LEGISLATIVE COUNCIL

Thursday, 13 November 2014

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:16 and read prayers.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Ombudsman SA—Report, 2013-14

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Reports, 2013-14—
- Hydroponics Industry Control Act 2009
- Protective Security Act 2007
- South Australia Police
- South Australia's Road Safety
- The Department for Correctional Services

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2013-14—
- Adelaide Festival Centre
- Adelaide Festival Corporation
- Adelaide Film Festival
- Art Gallery of South Australia
- Australian Health Practitioner Regulation Agency
- Balaklava Riverton Health Advisory Council Inc.
- Barossa and Districts Health Advisory Council Inc.
- Berri Barmera Health Advisory Council Inc.
- Bordertown and District Health Advisory Council Inc.
- Carclew
- Ceduna District Health Services Health Advisory Council Inc.
- Central Adelaide Local Health Network
- Central Adelaide Local Health Network Health Advisory Council Inc.
- Chief Psychiatrist of South Australia
- Controlled Substances Advisory Council
- Coorong Health Service Health Advisory Council Inc.
- Council for the Care of Children
- Country Arts SA
- Country Health SA Local Health Network Health Advisory Council Inc.
- Country Health SA Local Health Network Inc.
- Defence SA
- Department for Health and Ageing
- Eastern Eyre Health Advisory Council Inc.
- Eudunda Kapunda Health Advisory Council Inc.
- Gawler District Health Advisory Council Inc.
- Hawker District Memorial Health Advisory Council
- Health and Community Services Complaints Commissioner of South Australia
- Health Performance Council
- Hills Area Health Advisory Council Inc.
- History Trust of South Australia

JamFactory Contemporary Craft and Design Inc.
Kangaroo Island Health Advisory Council Inc.
Leigh Creek Health Services Health Advisory Council
Libraries Board of South Australia
Lifetime Support Authority of South Australia
Lower Eyre Health Advisory Council Inc.
Lower North Health Advisory Council Inc.
Loxton and Districts Health Advisory Council Inc.
Mallee Health Service Health Advisory Council Inc.
Mannum District Hospital Health Advisory Council Inc.
Mid North Health Advisory Council Inc.
Millicent and Districts Health Advisory Council Inc.
Mount Gambier and Districts Health Advisory Council Inc.
Murray Bridge Soldiers' Memorial Hospital Health Advisory Council Inc.
Naracoorte Area Health Advisory Council Inc.
Northern Adelaide Local Health Network Health Advisory Council Inc.
Northern Adelaide Local Health Network
Northern Yorke Peninsula Health Advisory Council Inc.
Penola and Districts Health Advisory Council Inc.
Pharmacy Regulation Authority of South Australia
Port Broughton District Hospital and Health Services Health Advisory Council Inc.
Port Lincoln Health Advisory Council Inc.
Port Pirie Health Service Advisory Council
Renmark Paringa District Health Advisory Council Inc.
SA Ambulance Service
SA Ambulance Service—Volunteer Health Advisory Council Inc.
South Australian Community Visitor Scheme
South Australian Medical Education and Training Health Advisory Council Inc.
South Australian Museum Board
South Australian Public Health Council
South Coast Health Advisory Council Inc.
Southern Adelaide Local Health Network
Southern Adelaide Local Network Health Advisory Council Inc.
Southern Flinders Health Advisory Council Inc.
State Opera of South Australia
State Theatre Company of SA
Supported Residential Facilities Advisory Committee
Veterans Health Advisory Council
Waikerie and Districts Health Advisory Council Inc.
Windmill Theatre
Women's and Children's Health Network
Women's and Children's Health Network Health Advisory Council Inc.
Yorke Peninsula Health Advisory Council Inc.

Ministerial Statement

SUCH, HON. R.B.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:21): I table a copy of a ministerial statement by the Hon. Jay Weatherill from another place on the celebration of the life of the Hon. Dr Bob Such.

PUBLIC SECTOR ENTERPRISE AGREEMENT

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:21): I table a copy of a ministerial statement by minister Susan Close on the results of the Wages Parity Enterprise Agreement: Salaried 2014 ballot.

Question Time

SOUTH AUSTRALIAN TOURISM COMMISSION BOARD

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the minister representing the Minister for Tourism a question about the abolition of the South Australian Tourism Commission Board.

Leave granted.

The Hon. D.W. RIDGWAY: On Friday 7 November, I and I believe all of my colleagues, but certainly my Liberal colleagues, received a copy of a letter sent by the minister, the Hon. Leon Bignell, to the Managing Director of the Australian Tourism Export Council, Mr Peter Shelley. It is interesting to note that the letter was dated 31 October, yet as of some 15 minutes ago Mr Shelley has not ever seen a copy of that particular letter. However, the letter expressly stated that the chair of ATEC, Mr Paul Brown, who is a South Australian who lives on Kangaroo Island, was 'supportive of the government's decision', that is, to abolish the SATC board. It also stated that Mr Brown had 'accepted a position on the new industry panel'.

The minister's office went to the trouble of highlighting those two lines to me—in fact, they were underlined in the letter and I believe all copies that I have seen were underlined by the minister. The second point in the letter is correct. He has accepted a position on this conceptual panel. He did so via text message to the minister. Mr Brown was on holiday in Bali at the time and missed a call from the minister. He has never spoken or written to the minister on this matter. It seems interesting that the minister is able to say that Mr Brown was included in the process and is supportive of the government's decision. My questions to the minister are:

1. How and when did ATEC, and particularly the chair, Mr Brown, signal their support for the government's decision?

2. Can the minister produce any communication from any one major tourism representative body which expressly states the body's support for the abolition of the SATC board?

3. Given that ATEC has not, as of 15 minutes ago, received the letter that was dated 31 October, can the minister advise this chamber when it was actually posted to ATEC?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): I thank the honourable Leader of the Opposition for his important questions. If I leave aside the vast amount of opinion that was in his opening comments, I will take the very meagre questions that are left over to the Minister for Tourism in the other place and seek a response on his behalf.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:24): I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray on the subject of the desalination plant and the River Murray.

Leave granted.

The Hon. J.M.A. LENSINK: The return of environmental water is a commitment made by the state government in exchange for the $328 million to build the Adelaide Desalination Plant, and the rhetoric behind that was that the state would reduce its reliance on the River Murray. It is my understanding that under the Adelaide Desalination Plant Implementation Plan South Australia is responsible for the management of this water. Under this plan the state minister is required to notify the commonwealth minister of the government's actions rather than make an offer. However, on 30 October, minister Hunter stated in this place:

> The offer of environmental water from SA Water up to the commonwealth was made, as I understand it, well over 12 months ago and that offer has not, as far as I am aware, been taken up by the commonwealth. The offer still stands, of course.

My questions to the minister are:

1. Has the minister since communicated with the commonwealth on this issue regarding its intentions of where the environmental water will come from?

2. Are there targets in relation to dates and annual volumes?

3. Can the minister ensure that South Australia's food producers will not once again be sacrificed to meet these targets?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:26): I thank the honourable member for her most important questions in terms of the River Murray and also the state's contribution to those outcomes. As is well known in this place, through the leadership of our Premier Jay Weatherill, this state stood up to the federal governments of both political persuasions to make sure that we got the best outcomes we could as a state to provide for the health of our river into the future.

The basin plan came into effect on 24 November 2012 as a result—a large part of the result—of our activity and our agitation in this area. The state government is now working with the Murray-Darling Basin Authority and other basin jurisdictions to progress those implementation arrangements. To underpin the implementation of the basin plan, the South Australian government has entered into an intergovernmental agreement with other basin jurisdictions which outlines how we will work together.

The intergovernmental agreement includes commitments to work collaboratively to plan for the use and management of environmental water, to establish joint governance arrangements to support the effective operation of adjustments to the sustainable diversion limit (SDL) as well as commitments for commonwealth government funding. This includes arrangements for investing in projects that address physical or operational river constraints and sustainable diversion limits adjustment projects which can offset the water recovery requirements under the basin plan. It is important to understand that all states—all parties really—have to agree to those SDL adjustment processes.

If SDL adjustments are proposed by one jurisdiction but not supported by another, then they cannot go forward. That is a big driving force in making sure we get the outcomes that have been guaranteed under the plan. For example, if New South Wales puts forward a program that South Australia does not believe has adequate water flowing from it, then we will not be supporting that program. New South Wales, of course, knows that and so presumably would not be putting forward such a program that we would not ordinarily support. It is a very powerful instrument.

Under the agreement, the commonwealth government has committed to make over $13 million in funding available over eight years to the South Australian government. This is in recognition of the additional costs associated with the basin plan and to support the development of business cases for SDL adjustment projects.

To guide the state's implementation of the basin plan and the related programs, the government has released the South Australian Murray-Darling Basin Plan Implementation Strategy. This implementation strategy outlines the key actions being pursued to ensure the basin plan is fully integrated into South Australia's ongoing water management arrangements.

Work to execute the strategy is progressing well, I am advised. We have been progressing arrangements for the $440 million suite of environmental and industry diversification projects that were secured by Premier Weatherill and the state government during negotiations to develop the plan. The government is also investing effort in reviewing and adapting the state's existing Murray-Darling Basin water management arrangements, including water resource planning and allocation, water quality and salinity management, environmental water management and water trading. A central plank of that successful implementation will be the introduction of a new sustainable diversion limit in each of the state's three water resource plans by 2019.

The introduction of new sustainable diversion limits will require about 183 gigalitres of water recovery from the South Australian Murray system, and I am advised that over half of that has already been recovered. The commonwealth, of course, released its water recovery strategy on 2 June this

year. The strategy largely reflects current actions underway by the commonwealth and other jurisdictions to recover water, or offset water recovery requirements, for sustainable diversion limits.

The commonwealth strategy confirms that there is a cap on water purchases at 1,500 gigalitres, but indicates that the projected total water purchase may only need to be 1,300 gigalitres. I have said in this place before, the commonwealth's projections take into account estimated water savings of 543 gigalitres from contracted infrastructure projects—and that is all well and good—and assumes that offsets from the SDL adjustment measures could be 650 gigalitres. But what if they are not? It remains to be seen what happens in practice. For example, the actual level of water recovery offsets will only be known following the operation of the SDL adjustment process in 2016, and 2016 is awfully close to 2019, when the plan is supposed to be implemented.

The commonwealth intends to update the strategy annually to reflect latest information, and we encourage them to do that—that is good policy—with a major review to follow in 2016. The state government will also continue to participate in good faith in the water recovery and the SDL adjustment process. The state government will also continue to explore a range of projects for water recovery or offsets, and we will ensure we are well prepared in the event that not all the outcomes predicted in the commonwealth strategy are realised; for example, the final SDL adjustment falls short of the projected maximum of 650 gigalitres.

This is why it is so very important that we work to change the commonwealth's mind about water buyback. Water buyback is the cheapest, most efficient way of ensuring environmental water is in the Murray River for the benefit of the environmental processes that happen all up and down the river. The commonwealth has, as I said, capped their buyback. They have even tried to screw it down by another 200 gigalitres, all on supposition; the science has not been there. We have not seen that information and, as I intimated, we will not see it, probably, until 2016.

If the commonwealth hitches its wagon to engineering solutions—which is what they are saying to us they want to do, and which I said in this place I think yesterday, ends up being on average about seven times more expensive than the most efficient process, which is buying back water—and if those engineering solutions do not get us those SDL adjustments, then come 2019 the commonwealth is going to be short—short of the water that has been promised be implemented by the basin plan.

That can be fixed now by them reneging on their promise made in the lead-up to the last election about capping water buybacks. We all know why they did that; that was to pander to communities in New South Wales which have been overextracting from the river system for decades and decades and decades. It is not efficient, it is not effective, it is not good policy, and we would like to see the Liberal Party in this state join with us to campaign against the federal government's water buyback programs and actively encourage them to do what is efficient and in the interests of this state.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:32): I have a supplementary question. Has the South Australian government completed its SA Water contribution of 20 gigalitres by 2019?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:33): As I said in this place previously, the Premier announced in June 2012 that SA Water was committed to offering 20 gigalitres for sale to the commonwealth for environmental purposes. Further water will also be returned under our commitments associated with the Adelaide desal plant (I have outlined those in this place before), as well as from the on-farm irrigation efficiency program coordinated by the South Australian Murray-Darling Natural Resource Management Board.

We are confident that any gap remaining in that offset will be found by a reduction in the water savings target resulting from environmental works that utilise water more efficiently; well costed and well designed; the science is there to show that under the SDL proposal. We will hold up our end of the bargain, because actually it is in our interests as a state to do so. If we do not hold up our end of the bargain, how then do we expect Victoria and New South Wales to commit themselves to the basin plan which we forced on them? It is in our interests—

The Hon. J.M.A. Lensink: You did not.

The Hon. I.K. HUNTER: Oh, come on! They don't even want to give credit where it is due, Mr President. It was the Premier of this state who forced this basin plan into action. It was the Premier of this state—

Members interjecting:

The PRESIDENT: Please sit down. If you want to waste valuable time during question time, so be it, but the minister is on his feet answering a question from the Hon. Ms Lensink; he shall do so in silence. The honourable minister.

