting out the objects of the Schedule;
- a provision specifying that the Schedule is in addition to and does not limit or derogate from the provisions of any other Act;
- provisions continuing the Stormwater Management Authority (the Authority) and setting out its functions, namely:
    - to liaise with relevant public authorities to ensure the proper functioning of the State's stormwater management system;
    - to contribute to the urban water plan for Greater Adelaide and lead the implementation of elements of that plan relating to stormwater;
    - to facilitate and co-ordinate stormwater management planning by councils;
    - to formulate policies and provide information to councils in relation to stormwater management planning;
    - to facilitate programs by councils promoting the use of stormwater to further environmental objectives and address issues of sustainability including the use of stormwater for human consumption, for the maintenance of biodiversity and other appropriate purposes;
    - to ensure that relevant public authorities co-operate in an appropriate fashion in relation to stormwater management planning and the construction and maintenance of stormwater management works;
    - to provide advice to the Minister in relation to the State's stormwater management system;
    - to carry out other functions conferred on the Authority under the Schedule or by the Minister with the agreement of the LGA;

- provisions with respect to the Board of the Authority (which is to consist of a presiding member and not less than 6 other members, of whom half are to be appointed on the nomination of the LGA and half are to be appointed on the nomination of the Minister);
- a provision dealing with documents to be prepared and maintained by the Authority, including a strategic plan, a business plan, a code of ethics for board members and a guide for persons wishing to apply for money from the Fund;
- a provision allowing for establishment of a Stormwater Advisory Committee;
- provisions with respect to the preparation of stormwater management plans by councils and for approval by the Authority of stormwater management plans prepared by councils and provisions giving the Authority power to require the preparation of a stormwater management plan;
- provision for the Authority to make an order requiring action by a council where a council has failed to comply with a requirement to prepare a stormwater management plan or has failed to comply with an approved stormwater management plan or where the Authority is satisfied that action by a council is necessary to provide for the management of stormwater or to preserve and maintain the proper functioning of any stormwater infrastructure that the council has the care, control and management of. If a council fails to comply with an order the Authority may take the necessary action and may apply monies from the Fund to cover the costs and expenses of taking the action or recover the costs and expenses (or a portion of them) from the council as a debt;
- provisions with respect to the Stormwater Management Fund, including the circumstances in which payments can be made out of the Fund and requirements relating to accounts and audit;
- miscellaneous provisions dealing with the exercise of powers in relation to land, notice to occupiers, a power of the Minister to vest land or infrastructure, liability, assessment of costs and expenses, evidentiary matters, annual reports and regulations.

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (RIGHTS OF FOSTER PARENTS, GUARDIANS AND KINSHIP CARERS) BILL

Final Stages

The Legislative Council agreed to the bill without any amendment.

ROAD TRAFFIC (ISSUE OF FREE TICKETS BY PARKING TICKET-VENDING MACHINES) AMENDMENT BILL

Final Stages

The Legislative Council agreed to the bill without any amendment.

At 17:50 the house adjourned until Thursday 10 March 2016 at 10:30.