LEGISLATIVE COUNCIL

Thursday, 30 July 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 10:00 and read prayers.

Parliamentary Procedure

SITTINGS AND BUSINESS

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) (10:01): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 15 minutes past 2 o'clock.

Motion carried.

Bills

STATUTES AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL

Committee Stage

In committee.

(Continued from 29 July 2015.)

Clause 8.

The Hon. M.C. PARNELL: The next provision after the Brokenshire amendment is the proposed new section 83GB, which is participants in criminal organisations being knowingly present in public places. My first question in relation to that provision relates to sub (1), where it provides:

Any person who is a participant in a criminal organisation and is knowingly present in a public place with 2 or more other persons who are participants in a criminal organisation commits an offence.

Maximum penalty: Imprisonment for 3 years.

My question of the minister is: does the person to whom this provision applies have to be present with other persons from the same criminal organisation or from any criminal organisation?

The Hon. G.E. GAGO: I am advised it is any.

The Hon. M.C. PARNELL: I thank the minister for her answer. Would this situation apply if three different participants in different criminal organisations were to attend the same wedding, for example, or funeral?

The Hon. G.E. GAGO: That's one from a different club?

The Hon. M.C. PARNELL: So you have three different people, they belong to three different criminal organisations and they happen to know the bride, the groom or the deceased, and they attend a funeral or a wedding. Are they committing an offence?

The Hon. G.E. GAGO: I have been advised most likely yes, depending on, of course, where the wedding is conducted. If it is conducted in a public place it is more likely to be captured and if it is in a private residence it is less likely to be captured.

The Hon. M.C. PARNELL: At a practical level, let's say it is a wedding or a funeral and it is in a public place and a person who is a participant in a criminal organisation turns up and they did not know that other members of other criminal organisations might also turn up: at what point are they deemed to be knowingly present? Is there obligation, on having entered the funeral or the wedding, on them to leave if they see someone who they suspect or know might be a member of a criminal organisation? Is there a stand-off, where they have to wait until there are only two people left, and then they are allowed to stay because it says two or more? Whose obligation is it to leave?

Is it all their obligation to leave and is it the case that, once the numbers have diminished to two, they are no longer committing an offence?

The Hon. G.E. GAGO: At the moment the person knows that the person is present, and there needs obviously to be some sort of evidence that the person knows—if they do not know that the person is part of an organised crime group, it cannot be an offence—they are beholden to remove themselves, and the onus, I am advised, is on both the organised gang member, if you like, and the other person, once they realise they know this person, to remove themselves.

The Hon. M.C. PARNELL: It may well be, but I can see a bit of a Mexican stand-off happening here because no offence is committed if there are only two. So, you turn up to a funeral or a wedding and you say, 'Oh, in the front row, that looks like a Comancheros,' or 'Three rows ahead is a Fink or whatever. I knew the deceased better than they did,' or 'I'm better friends of the bride or groom. It's their responsibility to leave not mine.' It strikes me that it is quite a ridiculous situation that a number of them could leave and that, if they get down to just two left in the room then, all of a sudden, no offence is committed. I make that as an observation; I do not need any further response.

I want to move on to subsection (2) of that same section, and this is the defence provision, which I find to be a most curious one. It basically says that it is a defence to one of these charges if a defendant can prove 'that the criminal organisation in which it is alleged the defendant is a participant is not an organisation that has, as 1 of its purposes, the purpose of engaging in, or conspiring to engage in, criminal activity'.

This is a most curious clause because basically it offers the accused the ability to say that their organisation is not really a criminal organisation. My question is: is that defence open to a member of one of the 10 organisations that are going to be listed in this legislation? Criminal organisations can come about from one of three ways, as we determined yesterday: there are organisations under the original SOCCA legislation; there are future organisations that might be declared by regulation; and then you have this initial tranche of people who we are being asked as a parliament to decide today are criminal organisations, yet basically this defence offers them a chance to say, 'Hey, it's wrong, I'm not part of a criminal organisation.' Can they challenge the original list of 10?

The Hon. G.E. GAGO: Thank you for that clarification. I am advised that, yes, they can challenge the defence provision and, if they are able to prove that it is not for the purpose of organised crime, they will make a successful defence and no doubt be removed from the list—

An honourable member: Or not relied upon.

The Hon. G.E. GAGO: Or not relied upon.

The Hon. S.G. Wade: They will not be removed from the list, but a criminal defence cannot lead to an amendment to a statute.

The CHAIR: I ask that all discussions be directed through the Chair.

The Hon. S.G. WADE: I was directing those comments through the Chair.

The CHAIR: No, you were—

The Hon. S.G. WADE: I was looking at my papers. I wonder whether the minister agrees that really the defence clause the Hon. Mark Parnell has drawn our attention to only has work to do in relation to a criminal organisation in paragraphs (b) and (c) because, if the person is part of a criminal organisation as determined by (a), the substantive offence only exists by the time we have established that.

The Hon. G.E. GAGO: I think we understand your question. I am advised that they would apply to all three for the purpose of the charge, but also that you would not need to raise a defence in respect of a criminal organisation under (a) because you would challenge (a) as an element of the defence.

The Hon. M.C. PARNELL: We need to tease this out a little bit more. Let's say a person has been charged under this provision that we are talking about. There is no question that they are a member of a criminal organisation. There is no question that they knew the people sitting in the

row in front of them were also members of a criminal organisation. There is no question they knew that and no question that the numbers are more than two or three. Then we come to that defence provision.

It seems that the defence that is being offered to them here is effectively to go to the court and say, 'Your Honour, parliament got it wrong in listing my organisation,' or they can say, 'The executive got it wrong in regulating for my organisation.' If, as the minister has said, this defence enables them to effectively challenge the decision that the parliament is making or the decision that the executive is making, my question is: why do we not cut out the middleman, as it were? These are going to end up in court anyway. Why do we not go straight to court and get the court to determine the declaration because exactly the same debate is going to happen the very first time you charge someone under one of these offences?

The Hon. G.E. GAGO: I think that the process the Hon. Mark Parnell has outlined is an incredibly cumbersome process but, more importantly, we have based this bill and the provisions in this bill on the Queensland model, and the Queensland model has been deemed to be constitutionally valid. We are very keen to make sure that whatever legislation we put through today is constitutionally valid; therefore, we will be sticking very closely to this process.

The Hon. M.C. PARNELL: I think I only have one more on this particular topic. I am just interested to know whether the burden of proof and the standard of proof are different in relation to the scenario I mentioned. It seems under this defence that it is the job of the defendant to prove that the organisation to which they belong is not a criminal organisation, rather than the prosecution having to prove that it is a criminal organisation. Is it the same question and is the standard of proof the same?

The Hon. G.E. GAGO: I have been advised that, in relation to the standard for the prosecution, the level has to be beyond reasonable doubt and, for the defence, the balance of probability.

The Hon. A.L. McLACHLAN: Still on new section 83GB, and following on from that response, do I take it to understand that there could potentially be other defences under the common law in relation to 83GB(1) and that the subclause (2) is only offering a defence out of a potential number?

The Hon. G.E. GAGO: The advice I have received is that is our understanding.

The Hon. A.L. McLACHLAN: This is probably more comment: it is up to the Crown to prove beyond reasonable doubt that there was a participant in the criminal organisation. We will assume that the organisation has been declared and that the person has been declared themselves, that they are knowingly present and there must be some other objective factors of evidence to prove it beyond reasonable doubt.

But, as the Hon. Mark Parnell has indicated, if they are able to resist those elements of the 83GB(1) they can, in effect, challenge the declaration of the organisation itself, which would seem to me, as the Hon. Mr Parnell has indicated, in effect, a mechanism for appeal, but it only arises when a charge is made. In my view, to respond to the Leader of the Government, that would be equally as cumbersome as a hearing in the first instance in relation to the organisation itself; nonetheless, that is what we have to apparently ensure.

The Hon. S.G. WADE: I wonder if the minister could advise what would be the effect of a successful defence application in relation to a 83GA, B or C declaration? As I intimated earlier, I presume that the court upholding a defence to a charge which claimed that an organisation that this parliament had put on a schedule to this act would not cause the act to be amended, but in a legal sense does that mean that the court, which might be a relatively junior court, declares that section of the act not operative? Particularly, in relation to regulation, if a court has found that a regulation that has been issued by the government declaring an organisation being a criminal organisation which the court then decides is not a criminal organisation, does the regulation remain operative?

The Hon. G.E. GAGO: I am advised that the regulation would remain operative. However, clearly, we would have to consider whether to revoke that regulation. That would be an option. Also,

obviously, the DPP would no doubt very carefully consider whether to prosecute anyone else on the basis of that organisation or association with that organisation.

The Hon. A.L. McLACHLAN: Just a curious note I should add that, if we are asking them to take off the colours and '1%' badges, then it is going to be very difficult for them to identify each other and leave the particular premises. I find it difficult to comprehend circumstances where this could actually be established in a court beyond reasonable doubt. I understand the Hon. Mr Parnell is moving on to sentencing, but perhaps I could take the minister to 83GD(1). Is it the case that, technically, a participant, by simply asking someone with the sentence, 'Would you like to join our group?' would transgress that provision?