The Hon. I.K. HUNTER: They do not like being reminded of this history, sir. It was the Premier of this state (Premier Jay Weatherill) who stood up to a Labor government and conservative states, and got the ultimate program for our river's health and safety into the future. We forced the commonwealth to legislate to make sure that 450 gigalitres is in the legislation and funded, by uniting the communities of South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Where were the Liberal opposition in this? Gone missing.

The Hon. G.E. Gago: Selling us down the river.

The Hon. I.K. HUNTER: Selling us down the river, as my leader says. They wanted us to buy the clapped out old Mazda model that they plopped on the table. They said, 'Grab it; that's the best deal you're going to get', but that is not what the Premier of this state did. He actually took up the fight with good science and he got a better outcome, and we will be pressing the commonwealth to deliver on that outcome.

The PRESIDENT: The Hon. Ms Lensink has a supplementary. I ask all members to respect the right of Ms Lensink to ask this question but also to respect the right of the minister to answer it.

The Hon. J.S.L. Dawkins: Including the minister next to him.

The PRESIDENT: Including the minister.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:35): Does the minister seriously expect this place to believe that his government has more influence than the commonwealth parliament in the passage of the agreement?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:36): I think the proof is in the eating of the pudding. In fact, it was this state that united the South Australian communities—typical Labor-voting communities with typical Liberal-voting communities. We put aside politics for the good of the state.

The Hon. J.M.A. Lensink: You did not.

The Hon. I.K. HUNTER: We took on our own side. You don't do it. When have you stood up against the federal Liberal government for the good of South Australia? You are disappearing into the background. You will never stand up for the interests of this state against the federal Liberal government. We stood up against the federal Labor government and we will stand up against this federal Liberal government, too.

The PRESIDENT: The Hon. Ms Lensink has a supplementary.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:36): How does the minister categorise, if not politically, former premier Mike Rann taking the former Howard government to the High Court over this issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:36): Absolutely. Again, it is an indication of how the Labor leadership of the government in this state stands up for South Australia at every opportunity. That is what we are here for. We are not elected here to sit on our backsides and have a good holiday in the upper house for eight years. That is not what we are elected to do. We are elected to fight for our state and our constituents, and the Labor Party in government will always do that. The Liberals go missing. God help us had they been elected at the last election. Where would they be in standing up for South Australia over Holden's, for instance, or the submarine project? Where are they on submarines? Nowhere to be seen.

The PRESIDENT: Further supplementary.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:37): Does the minister believe, every time he stands up in this place full of hubris, that upstream states do not read *Hansard* and think that he is a complete fool?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:37): The important people in the other states who I deal with know just the opposite.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:37): I seek leave to make a brief explanation before asking the Minister for the Status of Women questions relating to the sentencing of victims of domestic violence.

Leave granted.

The Hon. S.G. WADE: In 2012, Catherine Therese Collyer was sentenced to 3½ years' imprisonment after stabbing her abusive partner in the chest during a domestic violence incident. Under the Weatherill Labor government's changes to mandatory sentencing laws, people convicted to more than a two year sentence and given a nonparole period must spend one-fifth of that time in prison. I understand that under the government's new law Ms Collyer would be required to serve almost two years in prison, with no option for the judge to avoid sending her to gaol.

Women's groups and anti-domestic violence campaigners claim the law operates as a catch-all. Ms Vicki Lachlan, co-chair of the Coalition of Women's Domestic Violence Services, is reported as saying that victims of domestic violence deserve compassion, not imprisonment. Ms Lachlan says that women who defend themselves against domestic violence will be re-victimised by this law. I ask the minister:

1. Does the minister agree with women's groups that victims of domestic violence do not deserve imprisonment?

2. Does the minister stand by her earlier assurances to this council that victims of domestic violence will not be caught by the new sentencing legislation?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:39): I thank the honourable member for his most important question. I provided some information about that yesterday, and I can only reiterate that in relation to that information, I have been advised that it remains the discretion of the judge to determine, in relation to certain serious offences, the length of the nonparole period. If a judge determines it is less than two years, then my understanding is they don't automatically default to the provisions that the honourable member refers to where 20 per cent of the sentence has to be served.

Given that the judge has a discretion to determine the length of the nonparole period, the advice I have received is they will take into consideration—given the implications are that it could result in a mandatory gaol term now—any exceptional or special circumstances that might bear on the length of that nonparole period. Given that it is still a discretionary component, the advice I received is that it is highly likely that women who are in special circumstances could, and would, most likely, have those accounted for in the serving of that nonparole period.

The PRESIDENT: Supplementary, Mr Wade.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:41): Given that there have been three cases of women convicted of manslaughter in the last 10 years in relation to domestic violence incidents, and considering that the most recent case, Catherine Therese Collyer, was sentenced to 3½ years, is the minister really suggesting that Supreme Court judges will reduce the sentence that they believe justice requires to avoid an unintended consequence of the government's mandatory sentencing legislation?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:41): I am advised that, in their infinite wisdom, the judiciary take into consideration all relevant matters when making these determinations and execute their discretion accordingly, and I trust they will continue to do that.

TAFE SA

The Hon. K.J. MAHER (14:42): My question is to the Minister for Employment, Higher Education and Skills. Can the minister inform the chamber about TAFE SA's new creative pathway strategy?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:42): I thank the honourable member for his very important question. South Australia has seen a steady growth in the creative arts industry, both in attendance and employment growth. Every year, more and more visitors from interstate and overseas come to our state for our many festivals and cultural events. To ensure a vibrant future for our creative arts industries, we need to give our workforce the training and skills they need to maintain and grow our reputation for the best creative and cultural events in the nation.

In 2013, the government worked closely with the Arts Industry Council of South Australia and Service Skills SA to identify the workforce needs of the creative and cultural industries in the state. The report identified that there are some gaps in the training system for our creative workforce, particularly in the areas of entrepreneurship, arts administration and the staging of creative events.

Our election commitments this year followed the report with a commitment to provide $200,000 per year for four years to shape vocational training courses that could build the skills of the creative workforce. As a result, TAFE SA's Adelaide College of the Arts, in close collaboration with Arts SA, the Arts Industry Council, Service Skills SA, Festivals Adelaide, Music SA—all of the major players in the industry—have developed a creative pathways strategy. This strategy maximises a value for money for the industry as a whole, catering to a broad cross-section of live performance, screen, media and music artisans.

As part of the new strategy, TAFE SA's Adelaide College of the Arts is developing three new training programs which will be delivered in flexible training blocks, including after-hours delivery. The first new course is Certificate IV in Arts Administration, a comprehensive qualification that will meet the identified skills shortage in non-technical and non-creative roles. TAFE SA engaged an industry specialist to develop this course to make sure it meets the needs of employers. This course will commence in February 2015 and is now open for enrolment.

The second important course that has been developed is the Skills for Creative Events course. Anyone who has attended one of the state's festival events will probably not be aware of the immense amount of organisation that goes on behind the scenes to make our public events run effortlessly. We have an excellent reputation for such events and it is important that we maintain and extend our pre-eminence in this field and, as a result, this course will have a particular focus on festivals and will include areas such as events, live production, technical production and stage management. Similar training in the past was so highly valued by employers that 86 per cent of participants gained employment. This course will also commence in 2015 and is now open for enrolment.

The third course under development is the Graduate Certificate and Graduate Diploma in Creative Entrepreneurship. A key focus of any training and upskilling needs to be new income

generation. We want to encourage our artisans and performers to start new companies and businesses that will be successful and help grow the industry. This course will include business development, marketing, finance, project and self-management, digital literacy and entrepreneurship skills. This strategy is a truly collaborative effort from our creative industries, especially at a time when there are challenges from other interstate festivals. We know the Eastern States are always snapping at our heels.

The Hon. I.K. Hunter: Trying to emulate us.

The Hon. G.E. GAGO: That's right; trying to emulate us. We are justifiably proud of our state's reputation as the festival state. The creative pathway's strategy will provide many South Australians, including of course young South Australians, with the skills and passion to secure that reputation into the future.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to acknowledge the presence of the Hon. Mr Andrew Evans and his guests from the United States. Welcome. This place has not been as well behaved since you left, Andrew. It is good to see you here.

Question Time

TAFE SA

The Hon. K.L. VINCENT (14:47): I have a supplementary question. Does anything in the Skills for Creative Events course touch on the importance of making performance art accessible to both artists and event-goers with disabilities?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:47): I do not know that detail for sure, but I assume that those principles would be incorporated in all relevant training. I will double-check but I would be most surprised if it was not.

PASTORAL INDUSTRY MANAGEMENT

The Hon. R.L. BROKENSHIRE (14:48): I seek leave to make a brief explanation before asking the Minister for Environment, Climate Change, Sustainability and a range of other portfolios questions regarding the interests of pastoralists and remote region residents.

Leave granted.

The Hon. R.L. BROKENSHIRE: Further to previous questions that I have asked the minister, but where I have not had answers to my questions, and notwithstanding the fact that this morning the Premier said:

> Because we have massive challenges in front of us, Leon, and the sort of cynicism and delay and obstruction that you've just heard from Mr Brokenshire, is the very thing that we've got to get away from. People in South Australia need to understand that we're staring down the barrel at some massive challenges.

My understanding is that pastoralists are staring down the barrel at massive challenges and, not being cynical but in representing those people, I have reasons to ask these questions when the government is vague, at the least, on what the intent is for assisting these people. We have so far not had a plan for the future of the Pastoral Board or its replacement, and the management of the station country in South Australia. My questions to the minister are:

1. Does the minister now have a plan (if he is intent on getting rid of the Pastoral Board) as to how the issues—very broad around that of pastoral management, stocking numbers, lease extensions or reinvigorations, etc.—will occur?

2. Does the minister expect the Legislative Council to rubberstamp the abolition of the Pastoral Board if, indeed, the government does not have a firm plan in place for the future management of the pastoral industry?

3. Does the minister acknowledge that the pastoral industry is under pressure and needs an empathetic ear from the government when it comes to assisting them to continue their businesses in the Far North?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:50): I thank the honourable member for his most important questions. It is a shame that the honourable member comes into this place and makes up all sorts of allegations and propositions, and makes allegations about me not answering questions, strangely enough, when, of course, I do. The problem is he never listens. After I get through answering his question he stands up and asks it again because he was on his phone or he was talking to the person next to him, because he just does not care.

Members interjecting:

The PRESIDENT: Hon. Mr Ridgway, do not contribute to that disorder, please.

The Hon. I.K. HUNTER: I will come to some of the nonsense that the Hon. Mr Brokenshire spouts, and gets away with from time to time, because he has been caught out this time and I want to make it pretty clear to the council how that has been the case. However, in terms of the Pastoral Board, as I have said in this place before, the government has concluded its initial review of various state-supported boards and committees. The review was implemented in order to find new and innovative ways to ensure that advice to government on policy issues flows more directly from citizens and businesses alike. It was also aimed at improving the community's access to government decision-makers and reducing red tape.

It has become clear that a more effective approach must be found to support the effective engagement of the pastoral community on issues associated with the administration of the Pastoral Land Management and Conservation Act. The member for Stuart in the other place has brought pastoralists in a delegation to see me from time to time—and I think I have also mentioned that in this place previously—and underlined those very same points.

What on earth would the Hon. Mr Brokenshire have us do? Would he have us coming in here with a predetermined plan, with no consultation with the affected people, and flop it out on the table and say, 'There you go, that's what you're getting', or would he rather us actually acknowledge the problems that are brought to us and say, 'We'll go off and engage with the affected pastoralists and come up with a better way forward'? Surely that would be the thing that he would be thrusting on us but, instead, he comes in here with these ridiculous allegations.

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: He does; he makes up different things depending on who he is talking to at the time. Depending on who he is talking to he gives a different view, and then he comes onto radio and says something completely different. The Pastoral Land Management and Conservation Act 1989 will continue to be the guiding legislation that supports the management of our pastoral lands, and the functions and duties of the Pastoral Board will continue to be performed.

However, let us go to the outrageous claims that the honourable member has been making on radio. He mentioned the radio interview with Leon Byner that the Premier did and talked about the Hon. Mr Brokenshire's unnecessary obstruction and negativity in this place, and he was making comments about the proroguing of parliament. He said, 'Oh, it's never happened before. I'm sure Mike Rann never did it.' That is what he was saying. Well, I have a list here of prorogues of parliament. I will not bore the chamber with every prorogue—although I could—but let us go back to the first parliament—

The Hon. R.L. BROKENSHIRE: Point of order, sir. Whilst I find this of interest and would love a debate on proroguing, my point of order is relevance. I have asked a question three times on three days in this council and he has no answer.

The PRESIDENT: The honourable minister.

The Hon. I.K. HUNTER: Mr President, in his very own preamble he talked about this radio interview that the Premier did, and he also did this morning. However, he does not like it when it comes home to bite him.

Have a look at the first parliament. The first session opened 22 April 1857 and was prorogued 27 January 1858. It was prorogued again on 24 December 1858, before finally being prorogued for the election, one presumes. I could go through the whole list of parliaments and the prorogues that have happened.