The Hon. G.E. GAGO: I am advised that it would depend on the context and what other evidence there might be. It may be captured, but it may not. It would be a matter for interpretation.

The Hon. M.C. PARNELL: I would like to move on to a different topic, if I may. Proposed new section 83GE relates to sentencing, and provides that, if someone is convicted of these offences that we have been talking about, a sentence of imprisonment must be imposed. That sentence cannot be suspended and the court is prohibited from taking into account the character of the defendant, the fact that the offence might have been trifling or any other extenuating circumstances.

It also provides that fines are not available, because this provision excludes section 18 of the Criminal Law (Sentencing) Act which basically says that a court can replace prison time with a fine. My question is: have I understood correctly that there is no circumstance in which a court could impose a fine and that they are only allowed to impose a prison sentence?

The Hon. G.E. GAGO: I am advised yes, that is correct.

The Hon. M.C. PARNELL: Following that further, the provisions in the bill set out maximum penalties, which are, commonly, imprisonment for three years. Is it correct that a judge is entitled to sentence a person to a period of less than three years? That is the maximum, so I will answer my own question—yes, they are. Would it be possible for them to sentence a person to one day or two days and then take into account time already served—which is very likely to be one or two days in remand—which would have the effect of a person being convicted and immediately released with no other consequence and no option for a fine?

The Hon. G.E. GAGO: I am advised, potentially, yes.

The Hon. A.L. McLACHLAN: I take the minister to 83GE(4) which talks about what the court has to record in relation to—

The CHAIR: One moment, please. The photographer up in the gallery, I do not know if you are aware of the rules of this parliament but you do not take photos of people while they are sitting. You can take them while they are standing up. That camera is looking right at me but I am not standing. Please desist from taking photos of people while they are sitting. The Hon. Mr McLachlan.

The Hon. A.L. McLACHLAN: I will ask the question again, and I will just take the minister to 83GE(4). It talks there about fixing a nonparole period and if it is longer or shorter the court must make a record of its reasons for doing so and must identify a record of its reasons for each factor it took into account. Are there similar provisions elsewhere in the law in relation to requiring a court to do that? It seems a fairly obvious statement. I know from my own legal experience that courts in any ordinary case would do the same and I am wondering what is the need for those provisions.

The Hon. G.E. GAGO: The advice I have received is that we do not think so but we will need to take that on notice and bring back a response.

The Hon. A.L. McLACHLAN: If it is not anywhere else in any other provisions, it seems to radiate a mistrust by the government of the judicial system, because it seems to be a restating of the standard principles of courts of record. However, I will leave that there.

I would like to take the minister to 83GF, clauses 1 and 2. I do not quite understand it. It is extraordinary that in 83GF, in any criminal proceedings if the court is satisfied beyond reasonable doubt it can, in essence, declare an organisation for the purposes of subsequent criminal proceedings to be a criminal organisation. I just wonder why the burden of proof in 83GF is beyond

reasonable doubt but we are not being asked in this chamber to apply the same burden of proof in relation to criminal bikie gangs.

Members interjecting:

The Hon. M.C. PARNELL: I might have another go at paraphrasing the question—

Members interjecting:

The Hon. G.E. GAGO: In shaking my head I'm saying I don't understand the question—

Members interjecting:

The Hon. M.C. PARNELL: Okay, can I have a go?

The CHAIR: The Hon. Mr Parnell.

The Hon. M.C. PARNELL: The honourable member's question is a logical one. His question is that if the standard of proof for a court to determine whether an organisation is a criminal organisation is beyond a reasonable doubt, why is not a similar standard being applied by us in parliament making identical decisions? In other words, that an organisation is a criminal organisation. Why are we not using the same rigour that a court would have to use to make the same decision?

The Hon. G.E. GAGO: I have been advised that there are two aspects in answering this question: the first is, and as I have said in this place before, this bill is based on the Queensland legislation which has been considered to be valid by the High Court so obviously we are being very careful to follow precisely what we know is going to be valid; and, secondly, the standard 'beyond reasonable doubt' is a standard for criminal matters in a criminal court and is not usually replicated in parliament.

The Hon. A.L. McLACHLAN: This is by way of comment. That is a great summary, minister, of every problem that this bill represents, because to make it constitutional I suspect we have had to say a court has to act beyond reasonable doubt, parliament does not, but the question before this chamber is whether it should. I think everyone in this chamber would know my view is that the community places upon the judiciary the requirement to establish fact in a particular way, and we should not lower the standard for ourselves in this chamber.

The Hon. T.A. FRANKS: Under section 83GA, I draw the minister's attention to a public place, which means:

(a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money;

It goes on to have further definitions. I ask the minister: is Parliament House and the steps of Parliament House a public place?

The Hon. G.E. GAGO: In relation to the steps of Parliament House, the advice is that we believe it probably would constitute a public place; however, I think that there are some special provisions that the Speaker has in terms of making decisions about what can be conducted on the steps of Parliament House, so there are some restrictions to that. In relation to Parliament House itself, I am not sure and I would need to take that on notice.

The Hon. T.A. FRANKS: I would appreciate clarity on the differentiation between Parliament House and the steps of Parliament House, as well as answers to the other questions that are still outstanding on this bill that the minister pledged to return with answers on last night.

The minister referred in her answer to the steps of Parliament House having a particular jurisdiction that is relevant to the Speaker. I note the words of the Speaker on 26 May as reported in *The Advertiser* where he accused the Save the Repat protestors not only of urinating on the front steps of Parliament House but of being part of a protest against the government's new anti-bikie legislation. On what grounds did the Speaker make those assertions? Were any of the members of the current protest on the steps of Parliament House in any way members or participants of outlaw motorcycle gangs as outlined in this or the previous incarnation of this bill?

The Hon. G.E. GAGO: I have just had further advice from the Clerk herself who has advised that from the steps up is not a public place and that, in fact, the Speaker and President have joint control over that space. In relation to the second part of your question, not that I am aware of.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to welcome all the students from Mitcham Primary School. Welcome here today. You are actually witnessing a very important debate on a very important piece of legislation, so welcome.

Bills

STATUTES AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL

Committee Stage

Debate resumed

The Hon. T.A. FRANKS: Through you, Chair, a question to yourself as the Chair: did you have any belief that the protesters on the steps of Parliament House were associated with outlaw motorcycle gangs and that their protest to save the Repat was a covert attempt to protest the government's anti-bikie legislation?

The CHAIR: I did seek some advice on that and I understand there were some concerns with the police in regard to one member in the initial protest, but their advice is that they are not aware of members who are members of a motorcycle gang at this stage.

The Hon. T.A. FRANKS: Under this legislation, a single person who is a member of an outlaw motorcycle gang does not attract such attention and is able to go about their business, but a participant, as we explored last night, can be somebody who was associated with the affairs. Would that mean that anyone who has been associated with that person on the steps of Parliament House is now to be future defined as a participant of an outlaw motorcycle gang?

The Hon. G.E. GAGO: Sorry, can you repeat that question?

The Hon. T.A. FRANKS: The question was to you, not to the minister, as I said at the beginning.

The CHAIR: It is totally inappropriate for me to be answering questions regarding this piece of legislation; the minister is in charge of this legislation. I have answered the question for which I believe I have responsibility, but all other questions will go to the minister.

The Hon. T.A. FRANKS: Chair, unless you have abrogated your responsibility in conjunction with the Speaker, you still have the responsibility, and you are the one who sought the advice on what you have identified as a believed member of an outlaw motorcycle gang involved with Save the Repat protest, so you are uniquely able to answer that question, not the minister.

The CHAIR: You are asking me a question involving a particular piece of this legislation. That will go to the minister, not to me.

The Hon. G.E. GAGO: I have asked her to repeat the question, because I did not catch it.

The Hon. T.A. FRANKS: Then Chair, through you to the minister, when the Speaker and the President, with their joint jurisdiction over the steps of Parliament House, conferred, was the government, you or the executive made aware of the status of this person who claimed to have potentially been a member of an outlaw motorcycle gang, and under this bill, should it become an act (as it has been declared by the Attorney-General it is intended to become law as soon as possible)—and I do not see those Save the Repat protesters leaving any time soon; they have been there for 116 days and nights, pretty sure they are going to be here when this legislation becomes law—will any of those people be considered, under the definitions of this to be enacted bill, participants under the definitions within here in the section?

The Hon. G.E. GAGO: Not that I am aware of.

The Hon. M.C. PARNELL: I might keep going with this issue of places that are public, wherein these people are not allowed to congregate in numbers of two or more. There is a further provision that goes beyond public places and refers to prescribed places. My question of the minister is: if Parliament House is not a public place (and I will be very specific here—the public gallery up there), is it open to members of these organisations to attend parliament in numbers of two or more to observe the proceedings of parliament? The specific answer to the question I think involves whether or not the government is intending to declare the public gallery of Parliament House a prescribed place for the purpose of this act.

The Hon. G.E. GAGO: As far as I am aware, no. As I indicated in my previous reply, the chamber itself I am not sure would constitute a public place. I do not know whether Jan can advise. I said that I will take it on notice and bring back a reply.

The Hon. T.A. FRANKS: I seek clarification specifically on the answer the minister just gave. Does she understand that the gallery and the chamber are separate entities?

The Hon. G.E. GAGO: We will take that on notice. I have been advised that the President and the Speaker have control of the chambers and surrounding building, so for instance if there is an unruly person in the gallery they have powers to remove those persons. Technically, it would not constitute a public place.

The Hon. S.G. WADE: By way of supplementary question, Mr Parnell's comment was actually in regard to a prescribed place. On that point of a prescribed place, I wonder why the minister is taking it on notice.

The Hon. G.E. GAGO: I did not take it on notice—I said 'Not that I was aware of'. I answered the question: 'Not that I am aware of.'

The Hon. S.G. WADE: My point in relation to 'prescribed place', is: is it not the case that every prescribed place needs to be the subject of a regulation tabled before this place? If this house found a prescribed place was offensive (and that would include our gallery), would we move to have it disallowed.

The Hon. G.E. GAGO: Exactly. I did answer the question. I said 'not that I am aware of', that it would be highly unlikely. What the Hon. Stephen Wade has said is true; that is right.

The Hon. A.L. McLACHLAN: Since we seem to be still on new section 83, if the members of, say, the Hell's Angels, were to form themselves into a political party which is registered, would these provisions have application to them with respect to their conduct as a political party, in particular their political communication?

The Hon. G.E. GAGO: We do have some detail on this, which we are happy to access further, but in terms of the information we have to hand I am advised that this goes to, obviously, a point of constitutional law. The High Court in Queensland did turn its mind to the question of whether the Queensland provision did infringe on political association and ruled that it would impinge but that prohibition was considered warranted.

The Hon. T.A. FRANKS: Further on the definition of public place, where a public place is accepted as defined, how close would these members of outlaw motorcycle gangs have to be to each other to be seen as falling within the remit of this bill?

The Hon. G.E. GAGO: Which part of the bill?

The Hon. T.A. FRANKS: Having two or more in a public place. How close do they have to be? How many metres?

The Hon. G.E. GAGO: I am advised that there is no measurement, that if they are both within the parameters of the same public space and it is knowingly, then they could be captured by this.

The Hon. M.C. Parnell: Football Park.

The Hon. T.A. FRANKS: My honourable colleague Mark Parnell mentions Football Park.

The Hon. M.C. Parnell: Or Adelaide Oval now.

The Hon. T.A. FRANKS: Or Adelaide Oval now, or indeed Hindmarsh Stadium. I imagine all of those would be taken to be public places and therefore, should somebody know that probably somebody else is a Port Power or a Crows fan, they would be knowingly attending a public place for a football game, but that is a comment not a question. My question is: is a road a public place? With the assistance of my honourable colleagues, a public road—is that a public place?

The Hon. G.E. GAGO: The advice is yes. I again stipulate that there must be knowledge that the person is sharing that same space, so you have to be aware and know that the person is there.

The Hon. T.A. FRANKS: If someone is aware that other members of outlaw motorcycle gangs also attend a toy run, they will fall within the remit of this bill, I assume. Can the minister confirm that?

The Hon. G.E. GAGO: Again, I can only go to the bill. It is a question of fact, and they have to be present in a public place and knowingly present in a public space with two or more other people. So it is a matter of fact.

The Hon. T.A. FRANKS: I am continuing on this stream. I want to confirm that, for example, if the children of these members of outlaw motorcycle gangs are at the same school, they would also knowingly be going to that same public place. Would that fall within this? Of course, they would be travelling on the same road, but would taking their children to the same school come under this legislation's intent?

The Hon. G.E. GAGO: I am advised children are not captured and remind honourable members that the person has to be knowingly present in a public place with two or more other people.

The Hon. T.A. FRANKS: I clarify that I was not talking about the children of the members of the outlaw motorcycle gangs, I was talking about the outlaw motorcycle gang members who have children, who take them to school or to fairy ballet or to a show at the Odeon Theatre. Would they fall foul of this, knowingly going to that same location and travelling on that same road, which is indeed defined as a public place?

The Hon. G.E. GAGO: I have answered the question. It is a question of fact: if a person who is a participant in a criminal organisation is knowingly present in a public place with two or more other persons who are participants in a criminal organisation. So, it is a question of fact: if they meet all those things, then they could be captured.

The Hon. A.L. McLACHLAN: Is there a minimum age for joining a motorcycle gang and being a participant?

The Hon. G.E. GAGO: Sorry, could you repeat that?

The Hon. A.L. McLACHLAN: Is there a minimum age? Can a child be a participant under these provisions?

The Hon. T.A. Franks: A newer member.

The Hon. A.L. McLACHLAN: A member.

The Hon. G.E. GAGO: I am advised the minimum age for criminal activity is 12.

The Hon. A.L. McLACHLAN: So a participant, with these broad provisions—and I make comment to the house—means that a 13 year old could be declared a participant and be incarcerated automatically. I think that is an indictment on these provisions.

The Hon. G.E. GAGO: There is not automatic incarceration.

The Hon. M.C. PARNELL: I will weigh into this. This bill specifically precludes the operation of section 17 of the Criminal Law (Sentencing) Act. That is the section that says that the age of the defendant can be taken into account. You have excluded that provision. The court is not allowed to take their age into account; they must gaol them.

The Hon. G.E. GAGO: I am advised that that statement is not true. If it were a young offender, the child would be tried under the Young Offenders Act.

The Hon. M.C. PARNELL: They may be tried under the Young Offenders Act, but this is a subsequent piece of legislation and the charge that they are being charged with is under this act. What assurance can you give us that the legal analysis you have just given, that the Young Offenders Act supersedes this act, when the parliament is specifically putting its mind to the age of defendants as a factor that must not be taken into account? Are you sure that your legal analysis is correct and that the Hon. Andrew McLachlan's point is not well made?

The Hon. G.E. GAGO: The advice I have received is very confident advice, that they would be tried under the Young Offenders Act.

The Hon. A.L. McLACHLAN: I probably should clarify the point I was attempting to make. They will, of course, have to go through a court proceeding, which is obviously not granted to the organisations themselves. But the point I was trying to make is that, given that there are very heavy penalties and that in essence there has to be a form of imprisonment, how is a young person going to assess the words 'assert', 'advertise', 'participate', 'promote'; 'be recruited'? I think that we are placing an unreasonable burden on a youth, particularly those who may be drawn to this type of organisation. I am not saying this by way of a question but by way of a comment to express to this committee my dissatisfaction with these provisions. I also am uncomfortable, given that the matters of youth have not been specifically addressed in the provisions of this bill.

The CHAIR: Any further discussion?

The Hon. S.G. WADE: I am wondering whether the minister can explain why in proposed section 83GD we need subsection (3)? What is the idea behind that?

The Hon. G.E. GAGO: As I have indicated, we have been very careful to replicate the Queensland legislation. The High Court has validated it, and we are keen to make sure that our legislation sits as closely to that as possible.

The Hon. S.G. WADE: Is the minister able to enlighten the committee as to why such a subsection is relevant for section 83GD but not sections 83GB and 83GC?

The Hon. G.E. GAGO: I have answered it in the first question: it is because we seek to replicate exactly the Queensland legislation.

The Hon. S.G. WADE: I simply want to make a comment, and that is that it gets back to our discussion in relation to national law. We are a parliament legislating in our own right. I can appreciate the value in learning from the legislative and court experiences of other parliaments, but I do think that we do need to understand what we are doing even if we are following the lead of some other parliament.

Clause as amended passed.

Clause 9.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 6 [Broke–2]—

Page 8, after line 20 [clause 9, inserted section 117B(1)]—Before the inserted definition of *declared criminal organisation* insert '*Committee* means the Crime and Public Integrity Policy Committee of the Parliament;'

This is simply procedural, as part of the overview I gave last evening to colleagues, and before inserting the definition of 'declared criminal organisation' there is another insert committee to describe the requirements of the Crime and Public Integrity Policy Committee of the Parliament to be involved in any further declarations.

Amendment carried.

The Hon. G.E. GAGO: I move:

Amendment No 2 [EmpHESkills–4]—

Page 8, after line 38 [Clause 9, inserted section 117B]—After inserted subsection (1) insert:

(1a) Each regulation made for the purposes of the definition of *declared criminal organisation* in subsection (1) and required to be laid before each House of Parliament in accordance with the *Subordinate Legislation Act 1978* may only relate to 1 entity.

This the second of the amendments in set 4, which I have already spoken to.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 7 [Broke–2]—

Page 8, after line 38 [clause 9, inserted section 117B]—After inserted subsection (1) insert:

(1a) The Governor may only make a regulation declaring an entity to be a declared criminal organisation for the purposes of the definition of *declared criminal organisation* in subsection (1) on the recommendation of the Minister.

(1b) A recommendation of the Minister in relation to an entity for the purposes of subsection (1a) may only be made—

(a) after the receipt of a report of the Committee in relation to the entity under section 117BA (and, in such a case, the recommendation must include a statement as to the opinion of the Committee on whether or not the entity should be declared a declared criminal organisation for the purposes of this Part); or

(b) after the passage of 10 days after a referral in relation to the entity was made to the Committee by the Minister under section 117BA(1).