We can go to the 21st session, opened 19 March 1912, prorogued on 27 March 1912. That was a very short period in terms of parliamentary activity. It was prorogued again on 19 December 1912, prorogued again on 24 December 1913, before being finally prorogued for the state election, one presumes. We can go through many, many sessions of parliament.

I do not know—I have not checked—whether there actually is a session of parliament that has not been prorogued at least once or twice. Let's have a look at 1968, the 39th parliament. That was prorogued on 2 May. It was opened on 16 April 1968, prorogued on 2 May 1968, prorogued again on 13 March 1969, prorogued again on 5 February 1970 before finally being dissolved for a May election in 1970.

Let's go to the 44th parliament, opened in 1979. I do not believe that we were in charge at that time, Mr President. I am not sure whether the Hon. Mr Brokenshire was a minister in that government; it might be too soon. It was prorogued on 10 July 1980, again on 25 June 1981, prorogued again on 1 July 1982, before being prorogued on 14 October.

Mr President, I am sensitive about members of this place going out telling blatant untruths to the community, standing up in here and misleading parliament, when the evidence shows otherwise. Let's have a look at the 48th parliament. It was opened on 10 February 1994. The Hon. Mr Brokenshire might have been a minister in that parliament. That was opened on 10 February 1994, prorogued on 16 June 1994, prorogued again on 17 August 1995, prorogued again on 22 August 1996, prorogued again on 21 August 1997, before being finally prorogued again for the state election.

I think the Hon. Mr Brokenshire said on the radio, 'The Hon. Mike Rann, when he was Premier, never did this.' Well, let's have a look at the 49th parliament. It was opened on 2 December 1997; it was prorogued on 17 September 1998, 26 August 1999 and 10 August 2000, before being prorogued for the state election. Again, the 50th parliament opened on 5 March 2002—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.C. PARNELL: Point of order.

The PRESIDENT: Point of order.

The Hon. M.C. PARNELL: The Hon. Kelly Vincent has a point of order.

The PRESIDENT: The Hon. Ms Vincent.

The Hon. K.L. VINCENT: This answer is no longer relevant to the original question. Would the minister please prorogue his answer and get on with his job?

Members interjecting:

The Hon. I.K. HUNTER: I said 'or point of order,' Hon. Mr Dawkins. Open your ears.

The PRESIDENT: Order! The honourable minister, sit down please.

An honourable member interjecting:

The PRESIDENT: No, no point of order. Sit down. This is becoming a joke.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: The Hon. Mr Stephens, just calm down a bit, will you? I know you are all excited about tonight's dinner, I understand that, but it is totally unacceptable to have the Hon. Mr Evans here and you behaving as badly as you are.

Honourable members: He's gone.

The PRESIDENT: He's gone. He's gone in horror. Let's show a bit of maturity. Minister, could you please hurry up with your answer? We want to get on with question time.

The Hon. I.K. HUNTER: Yes, Mr President. I am up to the 50th parliament, which members will be very grateful for. It was opened on 5 March 2002; that was a great parliament—

An honourable member: And that's when Mike Rann became the premier.

The Hon. I.K. HUNTER: Yes, indeed—and prorogued on 5 March 2002—

The Hon. S.G. WADE: Point of order, Mr President.

The Hon. I.K. HUNTER: —and prorogued again on 31 July—

The PRESIDENT: Point of order, the honourable minister.

The Hon. S.G. WADE: If the mere fact that Mr Brokenshire mentioned the two issues in one interview makes this answer relevant to his question, then any question in the same edition of *The Advertiser* is relevant. I urge you to rule that this answer is irrelevant.

The PRESIDENT: I think we've all got the point. Minister, I would like you to get on with the answer, please.

The Hon. I.K. HUNTER: I come to the 50th parliament—and the Hon. Mr Brokenshire mentioned in his interview today—it was opened on 5 March 2002—

The Hon. S.G. WADE: Point of order.

The PRESIDENT: Point of order.

The Hon. S.G. WADE: I ask you to rule on my point of order whether the minister's answer is relevant to the question.

The PRESIDENT: The minister can answer the question any way he wants. The reality is that I would like the minister to move on, because we have not had many questions. Please get on with your answer, minister.

The Hon. I.K. HUNTER: Mr President, I would have been finished five minutes ago had the opposition let me. The 50th Parliament, opened on 5 March 2002, was prorogued on 31 July 2003, prorogued on 12 August 2004, prorogued again on 8 December 2005 and then a couple of times more before being prorogued for the state election. So, that just puts a lie to the situation the Hon. Mr Brokenshire is advocating in this place, and in the other place. Why should we listen to anything he has to say?

PASTORAL INDUSTRY MANAGEMENT

The Hon. R.L. BROKENSHIRE (15:00): By way of supplementary question, can the minister confirm that the Pastoral Board will stay in a working situation until the Legislative Council may decide to support the government in getting the abolition through? What is the situation and structure for the Pastoral Board, particularly if the parliament is prorogued?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:00): I have already answered that question in this place.

Members interjecting:

The Hon. I.K. HUNTER: Yes, he did.

Members interjecting:

The PRESIDENT: Order! Members on the government side, let him speak without interruption.

The Hon. I.K. HUNTER: There are two things to be said: I have answered that question and the previous question that the Hon. Mr Brokenshire asked in this place many weeks ago.

The Hon. J.M.A. Lensink interjecting:

The Hon. I.K. HUNTER: Well, the Hon. Michelle Lensink was obviously not paying attention either—they never do over there. They are learning bad habits from Mr Brokenshire. The other point is—and I will reiterate if people do not want to check the *Hansard*—it is in the hands of this chamber what happens to that legislation. I have made that point previously and I make it again.

APY LANDS, GOVERNANCE

The Hon. T.J. STEPHENS (15:01): It is with great trepidation that I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.J. STEPHENS: —the ongoing governance issues on the APY lands.

The Hon. G.E. Gago interjecting:

The PRESIDENT: Look, the Hon. Mr Stephens has the floor. It will get to the stage where I will have to give warnings to people if they continually disrupt the chamber. The Hon. Mr Stephens.

The Hon. T.J. STEPHENS: Thank you, Mr President. Can I suggest that those who keep carrying on like this don't come to the dinner?

The PRESIDENT: I would just get on with the question, Mr Stephens.

The Hon. T.J. STEPHENS: They shouldn't get to drink your wine, Mr President. I refer to the minister's answer from Tuesday, where he suggested I was misquoting him. Here is a direct quote from the *Hansard* of 16 October:

> I agree to undertake a limited review of the APY Land Rights Act 1988. Given that more than six months have passed since I sought the views of the APY on that review, I have today written to the APY requesting they provide me with written reasons regarding the termination of Mr Deans and their views on the review of the act by 23 October 2014.

The minister also asked me to the look at the act again, which I have done. It seems the minister is empowered to intervene when the act looks as if it has been breached by the executive. My questions are:

1. What were the reasons provided by the APY Executive for the termination of Mr Deans?
2. When will the minister conclude his investigation and make a decision?
3. Can the minister give this chamber an approximate time frame?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:02): In relation to the first part of the question or preamble, he talked about language I had corrected him on yesterday in his question, and that referred to his allegation that I had said something about inappropriate dismissal, or words to that effect. I do not believe I ever used those words in this place, so I needed to correct him. With regard to his other questions, I have nothing further to add to the record than what I have already said in this place.

MARALINGA TJARUTJA LANDS

The Hon. G.A. KANDELAARS (15:03): My question is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister inform the chamber about the recent celebration to mark the excision of section 400 Maralinga Tjarutja lands from the Woomera Prohibited Area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:03): I thank the honourable member for his most important question. On Wednesday 6 November I had the very great pleasure of joining elders and members of the Maralinga Tjarutja community, as well as numerous state and federal representatives, including Senator Scullion, Senator David Johnston (both ministers in the federal government, of course), former ministers Stephen Loosley and Paul Holloway, and the local member, Mr Rohan Ramsay MP, and a number of very other important distinguished representatives, for a very special celebration.

After 60 years a significant part of the Woomera Prohibited Area, known as section 400, representing about half the Maralinga Tjarutja lands, was returned to the traditional owners. It is an area of roughly 3,000 square kilometres in the south-western sector of the Woomera Prohibited Area. It is an area prescribed under the commonwealth Defence Act for defence testing purposes. It is part of the ancestral lands of the Maralinga Tjarutja people and it is as significant to them as any other part of their country.

This celebration marked the very successful culmination of a long and complicated process to have the land returned to the Maralinga Tjarutja people. As members may be aware, this land was contaminated following atomic testing conducted by the British government from 1955 to 1963. This activity had quite a devastating impact on the Maralinga community, as well as the land, and we are still coming to terms with the extent of that impact.

What we have are stories from people who lived through the nuclear tests, people like Mr Yami Lester, a young boy at the time, living with his family in the heart of the Yankunytjatjara tribal land at the time of the tests. While giving evidence during the Royal Commission in the mid-eighties, Mr Lester told of a thick, ominous black cloud engulfing his campsite following the blast. Within days, apparently, people at the camp began to feel ill with intense stomach pains, and they developed skin rashes and sore, watery eyes. Maralinga Tjarutja Elder Ms Mima Smart spoke of the heartache that was felt by her people. She said:

> I got heavy heart being here but when I talk about the past I feel like we can, we can cry inside. I cry from my heart because what happened to this land and to the people that passed on.

In 1984, a large part of the Maralinga Tjarutja was reinstated to the traditional owners by the then Bannon Labor government in accordance with the Maralinga Land Rights Act 1984. This legislation continued the ground-breaking work started by the Dunstan Labor government to ensure that land rights were fully recognised by creating and investing inalienable freehold title on the land to the Maralinga Tjarutja people.

In 2004, the first co-managed national park in South Australia was established as a partnership between the Maralinga Tjarutja people and the Rann government. This gave the traditional owners the ability to care for and determine the future of their country and started an intricate network of parks that has steadily grown since then. The insistence of the Maralinga Tjarutja people and the findings of the 1985 McClelland Royal Commission, instigated by the Hawke Labor government, prompted the British government to finally take responsibility for the proper rehabilitation of that land.

The handover of section 400 also gives the Maralinga Tjarutja people the opportunity to grow the already successful tourism business established at Maralinga Village near Oak Valley. This, in turn, will create opportunities for employment and additional business activity for the local community. Local resident Mr Robin Matthews started tours of the site, he told me, and he has been reported on radio as saying:

> There's no jobs out here...So if we can set this up and do it right in that five year [funding] period it's going to be great. The young generation are going to have something to look forward to and take pride in their own—this is their land.

This is also another important step towards reconciliation in our state. Not only has it strengthened our mutual friendship and trust, but it is also a sign of recognition and respect for the Maralinga Tjarutja people and their ancestors as the first custodians of this land. It is an acknowledgement of the impact that dispossession has had on these people and their culture and, most importantly, it helps us all acknowledge the past and move forward towards a better future.

I would like to commend the federal Minister for Defence, the Minister for Aboriginal Affairs and the federal government for their decision to excise this part of the traditional lands of the Maralinga Tjarutja from the Woomera Prohibited Area, and I particularly congratulate the Maralinga Tjarutja people for such a successful outcome after a very long battle.

PRIVATE MEMBERS' BUSINESS

The Hon. T.A. FRANKS (15:08): I seek leave to make a brief explanation before addressing a question to the Leader of Government Business, representing the Premier, on the topic of private members' business and honouring the legacy of Dr Bob Such.

Leave granted.

The Hon. T.A. FRANKS: Members would be well aware, of course, of the passing of Dr Bob Such, and we would be also very well aware, particularly on this side, that Thursday in the other place was often referred to colloquially as 'Bob Such day', the reason being that Bob Such brought so much private members' business to this place. However, many other members in this place, including government backbenchers, do indeed bring private members' business to this parliament.

Many, in particular in the Legislative Council, find that their private members' business is stymied in the lower house, given the shortness (one hour on a Thursday) that is typical of the time accorded to private members' business as opposed to government business. The minister would be aware that it is possible for government to allocate government business time to private members' business. My questions to the minister are these:

1. Given that we are now proroguing this current parliament nine months into the session, will the Premier give an undertaking to allocate government time to private members' business to ensure that at least everything that has passed the Legislative Council shall be debated to a final third reading vote stage in the lower house before parliament rises?

2. Will the Premier consider perhaps making the week of 9, 10 and 11 December, which is currently optional, Bob Such Week to honour his legacy by devoting that time to Private Members' Business and, specifically, should it pass this place, the Stolen Generations Reparations Tribunal Bill?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:10): I thank the honourable member for her questions and will refer those to the Premier in another place and bring back a response.

SUICIDE PREVENTION

The Hon. J.S.L. DAWKINS (15:10): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for the Arts, questions about suicide prevention awareness in the arts sector.

Leave granted.

The Hon. J.S.L. DAWKINS: Earlier this week I described the work of the Hunter Institute of Mental Health from its base in Newcastle, New South Wales. The institute has a program known as Mindframe which provides practical advice and information for people involved in the development of Australian film, television and theatre to help inform truthful and authentic portrayals of mental illness and suicide. The resource known as *Mental illness and suicide in the media: a Mindframe resource for stage and screen* provides information about audience impact and key issues to consider when developing storylines that include mental illness or suicide.