(1c) The Minister may, in deciding whether to make recommendation for the purposes of subsection (1a), have regard to the following matters:

(a) if the Minister has received a report of the Committee in relation to the entity—the report of the Committee;

(b) any information suggesting a link exists between the entity and serious criminal activity;

(c) any convictions recorded in relation to—

(i) current or former participants in the entity; or

(ii) persons who associate, or have associated, with participants in the entity;

(d) any information suggesting current or former participants in the entity have been, or are, involved in serious criminal activity (whether directly or indirectly and whether or not the involvement has resulted in any convictions);

(e) any information suggesting participants in an interstate or overseas chapter or branch (however described) of the entity have as their purpose, or 1 of their purposes, organising, planning, facilitating, supporting or engaging in serious criminal activity;

(f) any other matter the Minister considers relevant.

(1d) Section 10A of the *Subordinate Legislation Act 1978* does not apply in relation to a regulation declaring an entity to be a declared criminal organisation for the purposes of the definition of *declared criminal organisation* in subsection (1) .

Again, this amendment is subsequent to the rest of the amendment I have put forward.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 8 [Broke–2]—

Page 9, after line 12—After inserted section 117B insert:

117BA—Report of Crime and Public Integrity Policy Committee

(1) The Minister may, by notice in writing, refer a proposal to declare an entity to be a declared criminal organisation by regulation for the purposes of the definition of *declared criminal organisation* to the Committee.

(2) On receipt of a referral under subsection (1), the Committee must request the Commissioner of Police (the *Commissioner*) to provide to the Committee any information that the Commissioner thinks fit that may support the referral.

(3) The Committee must inquire into and consider a referral under subsection (1) along with any supporting information provided by the Commissioner under subsection (2) and must report to the Minister on whether or not the Committee is of the opinion that the entity should be declared a declared criminal organisation for the purposes of this Part.

(4) The Committee may include grounds for its opinion in a report under subsection (3).

It is all spelled out there and, again, as per what I gave as an overview to colleagues last night, this part is particularly specific to the report of the Crime and Public Integrity Policy Committee.

The Hon. A.L. McLACHLAN: I have a question for the Hon. Mr Brokenshire. A number of these provisions use the I think unhappy phrase 'any information that the Commissioner thinks fit'. How will the committee have comfort that it has all the relevant material, and not that which the commissioner thinks it should see, but what the community would expect the committee to see?

The Hon. R.L. BROKENSHIRE: I thank the honourable member for his very good question. One reason why the committee will be able to do this is that I have confidence in the calibre, quality and capacity of members of the committee like the Hon. Andrew McLachlan. The fact of the matter is there is a lot of experience on the committee. It will be up to the parliament in future years to ensure that that experience through the parliament with those people the parliament puts on that committee continues, as is the case at the moment.

Suffice to say that, when the commissioner puts any information forward to the committee, I would expect it would be the same as information that the commissioner puts to an Attorney-General or a police minister. From my experience, when I was police minister, we had to deal with a very expansive focus on getting a Panzer reference up. I did not just accept the wording of the commissioner at that time. I asked for further detail with the one preface that there are certain highly-confidential issues sometimes on which you have to rely on the operational side of the justice system—in this instance, the police. You have to have confidence in them.

To summarise, we would ask for as much information as we believe we need to make an assessment within those parameters, just the same as the Hon. Julie Bishop, in her role as the Minister for Foreign Affairs, with assessments she has to make working with Australian Federal Police and the crime authorities federally, will seek certain information. She has also said that, on some occasions, there is highly-classified information with which you must just take the confidence of those people who have been appointed to those positions.

To finish my answer, the committee has the right to challenge and question the commissioner with as much detail and questioning as they feel comfortable with and then deliberate on whether they actually agree or disagree with the request for the declaration. I for one, moving this amendment, feel comfortable that we can do that.

The Hon. A.L. McLACHLAN: That is probably a good segue because my point was in relation to the quality of information coming to the committee. I thank the Hon. Robert Brokenshire for his comprehensive response to my question, although it does not entirely satiate all my needs. Has the government at this stage been able to bring an answer back to the chamber in relation to section 74A of the Police Act?

That is a matter which directly relates to my question to the Hon. Robert Brokenshire, as to whether there has been auditing in relation to that act in respect of criminal intelligence. I raise it now only out of courtesy to the minister because it is important that I have that information to allow me to make a decision both at the end of committee, in relation to its reporting, and also my decision at the third reading.

The Hon. G.E. GAGO: I understand that officers have looked as hard as they possibly can. The result is that they are not able to find any record of compliance with section 74A, and the Attorney-General has since directed that compliance be complied with immediately.

The Hon. A.L. McLACHLAN: This is a significant breach of the law. The government has failed to comply with its own law—well, it is a law that applies to us under the Police Act—which

requires an audit, a very different audit to the one that was previously undertaken under the SOCCA legislation in relation to the quality and frameworks and guidelines around criminal intelligence. I put it to this chamber that without that auditing, no member in this chamber can accept the criminal intelligence that they were given to form an opinion in relation to passing this legislation. I put that to the chamber for members to contemplate as we move through the debate. It is unacceptable that we would receive criminal intelligence that has not been audited in accordance with the law.

In the briefings, I asked the police commissioner whether he had an audit program, and he said that they did not. He said they had certain systems of checks and balances, and I took him on faith. In my research for this debate I came across the provisions of section 74A of the act, and I will set them out for the members. Subsections (1) and (2) state:

> The Commissioner must establish guidelines in relation to the assessment of information that is being considered for classification as criminal intelligence…The Commissioner must ensure that records are kept in relation to the use of criminal intelligence.

Subsection (3) states:

> The Commissioner must ensure the records…will enable the following information to be determined…the number of matters…the number of individual pieces…the relevant statutory provision for each such matter.

And then subsection (4):

> The Attorney-General must, before 1 July in each year…appoint a retired judicial officer to conduct a review on (a) the effectiveness of the guidelines…(b) the use of criminal intelligence…

And to report to both houses of parliament. This has not been done. I also want to draw the specific attention of the members to subsection (6) which states:

> A person conducting a review has, in so doing, the powers of a commission of inquiry under the Royal Commissions Act…

This is a very significant review that has not been undertaken. At the same time, this government is expecting us to pass this legislation based on the same criminal intelligence that has not been audited. You cannot pass this bill, in my view, in good conscience given the criminal intelligence upon which many of you were briefed has not been audited. I will take that matter up probably a little bit later in debate, but I thank the minister for her diligence in bringing me back a response.

The Hon. G.E. GAGO: I have been advised that the section 74A requirement applies only to information classified as criminal intelligence under a statutory provision. It does not apply to criminal intelligence, generally, and does not apply to information which is given to parliament—not under any act, but in general, as happened in this situation.

The Hon. A.L. McLACHLAN: Minister, how can we have confidence—and I will take the response on faith that we are discussing the scope of the use of this provision—when, at the end of the day, an auditing provision has not been enacted, and it is a natural line of logic that if this provision has not been complied with, what other auditing or compliance mechanisms are failing in the way police are handling their criminal intelligence? I would argue in response that my point still has validity because this failure potentially leads a parliamentarian to believe in a lack of confidence in relation to the management of criminal intelligence. I do not think we can take that debate much further.

The Hon. M.C. PARNELL: I want to move on to a new section—proposed new section 117C. This is the section that effectively requires the bar worker to eject the bikies, and it is a criminal offence, punishable by a fine of $10,000, not to do so. But there is a defence, and I understand why the government has written this in. A single person behind the bar faced with a sea of refrigerator-shaped gentlemen is unlikely to exercise the power, so basically it says that it is a defence if the bartender made a request to a police officer to, effectively, do it for them.

What I want to check is how that defence might operate in practice. I understand that it would apply if a bartender, for example, had a direct conversation with the police officer, rang them up and said, 'My bar is full of bikies; you need to do something about it,' but most people do not have the phone number of a police officer in their phones. Most people are likely to ring 000 or Crime Stoppers. They may not talk to a police officer; they may speak to a receptionist. My question is: is that sufficient for them to be able to rely on this defence?

The Hon. G.E. GAGO: I am advised that it was expected that the 131 444 number or 000 could be used. It is immaterial who the person actually speaks to, so long as it is reasonable to conclude that the report is going to go through to a police officer. In my previous life, having been the minister for liquor licensing, let me tell you that those bar attendants do indeed have these numbers close at hand.

There have been barring orders in place now for many years, with the same principle, that bar attendants have the power to eject unruly people but, for the same reasons, may choose not to do that, and they regularly ring police officers to come in and assist them. It is a well-worn path and they do call for assistance and use assistance regularly.

The Hon. A.L. McLACHLAN: This is more by way of comment in relation to this provision, which has been brought to our attention by the Hon. Mr Parnell. It is a long and tried road that when you do not like a group of individuals, you always reverse the burden of proof in legislation, because it makes it easier on the prosecution and makes it harder on the defence. Perhaps I am speaking from the perspective of an old defence lawyer.

I cannot abide section 117C(2) where, if this bill is passed, you have a poor employee, who could be 15 or 16, picking up the glasses, as many of us did when we were at university, who has to deal with an aggressive member of a criminal organisation, whether or not they are wearing colours—not, in this instance, I suspect—and then the burden of proof is reversed.

There may be some justification for reversing the burden of proof. I always find it hard to do so, because I am old school and believe that the state has to prove an offence against you, rather than justifying your own existence, almost like continental law. But, in my view, it is very poor form of this government to impose upon the licensees, who are not bikies, who are plying their trade reasonably, to then have to prove to the state that they did ring 000 or run down the street to try to find a police officer. I am not expecting a response, minister; I am just putting my gross dissatisfaction onto *Hansard*.

The Hon. T.A. FRANKS: Last night, in the debate the minister advised this chamber, with regard to my question about how we were not creating more Sally Kuethers, the Queensland example, with this legislation, she answered:

> I am advised that the offence in relation to the Liquor Licensing Act applied to carrying a prohibited item which, I understand, in this particular woman's case was referred to as 'club colours.' I am also advised that she was associating with an admitted member of a prescribed club who was found to be carrying a flick-knife, so these are exactly the sorts of people this legislation seeks to scrutinise carefully.

For those who are not familiar with the Queensland legislation and this example of Sally Keuther and Ronald Germain and Mr Palmer, Sally Keuther's partner, those charges under these provisions were in fact dropped. Contrary to what the minister informed the chamber last night, Mr Germain was not carrying a flick-knife, so why did the minister advise this chamber last night that he was?

The Hon. G.E. GAGO: I am advised that that is what the report said and that was the advice that I received.

The Hon. T.A. FRANKS: Could the minister please advise us which report she is referring to, particularly as she claimed—when I pointed to this as an example of where the Queensland law had failed—that this is exactly the sort of case and the reason that we need the Queensland laws in South Australia.

The Hon. G.E. GAGO: I do not have a copy of the report here that the adviser referred to. I did not suggest that this was the sort of case that we wanted; I indicated that these were the sorts of behaviours that we would want to capture and be able to scrutinise. We see that the law has done its job: it has captured potentially concerning or suspicious behaviour, scrutinised it and found the person innocent, which is how the law should be operating.

Amendment carried.

The CHAIR: We are still on clause 9.

The Hon. S.G. WADE: I want to turn to the point the Hon. Andrew McLachlan raised in relation to criminal intelligence. As I understood it, the advice from the government was that there is

criminal intelligence that is statutorily defined and other criminal intelligence. In terms of the role of the Crime and Public Integrity Policy Committee, under section 15O(1)(a)(iii) of the Parliamentary Committees Act, where they have the responsibility to examine each report laid before both houses of parliament under a series of acts—and one of the acts specified is the Police Act—do the reports on criminal intelligence include both the statutorily defined criminal intelligence forms and other forms, or just those that are in statute?

The Hon. G.E. GAGO: I am advised that this is, in fact, a very difficult question to answer. I have been advised that it should include statutory forms of criminal intelligence because statutory reports are generated under the Police Act. However, the advice I have received is that it is not thought that that particular power enables the community to scrutinise any or all forms of criminal intelligence, and that is probably the best we can do as this point in time.

The Hon. S.G. WADE: I will just make a very brief comment because I think the Hon. Andrew McLachlan has done the house a service by highlighting the need to make sure that the quality of criminal intelligence is scrutinised. This parliament in recent years has agonised about criminal intelligence. The legislation that is there is substantially based on assurances and processes towards quality, and I think the Crime and Public Integrity Policy Committee is well placed on behalf of the parliament to make sure that those commitments are honoured.

The CHAIR: The honourable, and apparently very gallant, Mr McLachlan.

The Hon. A.L. McLACHLAN: Thank you, Chair. I was waiting for it. By way of comment, I think my point on criminal intelligence still stands, on reflection, because in the briefings, we received certain materials that the Attorney had received. They were based on criminal intelligence, and at no time was it distinguished between whether it was statutory declared criminal intelligence or normal criminal intelligence.

If I could clarify my point to house, that whether it is narrowly focused and declared criminal intelligence or periphery, whatever we want to call it, the point is still made that members of parliament do not know which they are receiving. No doubt, it would be a reasonable assumption to say that the information they were receiving would have included some statutory declared criminal intelligence which has not been audited. I am not expecting a response, minister.

Clause as amended passed.

Remaining clauses (10 to 14) passed.

Schedule 1.

The Hon. G.E. GAGO: I move:

Amendment No 1 [EmpHESkills–3]—

Page 13, lines 1 and 2 [Schedule 1, clauses 2(b) and (c)]—Delete paragraphs (b) and (c)

Amendment No 2 [EmpHESkills–3]—

Page 13, line 3 [Schedule 1, clause 2(d)]—Delete 'Commancheros' and substitute 'Comanchero'

Amendment No 3 [EmpHESkills–3]—

Page 13, lines 6 to 7 [Schedule 1, clauses 2(g) and (h)]—Delete paragraphs (g) and (h)

Amendment No 4 [EmpHESkills–3]—

Page 13, line 8 [Schedule 1, clause 2(i)]—Delete 'Gypsy Jokers' and substitute 'Gypsy Joker (also known as the Gypsy Jokers)'

Amendment No 5 [EmpHESkills–3]—

Page 13, lines 10 to 14 [Schedule 1, clauses 2(k), (l), (m), (n) and (o)]—Delete paragraphs (k), (l), (m), (n) and (o)

Amendment No 6 [EmpHESkills–3]—

Page 13, line 16 [Schedule 1, clause 2(q)]—Delete paragraph (q)

Amendment No 7 [EmpHESkills–3]—

Page 13, lines 18 to 22 [Schedule 1, clauses 2(s), (t), (u), (v) and (w)]—Delete paragraphs (s), (t), (u), (v) and (w)

Amendment No 8 [EmpHESkills–3]—

Page 13, lines 25 to 26 [Schedule 1, clauses 2(z) and (za)]—Delete paragraphs (z) and (za)

This set of amendments contains a large number of amendments, and I will set out the effect of this set. I do not believe it is necessary to deal with each single amendment separately, but if the chamber wants to do that, then I am happy to do that.

The amendments, in effect, delete the listing of motorcycle gangs that presently have no active presence in this state. It leaves 10 local gangs listed. These gangs are the subject of detailed information made available for inspection by interested members of both houses. The amendments make minor changes to the names of two gangs—the Gypsy Jokers and the Comanchero. The amendments delete the current listing of prescribed places and replaces it with another list more accurately described by reference to the certificate of title number as well as address and, if known, alternative address. I am happy to answer questions.

The Hon. S.G. WADE: To assist the committee, I indicate that the opposition regards amendments 1 to 8 as all being related to the list, and we would be happy for them to be moved concurrently. If that is the case, could I ask a question in relation to the amended list? Is it the government's intention to issue regulations in relation to the organisations that are being deleted from this schedule?

The Hon. G.E. GAGO: The advice I have received is that the Attorney-General seeks to include those organisations that are currently not located in this state but have the potential to franchise across borders and one day be located here. He would intend to use regulation to capture those organisations if and when they are identified as being located in this state.

The Hon. S.G. WADE: So, as I understand the minister's comment, there is no immediate intention of the government to issue regulations in relation to the deleted organisations?

The Hon. G.E. GAGO: Not that I am aware of, but I can double check. Those left on the list are those considered to be priorities identified by police, and they have been captured. As to the rest, the Attorney's intention is to use regulatory means.

The Hon. R.L. BROKENSHIRE: I wish to advise the committee that I concur with the Hon. Mr Wade that this is a package of amendments that we can talk about holistically. We know a lot of work has been done on this, and we will be supporting these amendments, but I also want to put on the public record my personal concern for the 17 who are not included, simply on the basis that they are not at this stage located in this state. From my experiences, it will be important for the parliament to carefully watch and listen to what authorities have to say if there is movement to the point where they use this now as a haven to come here, and we may then have to act quickly. I put that on the public record because that is the concern our party has, that some of these gangs that are not here right now could easily find this a haven opportunity, and we will be vigilant on that. Having said that, we support these amendments.

The Hon. M.C. PARNELL: The Greens will not oppose any of these amendments, and we agree that they can be dealt with as a job lot. However, I make the point that I touched on yesterday, namely, that aside from the removal of the interstate organisations the other amendments are basically fixing up mistakes that have been found in the spelling of the names of organisations. I make the point that, if this this bill were to be delayed over the winter break—which I know it won't be, but if it was—I bet you we would come back in September with more spelling mistakes, more addresses wrong and more technical problems that need fixing. I remind members that this set of amendments, the minister's set No. 3, is not the first lot of amendments—we already had a fix up in the lower house because they got things wrong there as well.

But I am pleased, as I said yesterday, that the Phoenix are no longer on the list, so that group of hardcore motorcycle racing enthusiasts will be able to meet safely in a hotel and no longer fear for their liberty. I note that the government in schedule 1, as the minister said, has fixed up the address list.

The minister has been reluctant to put any information into *Hansard* in relation to details about these organisations, so I will ask a particular question about amendment No. 9, which is the new list of places declared to be prescribed places. A quick count of that list shows 10 separate addresses. We have 10 bikie organisations left on the list. Am I correct in saying that these are the 10 known clubhouses of the organisations? Can the minister tell us which address relates to which organisation?

The Hon. G.E. GAGO: In relation to the first question, I think so, but I cannot be absolutely sure, and in relation to the second question, I do not have the detailed knowledge of what correlates to what at this point in time.