The resource was developed in partnership with the Australian Writer's Guild, SANE Australia and a group of nine Australian scriptwriters after a workshop in March 2007 between Australian scriptwriters and people directly affected by or working in mental health areas. A need was identified for the establishment of a resource that will enhance the development of more truthful and authentic portrayals of mental health issues rather than those that perpetuate current myths and

stereotypes. The resources are designed to help scriptwriters to continue to include fresh and original portrayals of mental illness and suicide that are accurate and authentic. My questions are:

1. Will the minister indicate what he and his department are doing to promote the Mindframe resource for stage and screen for use in the arts community to ensure portrayals of mental illness and suicide in screen and stage productions are accurate and do not perpetuate myths or stereotypes?

2. Has the minister or his department insisted on the use of this resource by government funded or assisted productions which include the portrayal of mental illness or suicide? If not, will the minister consider doing so?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:12): I thank the honourable member for his most important questions and, again, acknowledge and thank him for pursuing these very important matters. I undertake to take those questions to the Minister for the Arts in the other place and seek a response on his behalf.

LIMESTONE COAST

The Hon. J.M. GAZZOLA (15:13): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about her recent trip to regional South Australia.

Leave granted.

The Hon. J.M. GAZZOLA: South Australia's regional areas are such important assets for our state and I know that the government understands the value of maintaining a relationship with these communities and the businesses that support them. Minister, will you advise the chamber of your most recent regional visit?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:13): I thank the honourable member for his most important question and his ongoing interest in regional South Australia. The government is strongly committed to regions, and I was very pleased to be able to travel last week to the Limestone Coast.

My visit had a strong focus on the employment, higher education and skills portfolios and while in Mount Gambier I took the opportunity to visit the TAFE SA Mount Gambier campus. During this visit it was clear to me that staff at this campus had a real passion for their students and their community, and I take this opportunity to congratulate them for their commitment and acknowledge their hard work and efforts.

The Simulated Business Community is a key part of TAFE SA's blended course delivery model. Students learn in the classroom, in industry, online and in simulated industry settings. While touring the Mount Gambier TAFE campus, I was introduced to students studying business administration in the simulated business community. Regardless of their location, these students are able to learn and experience how real businesses operate, in a no-risk virtual environment, developing products and brands and marketing and selling goods and services.

Another highlight of my visit was viewing the solar and domestic wind turbine installation and grid connect training centre. Harnessing wind power in the South-East by installing wind turbines at our Mount Gambier campuses has pushed TAFE SA into the renewable energy and sustainable training front. I understand that major companies such as Vestas and Repower have since contracted TAFE SA to provide on-site delivery of wind turbine installation. This is a great example of training that is being developed as a result of industry need, and I understand that the feedback from industry, community and the students has been very positive indeed.

I was also pleased to meet with Group Training Employment in Mount Gambier. While visiting the offices there, I met with two of their trainees and GTE's general manager, Mr Brenton Lewis. GTE currently employs more than 170 apprentices and trainees, working with over 100 host employers. The Group Training business model of employing apprentices and trainees in the region and rotating them to different host employers helps students gain a broader range of competencies and higher

completion rates. In fact, the GTO, like GTE, plays a very important role in South Australia's training market, employing around 22 per cent of trade apprentices in the state.

During my meeting with Mr Lewis, he raised with me the devastating effect of the federal government's decision to cease funding to the joint group training program from 2015-16. Not content with ripping out almost $154 million from our VET funding in South Australia, the federal government has now advised that they will be ripping funding from group training organisations like GTE who have a proven track record of seeing trainees and apprentices complete their training.

Recently commissioned NCVER data confirms that the completion rate for apprentices in trade occupations employed by GTOs are 5.7 percentage points higher than non-GTO employers in the state and 7.8 percentage points higher than for GTOs nationally. This decision is a disgraceful attack on a very successful model of group training providers in South Australia, and I call on the federal government to reverse its decision.

Finally, during my visit I was able to experience firsthand the work of the Limestone Coast Domestic Violence Service, and I acknowledge the important work that they do and the high level of commitment and passion for their work there. I also enjoyed a fairly lengthy discussion with the chief executive and mayor of the District Council of Grant.

DRIVERS, DISABILITY

The Hon. K.L. VINCENT (15:18): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport and Infrastructure questions regarding driver licensing and the use of cannabis for the management of medical conditions and disability.

Leave granted.

The Hon. K.L. VINCENT: It has come to my attention that there may be some anomalies which require clarification in the Motor Vehicles Act 1959, in particular section 80, following information from a constituent who has had their licence removed following the use of a drug to manage their medical disability. My questions to the minister are:

1. Does the minister agree that anyone who uses cannabis for pain relief on a regular basis should have their licence removed, even if they have never driven under the influence of this drug?

2. Does the minister agree that drugs under the act are defined as only illegal substances, and the definition does not include all drugs that are sold as medications, and that this is concerning, given that many medications specify that one should not drive while under the influence of those?

3. Does the minister agree that if cannabis is legalised for medical purposes, all those who regularly use it for pain relief will still be defined as dependent on it and therefore must forfeit their licence? If this is not the case, will the minister ensure that, in the event that cannabis is legalised for medical purposes, people will not lose their licences if they are using it for medical purposes?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:19): I thank the honourable member for her most important question on this issue. With her permission, I might actually take that question to the Attorney-General in the other place, as well, possibly, as the Minister for Transport, but I suspect there are cross-portfolio issues to be dealt with there, and I will seek a response on her behalf.

ABORIGINAL TEACHERS

The Hon. A.L. McLACHLAN (15:20): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding Aboriginal teachers in South Australia.

Leave granted.

The Hon. A.L. McLACHLAN: On 10 November, it was reported in *The Advertiser* that South Australia is suffering from a chronic shortage of Aboriginal teachers, who comprise a

mere 0.8 per cent of the teaching workforce and just 0.5 per cent of school principals and other types of school leaders. This has caused Mark Tranthim-Fryer, project manager of the University of South Australia-led More Aboriginal and Torres Strait Islander Teacher Initiative, to comment that this shortage will negatively impact the aspirations of Aboriginal children to undertake further study, whether that be in teaching or in other professions. This has also prompted the Adelaide University's Dean of Indigenous Education, Professor Rigney, to call for more incentives from the education department and a far more coherent plan in order to tackle this alarming problem.

1. Can the minister please inform the house why initiatives such as the Teacher Education Taskforce have failed to attract and retain Aboriginal people into the teaching profession?

2. Is the government contemplating any other policy initiatives, such as those suggested by Professor Rigney?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:21): I thank the honourable member for his most important questions. Unfortunately, the portfolio responsibility for that question lies with the Minister for Education and Child Development in the other place. I undertake to take the question to that minister and seek a response on his behalf.

FREEDOM OF INFORMATION

The Hon. M.C. PARNELL (15:21): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about freedom of information.

Leave granted.

The Hon. M.C. PARNELL: I refer the minister to the annual report of the Ombudsman, which was tabled less than an hour ago. I note on page 12 of the report that the Ombudsman says:

> …in my view, the jurisdiction needs an independent FOI champion who can not only conduct reviews, but also provide training and monitor agencies' compliance with information disclosure. I address this issue in my audit which I have referred to above.

I make the point that the audit that he refers to was presented to the government in May this year. My question of the minister is: what steps is the government taking to give effect to this recommendation and other recommendations by the Ombudsman for freedom of information law reform?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:22): I thank the member for his question and will refer those questions to the relevant minister in the other place and bring back a response. But I would like to say that the situation would be alleviated significantly if the process of FOIs was not abused by some persons. We have seen the number of applications rise in an exponential way and we see that many of them are just purely fishing expeditions. It is obvious that it is just a way of going fishing. It requires an extraordinary amount of—

The Hon. D.W. Ridgway: Sneaky, secretive government!

The PRESIDENT: Order!

The Hon. G.E. GAGO: —hard work and effort by officers to process those. If honourable members were really genuinely concerned they would limit their applications to those that are genuine.

PRAWN FISHING INDUSTRY

The Hon. J.A. DARLEY (15:24): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Agriculture, Food and Fisheries, questions regarding the commercial prawn industry.

Leave granted.

The Hon. J.A. DARLEY: I have been contacted by a number of concerned commercial prawn fishers who are extremely anxious about the way in which the department of fisheries has managed the stocks over the past 30 years. I understand that many resources have been put towards this issue over the years from PIRSA; however, experienced local fishermen who have been in the industry for over 40 years are seeing the same mistakes committed over and over again. There is now immediate concern that stocks will soon be depleted beyond the point of recovery if urgent action is not taken. My questions are:

1. Given the history of the situation, will the minister consider the proposal to restore the industry being suggested by the local, experienced prawn fishers?

2. Will the minister give a commitment to consider the past proven mismanagement of the industry by the department of fisheries when making a decision on any advice given by fisheries?

3. Will the minister undertake to work with all commercial prawn fishers on this matter?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:25): I thank the honourable member for his most important question. I will take that question to the Minister for Agriculture, Food and Fisheries in another place and bring it back and answer on his behalf.

Bills

STATUTES AMENDMENT (SUPERANNUATION) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 October 2014.)

The Hon. R.I. LUCAS (15:26): I rise on behalf of Liberal members to support the second reading of the Statutes Amendment (Superannuation) Bill. The bill is a relatively technical and non-controversial series of changes which can be conveniently divided up into three areas. The first is in relation to amendments to the Police Superannuation Act. The primary amendment here arises as a result of the last SAPOL Enterprise Bargaining Agreement which was reached in 2011 which provided for a flexibility allowance of 5 per cent of annual salary which, for superannuation purposes, was agreed would only be applied with a 'prospective effect'.

The particular amendment in this bill will prevent members from receiving a retrospective windfall gain in benefits, especially if the member has only received the allowance for a short period of time in comparison to their period of service. In consultation with the Police Association, we were advised that they supported this aspect of the bill.

The second broad area relates to changes to the Southern State Superannuation Act 2009. One of the primary amendments in this area deals with formalising what we are told is the current practice amongst agencies, for example DCSI, where they have made superannuation guarantee payments to employees earning less than $450 per month, even though the employees were not able to be members of the Triple S scheme due to the restrictions and guidelines that apply to the Triple S scheme.

This amendment will now make it clear that these members are members of the Triple S scheme and, therefore, those departments will be entitled to continue with the current practice. We are also told that there is a further amendment in the bill which will allow for an exchange of data between the Super SA Board and the Southern Scheme Super Corporation. In consultation with the PSA, they have advised that they support this aspect of the bill.

The third area of changes relate to amendments to the Superannuation Act 1988, Police Superannuation Act 1990 and the Parliamentary Superannuation Act 1984. These amendments allow the appropriate superannuation board to release a portion of the member's superannuation for the purposes of funding a Division 293 tax debt incurred by the member of the scheme. Division 293 tax is imposed on concessional contributions of high-income earners whose income and relevant concessional-taxed contributions exceed $300,000. The assessed Division 293

tax is 15 per cent of low-tax contributions that exceed the $300,000 threshold. Again, the PSA and the Police Association have advised the Liberal Party that they support the amendments.

Given, as I said, that the amendments are relatively technical and noncontroversial, given that the PSA and the Police Association have supported the amendments and given that no constituent has advised the Liberal Party that they have any concerns with any aspect of the bill, the Liberal Party supports the second reading.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:29): I understand there are no further second reading contributions so I would just like to thank the Hon. Rob Lucas for his indicated support of the opposition for these changes. As the honourable member outlined, they are fairly technical and noncontroversial changes that seek to improve the management of funds and some processes associated with that. There are no other Independents or minor parties who have indicated issues of concern or lack of support so I expect that this will travel through the committee stage expeditiously.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:32): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CHILD DEVELOPMENT AND WELLBEING BILL

Second Reading

Adjourned debate on second reading.

(Continued from 11 November 2014.)

The Hon. T.A. FRANKS (15:32): I rise on behalf of the Greens today to indicate that we support progress and a second reading vote on this bill today, but also indicate that we intend to support the Liberal amendments being put forward to this bill. Should those amendments not be successful we would have grave reservations about the particular piece of legislation being put forward by the government as being, in effect, a children's commissioner who the government would like us to see but not hear. I will refer avid readers of *Hansard* to my previous comments on—

The Hon. S.G. Wade: My mother!

The Hon. T.A. FRANKS: Including the Hon. Mr Wade's mother—the topic of a children's commissioner. As members are well aware, we have previously seen a private member's bill most recently debated in this place which went to the heart of those issues.

The Greens have long supported a commissioner for children and young people. We are deeply committed to upholding human rights and, indeed, the Convention on the Rights of the Child. We are very committed to community consultation and having a diversity of voices in our community represented, and children and young people should be heard and seen. They should have had their voices heard after the Layton report in 2003.