The Hon. A.L. McLACHLAN: Yes, I could probably make a comment leading on from the Hon. Mr Parnell's questions. It is a sad day when South Australia, one of the most progressive states, is following Queensland for its guidance on law. It is also ironic that we are only dealing with Queensland bikie gangs, which were originally in the first iteration of this bill schedule. I assume there are other bikie gangs in other states, but somehow they are not as dangerous as the ones which are in Queensland. I have seen what came before the Attorney for those Queensland gangs or organisations. I feel it is important to put on *Hansard* that the information supplied and considered by the Attorney was not much better than a year 9 or 10 school project—although that might be insulting year 9 and 10 students.

The provisions of this bill, if enacted, were going to apply to those organisations, I think based on two or three pages. I want the public to understand the, in my view, inadequate information that has been supplied throughout the various stages of the consideration of this bill and the bringing of the bill to the parliament. It is of a limited nature, and the public should not be under any illusion that there are volumes and volumes of material provided for legal opinion and a systemised assessment outside of the police force itself, which is the point of this debate. There is no-one making an independent assessment of the police's material.

The Hon. M.C. PARNELL: I think it will be a final observation on these amendments and the schedule. I said that the Greens will not be opposing the amendments. We will not oppose amendment Nos 1 to 9, but when the question is put that the schedule as amended be agreed to, we will be opposing that and we will be dividing on that question. The reason is not to offer any support or comfort to any of these organisations that have been listed. I have no doubt that many of these organisations comprise people who are involved in criminal activity.

The police have told us that a majority of the members of these organisations have criminal convictions, so I do not wish to give any comfort to those groups, but the importance of the schedule is that it goes to the heart of the problems that have been identified with this legislation and that is, this is the wrong forum to be making this decision. We are not assessing evidence. No evidence has been put on the record; not one skerrick of evidence about any of these organisations has been put on the public record.

As the Hon. Andrew McLachlan and others have mentioned, the decision is based on criminal intelligence and information that is so sensitive that we are not allowed to see it. We were not allowed to take copies of it, and it is certainly not being put on the public record. I just make that point, that we will not stand in the way of the government at the very last minute fixing up mistakes that they should have known about months earlier, but when it comes to whether this schedule should form part of the bill, the Greens say that it should not.

The Hon. S.G. WADE: If I can make a comment on that point, it was an issue that we were discussing yesterday and I must say, I slightly differ from the Hon. Mark Parnell. I think the public is entitled to a justification. If there is another declaration made, the public is entitled to know something about this group. We receive briefings all the time on legislation, often in great detail, and probably this legislation is an example of very thorough briefing, which the opposition appreciates. There is from time to time information which I think needs to be put on the public record. For example, I can remember a letter from a statutory officer which was highly persuasive with the opposition in relation to a bill. I think the public needed to know something key like that.

All the time, whether it is routine legislation or not, there is a lot of information that feeds into parliamentary consideration that does not become a matter of public record. I certainly expect, with

the operation of this legislation, that there will be a lot of information which the parliament will need (particularly the CPIPC) which is not appropriate to be a matter of public record. In that sense, it goes back to the point that the Hon. Andrew McLachlan made earlier, which is: in terms of choosing the forum to make these declarations, the Hon. Andrew McLachlan suggested that he thought that one of the reasons a court was more appropriate was because the court was better structured to maintain records. With all due respect to our parliamentary officers, we have very good records, but there are a lot of things that we use in our deliberations that are not preserved.

The Hon. A.L. McLACHLAN: I would like to add my observations to this part of the debate, and that is that I am very wary of encouraging any of these organisations in the pursuit of their criminal activities. It is my view that there are many tools available to the police, including the laws of 2008, that have not been tried. However, this legislation changes the nature of the application of these parliamentary powers. To pick up on a point made by my friend, the Hon. Stephen Wade, this is why a court of record is a better place for making these decisions, and certainly that drives my decisions in relation to opposing the passing of this bill.

However, if parliament is going to go down this line and if this is the jurisprudence our community wants us to adopt, then the practices and procedures and standing orders of this parliament have to change to accommodate it. There will have to be record keeping like a court; there will have to be in camera sessions to receive this evidence. You cannot have a halfway house, and this is the halfway house, which causes injustice, and that is the very nature of the separation of powers. If we are going to operate like a court then let's do it properly, but we are not.

The CHAIR: If there is no further discussion, I will put amendments Nos 1 to 8. There are nine amendments, but you said amendments Nos 1 to 8?

The Hon. S.G. WADE: It is my view that amendment No. 9 is different because it relates to prescribed places.

The CHAIR: That is fine; we will put amendment Nos 1 to 8.

The Hon. S.G. WADE: If the minister is happy to move amendments Nos 1 to 8 conjointly, the opposition will be happy to support them.

The CHAIR: I put the question that amendment Nos 1 to 8 to Schedule 1 be agreed to.

Amendments carried.

The Hon. G.E. GAGO: I move:

Amendment No 9 [EmpHESkills–3]—

Page 13 line 27 to page 14 line 7 [Schedule 1, clause 3]—Delete clause 3 and substitute:

3—Places declared to be prescribed places—section 83GA

(1) For the purposes of the definition of *prescribed place* in section 83GA(1) of the Act, the whole of the land contained in each certificate of title listed in the first column of the table below, under the heading 'Prescribed place', is declared to be a prescribed place.

(2) Text set out in italic type in the second column of the table below, under the heading 'Description', is a description for convenience purposes only which may relate to the whole or part of the prescribed place and is not to be taken to define the prescribed place.

Prescribed place	*Description*
Certificate of title 5288/611	*7 Barfield Crescent, Edinburgh North*
Certificate of title 5430/179	*Section 331 Keith Street, Whyalla Playford or Lot 331 Keith Street, Whyalla Playford*
Certificate of title 6086/487	*Lot 101 Jacobs Street, Whyalla Norrie*
Certificate of title 5301/953	*2 Albert Street, Clarence Gardens or 2a Albert Street, Clarence Gardens*
Certificate of title 5650/303	*45 Trafford Street, Mansfield Park or Lot 51 Trafford Street, Mansfield Park*
Certificate of title 5109/622	*7 Dalgleish Street, Thebarton*
Certificate of title 5109/623	*7 Dalgleish Street, Thebarton*
Certificate of title 5220/939	*7 Dalgleish Street, Thebarton*
Certificate of title 5220/940	*7 Dalgleish Street, Thebarton*

Prescribed place	*Description*
Certificate of title 5696/244	*108-118 Francis Road, Wingfield*
Certificate of title 5249/413	*108-118 Francis Road, Wingfield*
Certificate of title 5249/414	*108-118 Francis Road, Wingfield*
Certificate of title 5249/415	*108-118 Francis Road, Wingfield*
Certificate of title 6142/108	*305 Commercial Street West, Mount Gambier*
Certificate of title 5681/864	*124 Churchill Road North, Dry Creek*
Certificate of title 5928/347	*3-4/62 Middle Row, Salisbury*

The Hon. S.G. WADE: I am intrigued as to why the government felt the need to go to certificates of title. Was there concern that if somebody was on a different part of the property it would not come within the street address description?

The Hon. G.E. GAGO: Yes, you have got it in one.

The Hon. M.C. PARNELL: If a certificate of a title was the subject of a subdivision application—as often happens with big blocks, you divide the back of the block off and you create two new certificates of title—would that be covered by this provision in the schedule?

The Hon. G.E. GAGO: There are two answers to this question. First, I have been advised, probably not, and that is why we would need to make regulation and have that provision. Secondly, just as a general observation, these gangs, like anyone else, move from place to place from time to time. The info is that it is quite possible that, with the potential of the passing of this legislation, it has already caused some to move.

The Hon. S.G. WADE: I am wondering, as a matter of background, about the fact that we do not have in these schedules any prescribed events. Is the government anticipating that we might need prescribed events in the foreseeable future?

The Hon. G.E. GAGO: I have been advised that we do anticipate that in the future we will need to prescribe events, and we will seek to do that through regulation.

Amendment carried.

The committee divided on the schedule:

Ayes 14
Noes................ 4
Majority............ 10

AYES

Brokenshire, R.L. | Darley, J.A. | Finnigan, B.V.
Gago, G.E. (teller) | Gazzola, J.M. | Hood, D.G.E.
Hunter, I.K. | Kandelaars, G.A. | Lee, J.S.
Lucas, R.I. | Maher, K.J. | Ridgway, D.W.
Stephens, T.J. | Wade, S.G.

NOES

Franks, T.A. | McLachlan, A.L. | Parnell, M.C. (teller)
Vincent, K.L.

Schedule as amended thus passed.

Schedule 2.