This was a 699-page report done through extensive consultation and which made a number of recommendations. It had, as its number one recommendation, a commissioner for children and young people. That number one recommendation of the Layton report in 2003 should have been act upon by the Rann/Weatherill government in a much more timely framework. Had that happened, I would have far fewer reservations about the real commitment to ensuring processes of real human rights and real transparency with regard to the rights of children and young people.

It was remarked, in the Layton report, that while the report recommended a commissioner for children and young persons—and I note that that original recommendation of, as I said, that 699-page report was the number one recommendation—that office would consist of a commissioner and an Indigenous deputy commissioner, it would report directly to parliament, and its purpose would be to be the voice of and advocate for the child, to promote the UN Convention on the Rights of the Child in all areas of community life, to monitor the decisions of government and non-government agencies in terms of their inclusiveness in considering the rights and interests of children and young people, and research in areas of child interest. It was envisaged, in that report, that staffing would actually contain two commissioners (not the one we are discussing here) and six staff.

There has been a lot of argy-bargy on this particular topic, and it has been said that the Layton report never wanted a children's commissioner to have the extensive powers to investigate that are proposed in the previous Liberal private member's bill and under the Liberal amendments. I note that those powers are limited to avoid duplications.

However, when one goes beyond recommendation No. 1 of the Layton report—which does indeed have that proviso, and suggests that the office of the commissioner for children and young persons be created—it does, back in 2003, suggest it be modelled on the Queensland model. However, it also recommends the additional Indigenous position and that a joint parliamentary committee on child protection be created and statutorily mandated in a way similar to section 27 of the Commission for Children and Young People Act 1998 in New South Wales—something we have yet to see in this parliament, something we are still waiting for. It says:

> A Commissioner is needed to give the voice of the child. This model includes the best features of the Commissions in Queensland and New South Wales. It specifically does not include the function of deciding complaints and grievances. It is part of an overall framework of protection of the interest of children and young people. It incorporates recognition of the special concerns of Aboriginal children. It also incorporates commitment by all political parties to protecting children.

That parliamentary vision has not yet been realised, and I look forward to perhaps better government support for the current select committee that has been set up by private members in this chamber. Perhaps they could also help implement recommendation No. 1 of the Layton report. However, recommendation No. 2 of the Layton report goes on to say:

> That a complaints and grievance process relating to administrative actions decisions (but excluding services) include review by the Ombudsman.

Indeed, it looked to dedicated functions of the Ombudsman with regard to child protection being established. Recommendation No. 3 is:

> That a special unit be created within the proposed office of the Health and Community Services Ombudsman, to investigate complaints and grievances in relation to services concerning children and young persons.

It envisaged that the special and complex issues relating to child protection require a specially trained unit within the jurisdiction of the Health and Community Services Ombudsman. So recommendation No. 1 always envisaged that there would be additional pathways for the investigation of complaints.

However, the Liberal amendments to this government bill and the original private member's bill that we discussed—and indeed passed through this place—envisaged that should there be a duplication, should there be another agency (whether that be SAPOL or one of the many government agencies that are available to investigate a matter or complaint and seek to address grievances), then that would be the appropriate place. It would only be where there was no other pathway to go down that we would see the children and young persons commissioner come into play.

You can perhaps say that that is not necessary but I defy any member in this place who actually looks at their emails or reads Facebook pages or answers their phone to realistically assure the community of South Australia that every single grievance has a place where it can be resolved in this state. And with regard to children and young people, and indeed child protection, certainly I think that no-one could maintain that we are at best practice in South Australia on those issues.

In the briefing that I received from the minister's office on this bill, I requested information on what the YACSA position was with regard to the current format the government bill is presented in compared to the previous private members bill that was debated in this place in recent months. I

have yet to receive that from the minister's office. I await it. I would certainly like to see that tabled in this place.

I do have, as other members would have, the Law Society's response to this particular bill. I note that the Law Society has many concerns. It notes its previous submissions to the government. It also goes on to say:

> …we note that the major concerns outlined in our previous submissions have not been addressed. A summary of our concerns are set out below.

It goes on to say:

> The role as defined lacks independence from Government, and the resources required to guarantee that independence. To be effective, the Commissioner must be independent, and this should be expressly provided for in s 13 of the Bill.

Further it says:

> The role of the Commissioner remains subsumed into the general functions and objects of the Child Development legislation. The role should be more than simply a monitor of the Government's child development agenda.

Further it notes:

> …the Commissioner has no powers to advocate for children and young people on either an individual or systemic level by investigation on its own initiative, and no power to actively intervene or compel information from others.

As I say, these significant failings of the government model are addressed by amendments to be moved to this bill. We are happy that the Labor Rann/Weatherill government has finally seen the sense to implement recommendation 1 of the Layton report from 2003, but we are very happy to fix your flawed efforts to try to make amends on your previous failings to address, and indeed implement and introduce, a commissioner. The Law Society advice on this bill goes on to say:

> This leaves the Commissioner with little to no power or authority. This will render the role ineffective.

Reading that, I cannot imagine why anyone would create a position that the Law Society considers would be rendered ineffective, with all of the expense that that entails, to indeed lift people's hopes up to have them dashed when we want this children and young persons commissioner to actually improve the lives of South Australian children and young people. The Law Society advice on this bill goes on to say:

> The functions and powers of the Commissioner under the Bill are at odds with the objects of the Bill.

The Law Society also notes that there are powers under the new bill and that:

> …the Bill gives a new power to the Minister to exempt a person or body from giving information to the Commissioner under s 19(4).

It specifically notes:

> This will have little impact on changing the culture of the Department for Education and is unlikely to encourage the disclosure of information. This seems at odds with the comments of Minister Rankine when in response to the Review of the Education Department, she said, 'We need to have a system that gets information out to the public quickly. We need to make sure that it's accurate and we need to have good communications from central office out into our schools and preschools as well.'

The Law Society goes on to comment on that particular aspect of the bill:

> In our view, the exemption under s 19(4) may in fact encourage a culture of nondisclosure.

The Law Society response on this bill goes on to say:

> The method of appointing the Commissioner has not changed and accordingly our concern remains that the appointment is not transparent…The bill does not require the Commissioner to provide an annual report. This does nothing to enhance the accountability and transparency of the Commissioner.

While I understand that some slight concessions have been made by the government to improve the original model, the Liberal amendments are far superior in the view of the Greens, and their intentions are far more to be trusted if you consider the time frame that it has taken this government from the

report in 2003 to finally presenting legislation for a children and young people's commissioner to this place. It is 2014.

We query whether the government is serious when it comes to defending and promoting the human rights of children and young people in this state, and we certainly query whether the government is serious when it comes to having an effective children's commissioner, but what we will say is that we are so happy that you have finally brought it here as a government piece of legislation so that we get the time to debate it, that it is actually finally being debated properly in the House of Assembly, and we are very happy to improve your flawed work, because we think we can make it a hell of a lot better, and we intend to do so in the committee stage of this process.

The Hon. I.K. Hunter interjecting:

The Hon. T.A. FRANKS: I think the minister interjects with 'Well, you've never been able to do it before with any bill.' I think he might want to read the *Hansard* to see that, time and again, even in my short time here, the government has realised the error of its ways, where it has not consulted properly, whereas we in the Legislative Council have picked up errors in government legislation.

The Hon. I.K. Hunter: Talk about hubris!

The Hon. T.A. FRANKS: The minister also interjects with, 'Talk about hubris!' I would like to talk about whether or not this government is really committed to the best interests of children and young people if it cannot even present a bill to this place which has the broad support of the sector and which takes on board the broad consultations that were undertaken, given that it has such serious concerns raised with it by the Law Society.

I certainly look forward to the committee stage of this debate. I am heartened that at least we look like we will have the potential of a children and young persons' commissioner in this state. I sincerely hope that the government will be prepared to accept the improvements that I hope the Legislative Council will make to this bill. With that, I support the second reading.

The Hon. K.L. VINCENT (15:47): I speak today on behalf of Dignity for Disability on the Child Development and Wellbeing Bill 2014. I do not think I need to explain to anyone in this chamber, nor any of the stakeholders involved in the drafting of the bill before us, that the issue of a South Australian children's commissioner has been one of the most fiercely debated and most talked about issues in the state parliament for quite some time.

I know, as other members have pointed out in their contributions, that this commitment has been a long time coming and that some of the delays relate to the fact that, while there is no disagreement that South Australia should have a children's commissioner, there are very differing opinions as to the best model for such a role.

Whatever the final model—and, frankly, as we have waited over a decade—I would prefer to get it right than get it done quickly. It is important that we are not merely establishing a figurehead or toothless tiger. Complaints processes are not worth anything if people do not know what channels are open to them and if they lose faith in the ability of the system to respond to its failure, not merely to make empty statements about what should have happened in a particular circumstance once it has occurred.

I commend the structure of our SA Ombudsman as a public office that is widely known and well respected, and feel that this model is one that already has been invented and works quite well. Why we have seen a need to branch out into streams of commissioners is unclear to me, and perhaps in future it will become fashionable to reunite officers with similar functions under one roof.

I understand that for many people this debate has been quite difficult, both professionally and personally. After all, those who care about the wellbeing and future of our state's children should feel very passionate about the issue: this is precisely what makes them the right people for their jobs.

I thank all of those people who have taken the time to brief my office on the issue generally and on the individual merits of both the government and opposition bills, in particular, the Council for the Care of Children, the Youth Affairs Council of South Australia (YACSA), the Guardian for Children and Young People, the minister's office, as well as a range of other individuals and legal bodies

interested in the issue. This information has been invaluable in assisting Dignity for Disability to form the position I am now able to put on the record.

This has not been an easy decision to reach, as both bills have their merits, and I very much appreciate the time and interest that both government and opposition members have put into their respective proposals. Having said that, I can now indicate that, after careful and lengthy consideration, Dignity for Disability has opted to support the government's children's commissioner bill, as significantly amended by the opposition.

I think it is fair to say that one of the most contentious aspects of legislating for a children's commissioner has been the debate around whether the commissioner should have powers to investigate individual cases involving the welfare of children and young people, or make systemic observations and recommendations. It is difficult to make a choice between the two, because they are both vital in different ways.

Systemic advocacy enables us to recognise trends in the sector and common gaps in service delivery; however, I also understand that many in the community feel that greater intervention in the case of a child like Chloe Valentine as an individual, for example, may have prevented or be able to prevent great tragedy in the future.

This is why we are particularly pleased to see that the Liberal opposition has reached something of a compromise in one of its amendments which, if passed, would allow the commissioner to investigate both systemic issues and individual cases where it can be proved that to do so would be in the public interest and that the matters in that case have implications for other children and young people in similar circumstances. I see this as a very worthwhile compromise.

For the sake of clarity, I will put on the record that this amendment does not give the commissioner the power to investigate every individual case involving a child or young person: strictly those where the commissioner can justify that it would be in the public interest to do so and where there is a strong indication that a particular matter may have implications for other children and young people.

While I understand that some in the community may like to see a model where the children's commissioner has full powers to investigate every single individual case that might come before them, I believe it is preferable to have a more focused approach which is less likely to be influenced by particular circumstances and/or emotions of particular individuals or families. I congratulate the opposition, and in particular the Hon. Stephen Wade, on reaching this sensible amendment, and I hope that it will receive the support of the parliament so as to enable us to move beyond that particular aspect of the debate.

I believe that this compromise amendment, if I may call it that, serves as a reminder to us all about the need for collaboration and cooperation in this place in order to achieve the best outcomes for the people of this state. I believe that, as members of parliament, we should not be focusing on whether our particular bill passes or whether our name will be mentioned in the media in a particular story, but rather on how we can work together to effect positive change for South Australia.

Dignity for Disability is also pleased that giving the children’s commissioner a systemic advocacy role will give the commissioner a broader scope for their work. We must provide protection to children which is broader than merely protecting them from abuse and neglect, vital though this is. We must also work to protect their right to an education—a quality, inclusive education—to health services, and all other opportunities that they need to flourish. I think this kind of cross-departmental systemic advocacy could be particularly beneficial to children and young people living with disability.

It is no secret that students with disability, for example, often miss out on the same educational opportunities offered to their peers without disability. However, if the children's commissioner is going to investigate the education of students with disabilities, it is likely it will also be necessary to look at things like the transportation of students with disability to and from school or the way the presence of or lack of disability related supports impact upon their education.

For this reason it is pleasing to see that the commissioner has been granted the power to make recommendations requiring the state authorities to change their practices, policies or procedures to achieve specified outcomes, as well as conducting or participating in specified

educational programs and to undertake other specified action of their choosing. I hope that these powers will give the commissioner the freedom to make honest and fearless recommendations for the good of all people in this state.

However, having said all this and knowing the need for a commissioner, I feel that it is important to put on the record that parliament, especially the Labor government, cannot now rest on its laurels having had this debate and hopefully at its end appoint a commissioner for children and young people. Yes, the commissioner is a great step forward in the protection of the rights of children and young people; however, it will not automatically fix the problems that have existed for a long time in the area of child development and welfare, many problems that I believe the government could fix without the assistance of a commissioner.

The under resourcing of the Child Abuse Report Line is one glaring example, and so too is the fact that documentation pertaining to the alleged neglect and abuse of children has been misplaced or ignored. We must ensure that even with a fully resourced and accountable children's commissioner, the government continues its duty to examine and improve processes. With those words, I commend the bill to the chamber.

The Hon. G.A. KANDELAARS (15:56): I rise to support the Child Development and Wellbeing Bill. In particular I would like to emphasise the importance of a commissioner with appropriate powers to effect systemic change and promote the interests of children and young people. The functions of the commissioner proposed by the government will have the authority to investigate systemic issues in a proactive way in order to identify where improvements can be made and showcase best practice.

The bill does not specifically exclude interviewing or looking into individual cases in the context of identifying systemic issues. I want to emphasise that the review of functions over the past two years resulted in no Australian jurisdiction exercising full individual investigative powers for children's commissioners. These include recent reviews in New South Wales, Western Australia, Victoria, the Northern Territory and Queensland. The exclusion of full individual investigative functions is also consistent with the recommendations of the South Australian review into child protection by Robyn Layton QC (the Layton report).

The Hon. R.L. Brokenshire: Eleven years ago.

The PRESIDENT: Order!

The Hon. G.A. KANDELAARS: Although the commissioner is able to consider the circumstances for individual cases and inquire into systemic issues, the role is not intended as a body for all complaints, but would seek to ensure children, young people and families understand their rights and the available dispute resolution options, including how to contact responsible officers of state authorities.

In the situation where children and young people contact the commissioner directly, the role will include providing information and referring matters to the appropriate state authority. If a matter involving state authorities has not been satisfactorily resolved, the commissioner may provide advocacy support for children and young people to seek further action. This function supports families to receive satisfactory resolution where this has not occurred in the first instance, as well as ensuring continuous improvement to processes or systems through the commissioner's monitoring and inquiry function to ensure better responses for families in similar situations.

I am pleased to hear in this debate that the opposition has moderated their original model, which was to investigate individual complaints, towards a model of systemic inquiry which the government has supported. The government bill before us establishes appropriate checks and balances for all parties, including the commissioner ensuring improvements in systems, services and policies at all levels within government. This advocacy for effective policy and continuous improvement aims to ensure best possible outcomes for all children and young people. The commissioner can identify practices that contribute to unsatisfactory resolutions, leading to improvements in the way agencies respond to issues concerning children and young people.

In the bill, the commissioner model will work with, rather than duplicate, functions of bodies such as the Guardian for Children and Young People, SA Police, the Health and Community Services

Complaints Commissioner, the Independent Commissioner against Corruption, and the Ombudsman. Finally, it is worth noting the National Children's Commissioner, Ms Megan Mitchell, on the Child Development and Wellbeing Bill. Ms Mitchell said there were different models around the country for a children's commissioner, but they generally did not deal with individual complaints. She said:

> Personally, I think the South Australian government's bill is quite an effectual model. There are many commendable features around this bill in terms of structure of the role and the protection of children's rights. There is a (child development) council to support the role, it focuses on children's rights throughout and talks about developing an outcomes framework for children.

I commend the bill to this chamber.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:01): I rise to close the debate and in doing so I would like to address some of the statements made by some honourable members about the government's Child Development and Wellbeing Bill during this debate. I would like to address the statement, first of all, that our bill is a watered down version of the private members legislation. This is something I absolutely refute. If anything, the government bill has a stronger and broader approach to the wellbeing and safety of children and young people, with a focus on prevention as well as intervention. In fact, the National Children's Commissioner, Ms Megan Mitchell, as has been noted by a number of speakers, has endorsed the comprehensive model in this government bill.

Some concerns have been raised here about the inquiry powers of the commissioner in the government bill, and more than a few inaccurate claims about the investigative power of other Australian jurisdictions and bodies have been made in the debate, which I would like now to correct. An honourable member claimed the minister was wrong when she said that no other jurisdiction in Australia is exercising full investigative powers of resolving individual cases. In fact, I am advised, it is the honourable member who is wrong. All jurisdictions in Australia have removed, restricted or plan to remove such investigative powers from the role of commissioners or commissions, I am advised.

In the ACT, the commissioner undertakes a targeted and evidence-based program of systemic review and policy work across a broad range of issues. Before 2012-13, there was a focus on individual complaints. However, these legislative provisions are no longer being exercised, because in the commissioner's view, 'It can be more effective to address concerns from a systemic perspective, rather than continuing to address individual and repetitive complaints.' I am advised that is her language.

Neither Tasmania's nor Western Australia's commissioners have any form of investigative powers, I am told. In fact, the Tasmanian model has been heavily criticised because the commissioner can exercise systemic inquiry powers only when directed by the minister. Our government bill enables the commissioner to exercise powers independently and at the commissioner's own discretion, without any power of direction by the minister or Crown.

Indeed the Hon. Mr Wade, I think, has claimed the Australian Human Rights Commission, of which the National Children's Commissioner is a part, does have investigative powers. In fact, the National Children's Commissioner has systemic inquiry powers similar to those proposed in our bill, and not investigative functions. This is consistent with recommendations made by 34 non-government organisations on the functions of the national commissioner, including peak child rights agencies, Save the Children and UNICEF Australia. I am advised that these organisations were also consulted on our commissioner's bill and are supportive of the systemic inquiry functions that it contains.

Members interjecting:

The PRESIDENT: Order! The minister has the call and we don't have a conversation across the chamber. The minister has the call.

The Hon. I.K. HUNTER: They do not like it when they get caught out. Our bill's dismissal provision is consistent with the South Australian Commissioner for Public Sector Employment and with commissioners for children and young people in most other Australian jurisdictions, including

the National Commissioner for Children and Young People, Victoria, Queensland, Tasmania and the Australian Capital Territory. I commend this bill to the chamber.

Bill read a second time.

Personal Explanation

MEMBER'S REMARKS

The Hon. R.L. BROKENSHIRE (16:06): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.L. BROKENSHIRE: During question time I was ferociously attacked by minister Hunter. At best I was misrepresented and at worst I think the minister misled the house. I want to put it straight for the public record, because there were comments about what I had to say regarding the nonsensical proroguing of the parliament regarding the former premier—

The PRESIDENT: The honourable member can continue with his personal explanation without commentary or being political. You can continue.

The Hon. R.L. BROKENSHIRE: Thank you for your guidance, sir—Mr Rann. For the public record, what I actually said is:

This is the third prorogue under the leadership as Premier of Jay Weatherill; I don't believe Mike Rann did anything like this.

Bills

CRIMINAL LAW (FORENSIC PROCEDURES) (BLOOD TESTING FOR DISEASES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 11 November 2014.)

Members interjecting:

The PRESIDENT: Order! I do not think the Hon. Mr Brokenshire needs any help from the Hon. Mr Maher. I call the Hon. Mr Brokenshire.

The Hon. R.L. BROKENSHIRE (16:07): I thank you for your protection, sir; I do get misled by the Hon. Mr Maher at times. I rise to speak on the Criminal Law (Forensic Procedures) (Blood Testing for Diseases) Amendment Bill 2014. With great surprise to the government, I advise the government that Family First will be supporting this bill, because this bill makes sense—that is why we are supporting it—unlike some of their other bills.

Approximately 700 police officers are assaulted each year in the line of duty. Between 250 to 350 of these assaults involve officers being spat on and/or bitten. Currently, SAPOL officers who come into contact with offenders' bodily fluids are offered blood tests. There is, however, no current obligation for the offender to be tested. I can remember one circumstance in particular where a very committed police officer was bitten and had to go through the agony, with his family, for several months, because the allegation was that the offender who bit the police officer had hepatitis and obviously there was a possibility that that had been passed on. That officer was a friend of mine and I could see firsthand the stress and trauma to him and his wife and children.

This bill, which I understand is strongly supported by the Police Association of South Australia—and I am very proud to be wearing their blue and gold tie today—requires that an offender who is reasonably suspected of having assaulted police, who has spat at, or bitten police officers, undertake blood tests for infectious diseases, but only where the police officer was likely to be exposed to the offender's bodily fluids.

For example, an offender injured as a result of a crime and who did not attack police, but where police came into contact with their blood, would warrant testing without an assault on police. Testing can be required whether the person is in lawful custody or not, and I strongly support that

because time is of the essence, as I just highlighted, for families to be put at ease, or otherwise to have correct medical procedures put in place.

Specified offences against police officers include assault or resisting a police officer, assault and assault causing harm, endanger life, riot, affray, violent disorder and any other, as determined by regulation. A senior police officer being of, or above, the rank of inspector can authorise testing, and it can be carried out on a person whether they are in lawful custody or not. Whoever drafted this particular piece of legislation in the bureaucracy has done quite a good job, and I commend the relevant minister for bringing this into the parliament. As I said, I commend PASA for their ongoing representation of their officers. Having been out on some police patrols—

The Hon. S.G. Wade: As a guest.

The Hon. R.L. BROKENSHIRE: As a guest; as either a member of parliament or as the minister; that was the only capacity—praise the Lord—in which I went with the police on patrol, but the fact of the matter is that I am very concerned about the lack of respect for police from some citizens these days, and the fact that assaults of the nature I just have described are becoming more prevalent.

I still believe that we need to do something about that, and at another time I will look to reintroduce—probably when we are not going to be prorogued so that I am not wasting my time—a bill to toughen the sentencing and have serious minimum mandatory sentencing for those people who assault police officers, just like they do in Western Australia. To get back to this matter, the Hon. Mr McLachlan has some amendments, and [MacLachlan-1] expands upon offences to include testing of people who engage in offences against the following providers of services:

- CFS, MFS, SES; SA Ambulance Service and St John;
- Surf Lifesaving and Volunteer Marine Rescue;
- accident and emergency departments in hospitals;
- medical practitioners, nurses or midwives in hospitals and those assisting or providing service to a medical practitioner, nurse or midwife in a hospital, for example, an orderly; and
- police officers.

The Hon. Mr Darley in [Darley-1] has also included an amendment to look at licensed security agents. In other words, what is happening, as is often the case, is that this chamber, the Legislative Council, is adding to the government bill proactively to ensure we get the best-possible outcomes for all South Australians with respect to this issue as, indeed, we do relevant to other issues. I hope that the government will not do what they often do, and that is say, 'Oh well, no, we're not going to look at these amendments because they are McLachlan amendments or Darley amendments, or Brokenshire amendments'—whatever they are. They should be looking at them on merit, and that means we end up with better legislation.

I want to put on the public record at this point in time—contrary to what the Premier often says—that this council hardly ever, in the six years I have been here, completely blocks legislation. In fact, I think it is true and fair to say that, wherever we possibly can, this council will support the legislation of the government of the day, and has historically done that.

However, it is a house of review; it does have a right to amend and long may it—where the circumstances are required—have the right to block legislation. Otherwise, as I said yesterday and I will continue to say as long as I have breath, we will end up with a dictatorship, and South Australians do not want a dictatorship.

I put on the record that I see this bill as of particular importance to police. The reason for that is because, at the end of the day, unless you are a military officer—in fact from a state point of view—the only agency where you have no choice but to go in wherever the danger may be is when you are a police officer. In all other circumstances you have a right to at least step back and do everything you can to protect yourself. However, there are certain circumstances and times when a police officer does not have that choice. Clearly, we have to support the police with this legislation. Particularly

given the Hon. Mr McLachlan's profound legal background and intelligence, and the reasons why he has had the wisdom to put these amendments forward, I can see the merit in it.

Ambulance officers are a classic now because at times they actually have to go out with the police. In fact, they know that in certain streets and at certain addresses they are called to that they have to radio through and have police escort them there. That is a sad situation. Mr Phil Palmer, the head of the ambulance union, only recently said that he was very concerned about the safety and wellbeing of his ambulance officers.

Spitting is, sadly, becoming a common occurrence for ambulance officers. As the Leader of Government Business would well know, as a renowned senior nurse, as I understand, prior to coming into parliament and prior to taking on a role as union rep in nursing, you can, through bodily fluids, contaminate an innocent person.

With those few remarks, again I say that Family First have deliberated intensely on the bill and we support the government with its bill and congratulate them but we also advise the house that we see merit in what the Hon. Mr McLachlan and the Hon. Mr Darley want to see happen to the bill. I have to deliberate slightly more on the Hon. Mr Darley' amendment but, at this point in time, we are leaning towards supporting it and we will be supporting the Hon. Mr McLachlan's amendments.

The Hon. A.L. McLACHLAN (16:17): I rise to set out the opposition's position in respect of this bill. The Liberal Party is supportive of what this bill is attempting to achieve but, as has been indicated by the previous speaker the Hon. Mr Brokenshire, we will be seeking some amendments to broaden its application.

The bill amends the Criminal Law (Forensic Procedures) Act 2007 to require an offender who bites or spits at a police officer to undertake a blood test in order to determine whether there has been a transition of an infectious disease. The threshold for when the offender is to be tested is whether there is a reasonable suspicion the police officer has been assaulted or that the offender has committed other specified offences of violence.

We acknowledge that the specified offences of violence include at this stage, assault, causing harm, endanger life, riot and other specified offences. We also note that the bill provides that an offender can only be required to undertake a blood test upon authorisation in writing by a senior police officer of or above the rank of inspector.