The Hon. G.E. GAGO: I move:

Amendment No 10 [EmpHESkills–3]—

Page 14, lines 17 and 18 [Schedule 2, clauses 2(b) and (c)]—Delete paragraphs (b) and (c)

Amendment No 11 [EmpHESkills–3]—

Page 14, line 19 [Schedule 2, clause 2(d)]—Delete 'Commancheros' and substitute 'Comanchero'

Amendment No 12 [EmpHESkills–3]—

Page 14, lines 22 and 23 [Schedule 2, clauses 2(g) and (h)]—Delete paragraphs (g) and (h)

Amendment No 13 [EmpHESkills–3]—

Page 14, line 24 [Schedule 2, clause 2(i)]—Delete 'Gypsy Jokers' and substitute 'Gypsy Joker (also known as the Gypsy Jokers)'

Amendment No 14 [EmpHESkills–3]—

Page 14, lines 26 to 30 [Schedule 2, clauses 2(k), (l), (m), (n) and (o)]—Delete paragraphs (k), (l), (m), (n) and (o)

Amendment No 15 [EmpHESkills–3]—

Page 14, line 32 [Schedule 2, clause 2(q)]—Delete paragraph (q)

Amendment No 16 [EmpHESkills–3]—

Page 14 line 34 to page 15 line 4 [Schedule 2, clauses 2(s), (t), (u), (v) and (w)]—Delete paragraphs (s), (t), (u), (v) and (w)

Amendment No 17 [EmpHESkills–3]—

Page 15, lines 7 and 8 [Schedule 2, clauses 2(z) and (za)]—Delete paragraphs (z) and (za)

I have already spoken to this in my general comments in relation to schedule 1.

Amendments carried; schedule as amended passed.

Title passed.

Bill reported with 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) (11:41): I move:

That this bill be now read a third time.

The Hon. M.C. PARNELL (11:41): I will make a very brief third reading contribution. Most of what I wanted and needed to say has been said already, but I just want to put on the record one more time that this is very bad legislation. It sets a very bad precedent for how this state deals with legal issues. The irony of this bill being passed in the 800th anniversary of the signing of the Magna Carta is not lost on many people.

I think that this legislation is a low point in South Australia's legislative history. To just remind members, this bill and the methods it uses has been roundly condemned by every legal organisation in this state and every group concerned with human rights and civil liberties. It is not to say that the people who are opposing this bill are friends of bikies—I know we are not. We want our communities to be safe and we want the police to have appropriate powers to detect and prosecute crime. The fact is that this legislation goes a step too far.

The people who are sought to be dealt with have committed criminal acts, and for those criminal acts they have been prosecuted; most of them, it seems, have spent time in gaol, so the laws are working in relation to the detection and the prosecution of crime, but this legislation takes it a step further. It has unintended consequences, it captures people who are innocent and do not deserve to be captured, and it infringes on strongly-held, long-held legal principles. For that, the Greens will be opposing and again dividing on the third reading. We urge all honourable members to consider one last time what it is you are doing before we vote on this bill.

The Hon. R.L. BROKENSHIRE (11:43): I again rise to put on the public record that we will be definitely supporting the final vote on this with the government. In my opinion, the only reason we are actually back in here now is because of interpretation by the courts. The parliament speaks on

behalf of the people of South Australia, not the courts, and the fact of the matter is that we have some serious issues with organised crime. We need to combat that, this is an attempt to do that, and I know for a fact that, whether or not the interpretations by the court are what some people like or do not like, the absolute majority of South Australians want us to do whatever we can to keep South Australia a safe and progressive state.

For those reasons, with the amendments that we have supported, and from all the debate and work that has been done, which I congratulate all colleagues on, we look forward to the fast passing of this legislation and a message going out to organised crime, in particular to outlaw motorcycle gangs, that South Australia will not stand for their drug running and all the other issues they are involved in that are criminal and work against a safe and enjoyable society.

The Hon. A.L. McLACHLAN (11:45): I will not be supporting the bill at its third reading, and I have some more formal comments to make in relation to the bill. In my view, the purpose and value of open justice enhance the integrity, accountability and performance of those who are involved in the administration of justice. In this bill, police are no longer seeking to solve crime with traditional methods of investigation. If we enact this bill, we are dismantling the fundamental principles of criminal justice and the basic rules in the relationship between the executive and the individual.

This bill contains disproportionate measures to a perceived threat. The premise for the savaging of our liberty is that there are exceptional circumstances. In my view, the case for exceptional circumstances has not been made out by the government. These measures proposed were first conceived to fight terrorism and have migrated to the states and found a comfortable home in the psyche of their police forces. We hear from the government the rhetoric of war to fight 300-odd known individuals whose criminality the police seem unable or unwilling to tackle using conventional policing methods.

The essence of these proposed laws is to create an offence of guilt by association. The laws are not consistent with our fundamental community values and longstanding tradition of imposing sanctions on the finding of guilt for a specific offence. Under this bill, individuals can be punished in anticipation that they may commit a crime. In my own life, I have seen firsthand the difficulties organised crime can wreak on individuals and their families. I acknowledge the excellent work of the police officers in response to organised criminality. However, there should be a holistic focus on the problem, a real attempt to develop strategies to solve it.

There must be laws, and these laws must be the right ones and the effective ones, not just ones that appear 'tough' to the public. It is not surprising that the people look to their political leaders for a strong response to organised crime, including action that may be disproportionate to the threat due to its impact on democratic liberty. We in this place must resist our baser instincts, exercise good judgement and self-restraint, and craft laws intelligently to balance the competing interests of ensuring safety and respecting liberty. Unfortunately, this bill fails to find an equilibrium between these competing interests.

What we have before us is proposed legislation that has been tabled with the politics of law and order debate as the singular motive for its creation. The Crime and Public Integrity Policy Committee was not even allowed to undertake its work on behalf of the parliament and explore options for the control of criminal gangs. Various media announcements from the government have not encouraged debate but sought to serve fear in the hearts of its citizens, with the explicit motive that our citizens would not seek to question the actions of their parliament or sacrifice their liberties won in battle by generations that came before them.

I believe we have one of the best police forces in the Asia-Pacific. They need the tools to fight crime that also have the effect of maintaining and reinforcing the trust the community has in their difficult work. We should be assisting them to pursue excellence in the measures they adopt in response to serious and organised crime, rather than politically motivated laws that demean their role in the community. The balance between liberty and security will always be and should be debated. The right and proper balance is not always easy to find. A well-informed public debate is essential to guide us in our deliberations. This debate is debased when those who question the effectiveness of the proposed laws are labelled 'soft on crime' or 'friends of bikies'.

The recent incidents involving bikies could have all been addressed by traditional policing. To think or even suggest that the laws before us would avert this violence is naïve but also dishonest. It does not add to the public debate. The police do not even believe that these laws will ultimately stop the gangs and their memberships' involvement in organised crime. These laws may only restrain certain activities. Even if they were successful, other gangs would move into the gap left in the market. At best, this legislation is window-dressing in an attempt by the government to appear hard on organised crime. The people of South Australia, unfortunately, will pay for this vanity of our government with the diminution of their liberty.

When preparing for this debate, I turned my mind to my studies of the French Revolution. Robespierre saw himself as a romantic figure battling against great odds, yet he led a betrayal of the revolution's lofty ideals and his constituency was the mob. Robespierre interpreted the constitution, which contained the ideals of equity, justice and reason, very subjectively. For him, the declaration of rights was no protection for the individual. Instead, he thought the suspicions of enlightened patriotism might offer a better guide than the formal rules of evidence.

Commenting on an execution, he said that even if an innocent individual had to be condemned to death, that could be useful. In a letter advising the Revolutionary Tribunal, he wrote, 'People are always telling judges to take care to save the innocent. I tell them to beware of saving the guilty.' Sound familiar? The narrative is one that we have had drummed out over the last few years. Both the government and the police have expressed their frustrations with the judicial process. Let me remind the chamber that, if there are no rules, justifications or reasons, then everybody is at risk.

Most disappointing to me, given the extremely high regard in which I hold the work of the police, has been the attitude of the police executive to this bill. They have publicly stated that they want these laws. At no time, to my knowledge, have they come to the opposition to socialise their ideas ahead of tabling this bill. They have repeated their mantra that they need these laws to be tough on bikie gangs. This is despite not using the laws given to them in previous years. Because there has been no attempt to use the 2008 laws, the basis of the police argument is cut away.

I acknowledge and respect their right to be able to express their views in public. However, what they have not done, when engaging the community, is to set out the cost of these laws. The breach of the separation of powers and the reduction in community liberty have not been mentioned. If they see themselves as leaders in the community, then they should add to the debate and seek to inform the community of the risks of this legislation, as well as the perceived benefits.

In this instance, they have not. They appear not as leaders, but simply lobbyists, for a singular position or viewpoint, which is to their advantage. I fear this approach may have discredited their position in respect of this bill. I fear that they have greatly diminished themselves and politicised their office and discredited the police force as a whole. I ask them to reflect on their approach. If this bill passes, they will no longer be the protectors of our community, but in many ways they will become its persecutors.

To seek laws of this nature and encourage parliament to declare gangs, thereby cutting out the opportunity for judicial review—simply because, as the police have stated publicly, they are frustrated—is not what any member of our community should expect from senior police leadership. It is extremely disappointing.

For the police, removing any form of judicial review appears to be, to borrow a phrase, their 'black grail'. It should concern every member of this chamber that we have a police force that has a culture of believing that judicial review is an encumbrance. What has become clear to me is that there needs to be an urgent cultural review of the police and its executive team. The police are not above the law, but by advocating for the passing of this bill, are seeking to be so. It is my view that the liberty and safety of our people is too important to play political games with.