We further acknowledge that the government, by introducing this bill, is seeking to fulfil one of its election promises. At the same time, the Liberal Party is mindful and sympathetic to the view expressed by the Law Society in relation to this bill, that the parliament should always be slow to introduce mandatory forensic procedures. Further, it is our understanding that there is no other state that has this type of legislation. We must always be alert in this chamber to anything that might reduce the rights of our citizens without proper cause. We are all, in this place, the guardians of our people's liberty.

We also acknowledge the submissions we received that were outlined by other members in this place. These submissions were ones that questioned the scientific basis that gave rise to grounds which justify legislative change. The Liberal Party has weighed up these issues carefully and in this instance believe that, on balance, police officers should have the opportunity to receive some comfort in circumstances where they may have been exposed to an infectious disease. We also acknowledge that they may not always have the benefit, even with the test, of having their mind put at rest.

Our police officers are often asked, on our behalf, the parliament and the community, to carry out dangerous and difficult work. Being exposed to the risk of infection, however small, would, without doubt, weigh heavily on their mind, and we think there should be an opportunity, in these circumstances, for them to have their mind and the minds of their families put at rest if possible.

The Liberal Party takes comfort from the provisions of the bill that restrict the purposes for which the testing can be used, and the fact that the samples will be destroyed afterwards. We are also cognisant of the limited circumstances which give rise to the operation of the regime. Without these provisions I suspect we would not have found these amendments satisfactory. In our view they

would not have been an adequate balance between the rights of the individual and the rights of the state.

However, the Liberal opposition finds it curious that the bill provides only for tests when a police officer has been put at risk, and this is why we have tabled amendments which broaden the class of individuals who will have the benefit of these tests. I should declare to the chamber a conflict of interest in relation to this: one of the organisations is St John Ambulance Australia, of which I am a member and, until mid-December, a board member.

In the view of the Liberal opposition, restricting it to the police puts them into a special class, and I acknowledge the comments of the Hon. Mr Brokenshire that they are always instructed that they have no choice but to be at an incident. However, volunteers such as those in the classes in the amendments I will be moving in the committee stage have the choice to volunteer only at the start of their day or the start of their duty.

They cannot determine when or where they will face challenging circumstances where they may be at risk of infection. We believe we should protect not just the police force but also those who are carrying out important community work. It is also our understanding, from certain data, that certain health workers themselves face a greater frequency of risk than police officers. This is our motivation for broadening the class.

We are still giving consideration to the amendments put forward by the Hon. John Darley in relation to licensed security agents. We will need to deliberate further on that, although it is my inclination—and probably the party's inclination this stage—that we may not be able to support those. However, this will depend on further consultation. The Liberal opposition will support the passing of the second reading of this bill, and will be seeking amendments as outlined in those that have been filed in my name.

The Hon. T.T. NGO (16:23): I rise today to speak on this bill, and I concur on many of the points that the Hon. Mr McLachlan just outlined in his second reading speech. Our police officers work extremely hard every day to protect South Australians and our communities, and if there is something we can do to ease the anxiety they may feel after potential exposure to a transmittable disease then we should do so. I know the government is always looking for ways to make their jobs safer.

Currently, police officers can get tested for blood-borne diseases if they come into contact with blood during the course of their duties and there is a risk they may have contracted a transmittable disease. It may take three to six months for some diseases to show up in the blood test results.

This bill seeks to enable a senior police officer to require a person who is suspected of an assault causing harm, serious harm or committing an act that endangers the life of a police officer, or other crimes against a police officer that are prescribed by regulation, to undergo testing for diseases transmittable through bodily fluid if it is likely that the police officer came into contact with the bodily fluid. This aims to ease the anxiety that police officers may suffer while waiting for test results for diseases transmitted through bodily fluid.

Recently there has been a lot of media attention on incidents where police officers and other emergency services workers have been spat upon. Last year, police reported 111 splitting incidents. Police officers are concerned about contracting a disease from being spat upon or assaulted. This concern is shared by many South Australians. Spitting on anyone, let alone our police force, is unacceptable. Those who do so can and should be charged with assault.

Having said that, I am also concerned by the commonly held misconceptions about the transmission of certain diseases, including HIV, hepatitis B and hepatitis C. It is important that we do not further these misconceptions. In July this year I had the privilege of launching an event called Love Your Liver for World Hepatitis Day, which was run by Hepatitis SA and Relationships Australia SA. The aim of the event was to increase awareness of the issues associated with hepatitis B amongst leaders and members of communities, high priority populations.

As a person of Asian origin, I am told that I am in a high-risk group. In my previous role as an advisor to the Minister for Health, I had the opportunity to visit these organisations, including

Positive Life SA, which some honourable members have visited, and I know the Hon. Tammy Franks has. They are great NGOs, providing important services around these diseases to our community, especially to minority groups and ethnic communities.

I must add that I have received similar advice from health professionals and NGOs at my office. It is important for the community to know that if a person contracts HIV or hepatitis C, there is a window period where it will not show up in a blood test. If for example a person suspected of committing an offence contracted HIV or hepatitis C within, say, the last couple of weeks, it is highly unlikely that they will test positive to those diseases. This is because the window period that police officers currently have to wait for a final test result is the same as for everyone else in the community.

Hearing that an offender did not test positive for HIV or hepatitis C may give a police officer a false sense of security. They may, upon hearing this, decide not to undergo more blood tests. Precautions should be taken to prevent the possible spread of infection, especially following a significant exposure. This means living the next three to six months as if the officer may have contracted the bloodborne virus. During this window period I am told that the officer should practise safe sex; avoid pregnancy; refrain from donating blood, semen or organs; and avoid sharing razors, toothbrushes or nail clippers and files as a trace amount of blood may be on them.

Regardless of offender testing, police officers who potentially have been exposed to a bloodborne disease should still undergo a risk assessment by a health professional. This is critical as, depending on the outcome of the risk assessment, the health professional may determine that the officer should undergo prophylaxis treatment, which can prevent HIV and hepatitis B.

I am in favour of this bill as another measure to ease the anxiety of our police during this window period while they wait for their blood test to come back. As I previously outlined, given the inconvenience that officers and their families suffer while waiting, not to mention the stress they suffer, if this bill provides our officers and their families with peace of mind and allows them to remain positive while they wait three to six months to get their final blood test result, then I fully support this bill.

Debate adjourned on motion of Hon. T.J. Stephens.

CIVIL LIABILITY (DISCLOSURE OF INFORMATION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 October 2014.)

The Hon. A.L. McLACHLAN (16:32): I rise to speak to the Civil Liability (Disclosure of Information) Amendment Bill and to set out the position of the Liberal opposition. Open and transparent government decision making is a foundation stone for a functioning and healthy democracy. This bill seeks to provide protection to the government releasing information outside the legislated freedom of information process. The bill amends the Civil Liability Act 1936 to provide the Crown with immunity from civil liability in respect of release by the government of certain information as prescribed by the regulations.

We are advised by the Attorney-General in the other place that the bill is motivated by a desire to release more information or more material at a faster pace. We do not find fault with those motives. However, we have some concerns with the bill and will seek amendments to narrow the scope of the immunity from liability.

We are told by the government that there is a need for legislative change because of a fear within government offices of litigation and liability upon release of information. We do not at this stage see that there is sufficient evidence to justify this assertion. It also begs the question why we need to have these amendments when there probably should be a greater focus on improving the operation of the existing FOI regime.

The Liberal opposition believes that the blanket exemption from liability is too broad. We will introduce amendments that restrict the limitations of liability to mirror those in the FOI Act itself,

namely, for defamation and breach of confidence. We note that other jurisdictions with similar laws have not found it necessary to have an all-encompassing limitation of liability.

The commonwealth has defamation and breach of confidence and extends it to copyright and criminal liability. Our sister jurisdictions of Tasmania and New South Wales, it is our understanding, have limitations of liability restricted to defamation and breach of confidence. We do not find it convincing that restricting the proposed exemption from liability will result in elaborate vetting processes, mirroring those under the FOI Act.

The government has flagged that it will only prescribe a limited class of information that will be released. The limiting of the class will not in itself, in our view, facilitate speedy disclosure, nor do we accept the proposition that, by allowing the government to prescribe certain information for release, this in itself will restrict the operation of limitation of liability. In our view, it is not an appropriate mechanism where a government has the discretion whether to expand or limit the scope of a limitation of liability. In our view, our sister jurisdictions and the commonwealth have the policy settings correct. We support the passing of the second reading, but will be seeking amendments in committee.

The Hon. T.T. NGO (16:35): I rise today to commend the Civil Liability (Disclosure of Information) Amendment Bill to members. By providing the Crown with a general immunity from civil liability in regard to the release of information beyond the legislative framework in the Freedom of Information Act 1991, the bill seeks to increase the availability to South Australians of information about their state government, local government authorities and state universities. The immunity will operate where information is proactively disclosed and within certain parameters, which I will outline.

This presents a further development in the government's commitment to greater transparencies and greater accountability in its operations, a commitment that has grown over the years. Indeed, a trajectory exists. Interestingly, while Australia was not the first country to legislate for freedom of information (which was achieved in 1982), it was a leading nation in the introduction of FOI laws in a Westminster system and in the frontline, in fact, of the majority of over 80 countries that now benefit from such laws. The states and territories, of course, subsequently followed the commonwealth's lead and, as consumer advocate Ralph Nader said in a message to Australians on the 30th anniversary of the commonwealth legislation:

> We should constantly strive to use, strengthen and expand this wonderful law.

I endorse those sentiments, particularly in an atmosphere of rising levels of official secrecy in the federal sphere, an issue about which I believe we should all be extremely concerned.

The Hon. S.G. Wade: What did the Ombudsman say about your government, Tung?

The Hon. T.T. NGO: Not as bad as the current government. That is one of the reasons why I welcome this amendment to the Civil Liability Act 1936. It is intended to provide certain protections to the Crown where information or documents of a prescribed nature are released proactively. I will return to the idea of proactive release in a moment.

As the Minister for Sustainability, Environment and Conservation indicated in his excellent second reading speech last month, for more than 20 years the Freedom of Information Act has provided the public with legally enforceable rights to access information held by the state government, local government and the three universities. The provisions of the FOI Act are frequently used by South Australians, including the media and members of parliament, and I note a few of us here have used it predominately.

In fact, if I may provide an update to the figures to which my colleagues referred on 16 October, according to the 2012-13 annual report 186,039 applications have been received since the law's enactment. A total of 11,959 applications were made to government agencies in 2012-13, of which 11,059 were determined and 85 per cent of information released in full or in part.

As the minister so saliently pointed out, FOI access is costly. He mentioned that in the 2011-12 financial year the estimated total cost of administering the FOI Act was reported as $10.4 million. So, the 2012-13 annual report discloses the total cost for that financial year was $10.1 million—a 2.9 per cent decrease attributed to curtailed expenditure on training, legal advice and equipment and administrative costs, and perhaps in part to agencies disclosing information

outside the FOI legislation. In 2012-13 agencies reported recovering $526,553. Of this amount, 29 per cent, or $153,537, was collected as application fees.

The breadth and complexity of applications received grows every year and, even though disclosure of information through the operation of the FOI Act is the overarching intention of the legislation, applicants can encounter those age-old problems of cost and delay in this environment just as they may elsewhere. The avoidance of risk in regard to the release of information has also been cited as a factor in the overall equation.

This is where proactive disclosure allows government held information to be released to the public without the need for an FOI application, putting that information out more quickly and at a lower cost, reducing the time and resources expended by agencies in responding to individual applications and showing the government's commitment to accountability and transparency.

So, what is the downside? While the FOI Act provides the crown with immunity from civil liability for defamation and breach of confidence where access to documents is granted under that act, the question is one of legal liability where information is released outside the FOI Act. As I have noted, the crown presently has no general immunity from civil liability under these circumstances.

The bill before us today amends the Civil Liability Act 1936 to provide the crown with immunity from civil liability consequent to the release of information by or on behalf of government agencies, but only where the publication of information is of a prescribed kind or where the information is published in circumstances prescribed by regulation.

Furthermore, the scope of the immunity will be limited by parliamentary oversight of the regulations. The list of prescribed kinds of information or prescribed circumstances will, at least initially, be quite limited, and it is anticipated that the regulations will prescribe only:

- general information about government agencies and their operations, the nature of which has been outlined by the minister;
- submissions on government policies and initiatives; and
- information released in accordance with government policies, as well as non-personal information that has already been released to the applicant under the FOI act.

Information that is commercially sensitive and information of a personal or sensitive nature will not be prescribed.

Further limiting the immunity provided by the new provision is the fact that the immunity will not cover the civil liability of the author of the information, nor that of a person or organisation which republishes information released by a government agency. The Crown alone attracts the protection. This amendment will not compel a government agency to release information or documents. Rather, it will provide the Crown with a degree of legal protection in circumstances where there is proactive release of information or documents.

As a result, it is envisaged that there will be increased proactive release of information by government agencies, reducing the number of freedom of information requests received and protecting both the government and, as a corollary, the taxpayer, from civil liability arising from that release. I once again commend the bill to the members.

Debate adjourned on motion of Hon. S.G. Wade.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:46): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech and explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

From time to time minor errors, omissions and other deficiencies are identified in legislation that are more efficiently dealt with in a single omnibus Bill than in separate Bills for each Act. It is timely to now introduce a further such Attorney-General's Portfolio Bill.

The deficiencies proposed to be dealt with in this Bill are as follows:

1) Burial and Cremation Act 2013—signing of death certificates

During discussions with the Registrar of Births, Deaths and Marriages about the creation of new forms required under the *Burial and Cremation Act 2013* and the implementation of the legislation, it was discovered that there was an issue with section 10(5)(b)(i) of the Act. Under the previous Cremation Act, the Registrar could not issue a cremation permit unless the application was accompanied by certificates from two doctors (one of whom was responsible for the deceased's medical care immediately before death or examined the body of the deceased after death); or a certificate from a doctor who completed a post mortem certifying that the deceased died from natural causes; or an authorisation to dispose issued by the Coroner.

The wording of section 10(5)(b)(i) in the current Act states, in relation to the certificates from two doctors, that one of the certificates must be signed by a medical practitioner who was responsible for the deceased's medical care immediately before death with the other certificate being signed by another medical practitioner. This would have created practical problems for the Registrar in relation to the issuing of a cremation permit if the treating doctor is unavailable as the Registrar would have to issue the cremation permit under section 10(6)(b) but would only be able to do so if satisfied that the death had been registered and that there is good reason why the documents required by subsection (5) cannot be produced, for example, if the treating doctor was away overseas. This would also impact on the person applying for the cremation permit as the cost of a permit issued under section 10(6)(b) is double that of the regular cremation permit. It may also result in a delay in the permit being issued.

To address this issue in the short-term, until an amendment to the Act could be made, a regulation was included in the Burial and Cremation Regulations 2014. Regulation 8 provides that where the medical practitioner who was responsible for the deceased's medical care before death is unavailable, the certificate may be signed by a medical practitioner who examined the body of the deceased after death. However, this matter is better dealt with in the Act and the Bill amends the Act to that effect.

2) Criminal Law Consolidation Act 1935—'child exploitation material'

The term 'child pornography' in the Criminal Law Consolidation Act (CLCA) has come under increasing criticism over recent years. Leading academics such as Professor Kate Warner and Dr Jeremy Prichard at the University of Tasmania rightly argue that the term is not only inappropriate, but is positively unhelpful, as it fails to reflect and even obscures the true nature and gravity of such material.

NSW, for example, discarded the term 'child pornography' in 2010. The NSW Premier commented: 'The Government supports this change in terminology. Child pornography is a form of child abuse and the community and the Government will not tolerate predators who engage in this type of behaviour.' The Chief Judge has expressed similar views based on his wide sentencing experience in this area.

It is proposed to amend the CLCA (and make consequential amendment to the *Child Sex Offenders Registration Act 2006*) to change the term 'child pornography' to 'child exploitation material' to more accurately reflect the true nature and gravity of such material. This change will accord the terminology to that which is used in most other jurisdictions and is widely used in operational practice. It will also support the operation of s 10(2)(c) of the *Criminal Law (Sentencing) Act 1988* that in determining the sentence for an offence, a court 'must give proper effect …in the case of an offence involving the sexual exploitation of a child, to the need to protect children by ensuring that paramount consideration is given to the need for general and personal deterrence.'

This amendment changes terminology only. It will not change the definition of such material or the scope of the offence.

3) Criminal Law (Sentencing) Act 1988—applicable law for re-sentencing for subsequent cooperation with law enforcement agency

Senior echelons in the South Australian Police and the Office of the DPP have brought to the attention of the Attorney-General the fact that there is an ambiguity in s 29E of the *Criminal Law (Sentencing) Act 1988*. Section 29E was enacted by the *Statutes Amendment (Serious and Organised Crime) Act 2012* and deals with the ability for an offender who is currently serving a sentence of imprisonment to apply to the court that imposed the sentence to re-sentence him or her to take into account the offender's cooperation with law enforcement or other authorities after the sentence was imposed. The policy behind the section is clear and obvious—to provide strong encouragement to those who find themselves in the harsh environs of prison to do what they should have done before and provide co-operation with the authorities in their investigation of crime committed by others, whether they be the crime for which the offender was sentenced or any other crime.

The effect of the provision is clearly expressed as a 're-sentence'. Here is the ambiguity. Does the court sentence the offender again according to the legal principles and regime under which he or she was originally sentenced in the past, or does the court start with a clean slate and re-sentence according to the legal principles and

regime pertaining at the time of re-sentence? This question is given particular piquancy by the sentencing regime applicable to crimes of murder. There is now a 20 year minimum non-parole period for murder (subject, it is true, to exceptional circumstances that include cooperation). Suppose the offender was sentenced for murder before the 20 year minimum came into effect and received, say, 18 years non-parole. If the offender is to be re-sentenced according to the law then pertaining, he or she is looking at a substantial discount on the 18 years. But if it's a clean slate, the offender will be arguing for exceptional circumstances on a 20 year minimum.

The policy of the law is clear. The principle is and should be that the offender should be sentenced—and re-sentenced—according to the law and principles applicable at the time of the commission of the offence. The section is being redrafted to remove the ambiguity and make that clear.

4) Legal Practitioners Act 1981—notify of section 52AA(2) suspensions

Section 52AA of the *Legal Practitioners Act 1981* deals with professional indemnity insurance requirements of interstate legal practitioners and provides for suspension for failure to comply with those requirements. Section 52AA(4) requires the Supreme Court to give notice of suspensions under subsection 52AA(3) (of an incorporated legal practice) to interstate regulatory authorities. This provision should be amended to also refer to subsection (2) so that the Court is required to notify interstate regulatory authorities of suspensions of an interstate legal practitioner under that subsection. Although it is likely that the Court would give notice of such suspensions in any event, the provision should be amended to ensure that it is clear that they should do so.

5) Magistrates Act 1983—Acting Chief Magistrate

The aim of this proposal is to bring certainty to the Magistrates Court hierarchy in the prolonged absence of the Chief Magistrate.

In 2013 the District Court Act and Supreme Court Act were amended to provide for the appointment of an Acting Chief Justice or Acting Chief Judge, respectively when the office of Chief becomes vacant.

Prior to that, a convention existed where the most senior judge available would take on the role and responsibilities of the Chief Justice or Chief Judge. Those recent amendments have provided certainty in times where a Chief Justice or Chief Judge is absent for extended periods of time.

At the time those changes were made, equivalent changes were not made to the Magistrates Act to provide for appointment of an Acting Chief Magistrate. Section 7 of the Magistrates Act contains the following provisions that allow the Deputy Chief Magistrate to exercise the powers and functions of the Chief Magistrate in the absence of the Chief Magistrate:

> *(2) The Deputy Chief Magistrate may, if the office of Chief Magistrate is vacant, or the Chief Magistrate is absent or unavailable to carry out the duties of the office, exercise any of the powers or functions of the Chief Magistrate.*

In the Government's view, this provision is adequate for certain short term absences, that is, where the Chief Magistrate may be absent from duty for a specified and limited period of time. However, to provide more certainty in circumstances where the absence of the Chief Magistrate may be indeterminable, it would be prudent to insert in the Magistrates Act an equivalent provision to section 10 of the Supreme Court Act and section 11AA of the District Court Act for the appointment of an Acting Chief Magistrate if the Chief Magistrate is absent or, for any reason, is unable for the time being to carry out the duties of the office.

It may be that the most appropriate appointment to act in the position of Chief Magistrate will be the Deputy Chief Magistrate. However, this will depend on a number of factors, including the workload in the Magistrates Court and the resources available.

6) Summary Offences Act 1953—temporary prohibited weapons class exemptions

The Bill amends section 21F of the Summary Offences Act to give the Minister the power to temporarily exempt a class of persons from the offence of possessing, using, manufacturing, selling, distributing, supplying or otherwise dealing in a prohibited weapon.

This amendment addresses a concern that there is no power in the Act to provide class exemptions on an urgent and limited basis. Although Schedule 2 of the Act contains a number of class exemptions, there may be circumstances that arise in the future that are not covered by these exemptions, such as a festival or an event. At present, if such a situation arises a regulation would need to be made to include a new class exemption. This amendment will give the Minister the power to quickly exempt a class of persons via notice in the Gazette from the offence for a period of up to 1 month to cover those situations where a permanent exemption is unnecessary or where an exemption is needed urgently and it is appropriate to grant a temporary exemption while the permanent exemption regulation is being prepared.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause is formal.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of Burial and Cremation Act 2013

4—Amendment of section 10—Cremation permits

Section 10(5) provides the certification requirements before the Registrar of Births, Deaths and Marriages can issue a cremation permit. Section 10(5)(b)(i) provides that in the case of certifying that the deceased died from natural causes, 1 certificate must be signed by the medical practitioner who was responsible for the deceased's medical care immediately before death. This clause amends section 10(5)(b)(i) to provide that a medical practitioner who has examined the body of the deceased after death may also provide 1 of the certificates certifying that the deceased died from natural causes.

Part 3—Amendment of Child Sex Offenders Registration Act 2006

5—Amendment of Schedule 1—Class 1 and 2 offences

The amendment replaces the term child pornography with child exploitation material.

Part 4—Amendment of Criminal Law Consolidation Act 1935

6—Amendment of heading to Part 3 Division 11A

This amendment replaces the term child pornography with child exploitation material.

7—Amendment of section 62—Interpretation

This clause makes consequential amendments on replacing the term child pornography with child exploitation material. The amendments in subclauses (1) and (3) replace the term child pornography with child exploitation material. Subclause (2) amends the definition of child exploitation material to include a reference to material that is of a pornographic nature. The amendment in subclause (4) amends the definition of pornographic nature to include material intended or apparently intended to excite or gratify sexual interest or to excite or gratify a sadistic or other perverted interest in violence or cruelty. This part of the definition was previously included in the definition of child pornography.

8—Amendment of section 63—Production or dissemination of child exploitation material

This amendment replaces the term child pornography with child exploitation material.

9—Amendment of section 63A—Possession of child exploitation material

The amendment in subclause (1) replaces the term child pornography with child exploitation material. The amendment in subclause (2) inserts a reference to offences involving child exploitation material.

10—Amendment of section 63C—Material to which Division relates

This amendment is consequential on replacing the term child pornography with child exploitation material.

Part 5—Amendment of Criminal Law (Sentencing) Act 1988

11—Amendment of section 29E—Re-sentencing for subsequent cooperation with law enforcement agency

This clause amends section 29E to make it clear that a re-sentencing under the section is to be done in accordance with the law as at the time of the original sentence. The new provision applies to an application under section 29E, whether made or determined before or after the commencement of the amendment.

Part 6—Amendment of Legal Practitioners Act 1981

12—Amendment of section 52AA—Professional indemnity insurance required by interstate practitioners etc

Section 52AA(4) of the Act currently only refers to the Supreme Court giving notice of a suspension of a legal practitioner's right to practice as provided under subsection (3), but does not refer to the suspension of a right to practice of an interstate legal practitioner under subsection (2). This amendment removes the reference to subsection (3) and substitutes a reference to requires the Supreme Court to give notice of a suspension under either subsection.

Part 7—Amendment of Magistrates Act 1983

13—Insertion of section 6B

This clause inserts a new section.

6B—Acting Chief Magistrate

The new section provides for the Governor to appoint an Acting Chief Magistrate if the Chief Magistrate is absent or for any reason is unable to carry out the duties of the office, or if the office of the Chief Magistrate becomes vacant.

14—Amendment of section 7—Administration of magistracy

This amendment removes the provision providing that the Deputy Chief Magistrate may, if the Chief Magistrate is absent or unavailable to carry out the duties of the office, exercise any of the powers or functions of the Chief Magistrate. An Acting Chief Magistrate appointed by the Governor is to exercises these powers as provided in proposed section 6B.

Part 8—Amendment of Summary Offences Act 1953

15—Amendment of section 21F—Prohibited weapons

Subclause (1) amends section 21F(3) to give the Minister power to declare a class of persons to be exempt from the offences in section 21F(1). The amendment in subclause (2) is consequential on the insertion of proposed subsection (4b). Subclause (3) inserts new subsections (4a) and (4b). Proposed subsection (4a) provides that a declaration made by the Minister in respect of a class of persons must be notified in the Gazette, only has effect for the period specified in the declaration (being a period not exceeding 1 month) and has effect despite provisions in Schedule 2, which contains a list of exempt persons of a class for the purposes of an offence against section 21F(1). Proposed subsection (4b) provides that a variation or revocation of a declaration under subsection (3) is of no effect unless, in the case of a person, the person has been given notice of the variation or revocation, or in the case of a variation or revocation in respect of a class of persons, it has been notified in the Gazette.

Debate adjourned on motion of Hon. S.G. Wade.

STATUTES AMENDMENT (ENERGY CONSUMERS AUSTRALIA) BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 16:48 the council adjourned until Tuesday 18 November 2014 at 14:15.