In my reading, there are many new and innovative ways to address organised crime. These should be explored before seeking these draconian laws. One cannot help but query whether this approach is driven more from a lack of imagination or the need to secure budget savings. In my view, the evidence presented in this debate is insufficient for any member to make a judgement declaring the organisations in the schedule.

The declaration provision provides for an opaque process based on assertions, not evidence, which cannot be forensically tested. It is effectively untestable. The decision that we are making is similar to a judicial decision. It has been described, in academic discussion, as an assimilation of two kinds of power—the judicial and the executive. Parliament is being asked to act like a court, but no evidence has been formally presented, there is no testing of the evidence and there is no opportunity for the organisations named to respond.

We are making ourselves a Star Chamber by passing this bill. By passing this bill, we are disregarding the rights of the citizens who elected us to this place. There are no rules of evidence and no mechanism to rule out evidence that is unreliable, prudential, unfair or unlawfully obtained. We in this chamber are taking on the role of the judiciary, yet we do not offer those impacted the same protections that a court would provide them, such as an independent judge without bias.

There are many in this parliament who have made public statements against the organisations named in this bill. How can we expect to consider this matter fairly? We have been asked to consider a group of organisations and not decide each organisation on its merits. We have been asked to declare these organisations to deprive them of judicial review but we have been advised in public statements that the police are not concerned that future declarations may be subject to judicial review. This is a clear breach of the principle that all are equal before the law. It is frightening that this concept is apparently lost on the police.

The police force is part of the executive arm of government. There are certain consequences flowing from the separation of powers. It is not a function of the police to make the law or to decide by whom and to what extent the law is obeyed. It is for the judiciary and not the police to determine whether people are guilty of crimes. It is not for the police to punish people.

Parliament is being asked to make decisions based on criminal intelligence provided by the police. It will be up to the Police Commissioner to determine what is provided. It is not tested, as I have said; it cannot be tested; we will never know whether we have all the relevant material. Using information that might be used without the accused seeing the information is an offence to the basic notions of fairness and justice.

The criminal intelligence, as we have heard, is not audited. The processes of gathering the intelligence is not audited. Illegal methods could have been used and the quality poor or of limited weight. I remind the chamber of the recent criminal case of former police officer Amanda Boughen, fabricating, altering and concealing evidence. The serious and organised crime legislation is no longer being audited by the retired judge, Mr Moss. He was only able to complete four reviews before the legislation was amended.

The process set out in this bill does not have sufficient checks and balances. With safeguards the commissioner will be placed in the position where he almost becomes a lawmaker with the power to punish. This is unacceptable in a democracy.

I have found in my reading the Royal Commission Report on the Dismissal of Harold Hubert Salisbury in 1978, better known as the Mitchell Report, very instructive. It clearly sets out that the police force is part of the executive government for which the minister is ultimately accountable. There always needs to be a public forum when police practices, policies and procedures may be scrutinised, questioned and brought to the attention of the community for whose protection and welfare the police force has been established.

I query whether there might now be a greater role for the ICAC; alternatively we might consider a review of the structure of the Crime and Public Integrity Committee. It is government dominated and perhaps the parliament should consider the Canadian approach, where the government does not dominate certain committees. As I have indicated in this house, in suggesting this I wish to make it clear that I am in no way critical of the current chair of the committee or its members.

If this bill passes, we will have a criminal justice system which operates on the basis of secrecy, when our criminal justice system has traditionally been built on the fundamentals such as open and transparent justice. If this bill passes we will no longer have a justice system that is transparent. I have seen the information that was provided to the Attorney-General in making his

determination. I do not believe it justifies the declaration of the organisations as criminal; insufficient material has been provided.

I suppose I share the same opinion as the Solicitor General, ironically, who has consistently rejected the police briefs prepared by their counsel under the existing provisions. The briefs are a litany of assertions but are not evidence. Some are not much better, as I have indicated, than a high school project. I understand the frustration of the police but their frustration should not be used to justify these draconian laws. No-one is above the law and this includes those who apply and enforce the law.

The Communist Party case in the 1940s stands at the moment when public hysteria and populist politics did not win out over the rule of law. It appears that this parliament has not learned this lesson and is no longer keeping faith with its progressive history. When the history of this state is written for this time, this debate and the passing of the bill will be recognised as significant but regressive and a breach of faith with the people of South Australia. As Sir Owen Dixon said in the Communist Party case:

> History, and not only history, shows that in countries where democratic institutions have been unconstitutionally superseded, it has been done not seldom by those holding the executive power.

We must not, in seeking to fight organised crime, undermine our hard-fought freedoms at the same time. South Australian politics seems incapable of self-restraint and keeping faith with its core values. Instead, the parliament creates precedence for even more dangerous and oppressive laws, while being cheered on by a police force that appears to have forgotten its privileged role in the community.

The passing of this bill shows us that there is a gaping wound in our political culture and leadership. It gives rise to a newer debate about whether a bill of rights is necessary in this state. I do not believe history will be kind to those who put their shoulder willingly to the wheel, whatever their motive, and pushed this bad law through the chamber. I am voting against the bill, in accordance with my conscience, for our democracy and the liberty of the people of this state.

I want to finish with a few words in praise of the police we see walking on our streets every day. I accept that the work of the police is hard and dangerous. We too often concentrate on their failures, rather than their successes. Unfortunately, this bill politicises the police and will ultimately corrode and undermine their standing in the community. The fact that the police executive has advocated for these laws is sad as it undermines the fine work of the ordinary police officers and their many successes.

In conclusion, I believe that the separation of powers is an immutable doctrine that we should not trespass upon. There are three governmental powers which should always remain in separate hands—the executive, the legislative and the judicial. This bill attacks this longstanding principle of democracy and should not be supported by this chamber.

The Hon. K.L. VINCENT (12:00): I will be brief since I made most of my points yesterday and many of them have been reiterated by other members here today, but I do want to reiterate a few points on the record on behalf of Dignity for Disability. Dignity for Disability does support the overwhelming, overarching aim of this bill, and that is that people who engage in criminal and antisocial behaviour should be punished for that behaviour and that behaviour should be taken very seriously.

However, I want to talk about something else that I take very seriously as well, and that is my job, my role in this place. We did have some concerns about the original bill, particularly with the association laws, the printing of addresses of premises in legislation when they had already proven to be incorrect addresses, and the disrespect for the involvement of the judiciary in declaring a criminal organisation. Those, I suppose, were our three main concerns.

We believe that those concerns could have been rectified in some way by the original opposition amendments, and we were very seriously considering supporting those. As I said, I take my role in this chamber very seriously. According to my boyfriend, I take it perhaps a little too seriously sometimes, but I take it very seriously.

I would not be doing my job correctly if I participated in the passage of a bill which has now been amended thanks to a backroom closed-door deal between the two major parties, the

government and the opposition, that did not include the majority of the crossbenchers. Those amendments were placed on our desks at 2.15pm yesterday afternoon. We have not had the opportunity to properly consult as to the ramifications of those amendments with the South Australian community or to seek legal advice as to the implications of those amendments.

As I said in this place yesterday, there have been instances where Dignity for Disability has been very happy to support legislation passing this place and this parliament quicker than we would usually allow it, and that instance is where there might be a risk to public safety, such as in the example I gave yesterday of a loophole in domestic violence protection legislation.

I am not convinced that there is adequate urgency for this bill to pass today when we have not had the opportunity to consult with anyone on the nature of the amended legislation which we now have before us. I take my job too seriously to support this breach in parliamentary protocol without sufficient reason, so we will be opposing the bill at this time.

The Hon. T.A. FRANKS (12:04): I rise not as the lead speaker for the Greens and certainly not as a lawyer, as our lead speaker is. As he said many times in his contribution yesterday, we are part of a community that is gravely offended by this legislation. I rise as somebody who is more likely to quote pop culture references than philosophers, but also as a human rights activist and somebody who comes from the community sector. In saying that, I rise to oppose this bill because of the fundamental principles of offence to separation of powers.

Many of us would believe that there should be a separation of powers in this country, and I think some politicians—most notably Queensland Premier Joh Bjelke-Petersen—had little regard or in fact little understanding of the principles of the separation of powers. This legislation is based on Queensland legislation, a place where there is no upper house, no parliamentary scrutiny, where the government of the day has the numbers and can ram through legislation with little regard to opposition voices. I believe the process around this bill has been flawed. It has been rushed. We have seen typos in this bill fixed up even within the last half hour, typos that were presented to the caucus, to the cabinet, to the opposition, to the other place and were not picked up. What other areas are there in this bill?

There is a lack of clarity about who will fall within the definition of being a participant of one these outlaw motorcycle gangs. I think there is clarity around who will fall within the definition of 'member' but I am very concerned about who will fall within the definition of 'participant'. What will constitute wearing or carrying not just the club patches but other associated images and terms, such as '1%' and '81'? And as I raised last night, the Alexander McQueen 2010 fall/winter collection wearers will fall foul of this definition the government has put before us.

There have been incorrect addresses and the naming of the Phoenix Motorcycle Club, which was, of course, drawn to the government's attention after the announcement of the bill. Surely that should have been something the government was alerted to much earlier if they had done their due diligence. I do not have faith that the government has got this right, and those are just some of the reasons why.

Even if I did have faith that the government has a perfect bill before us, I do not trust or support the executive or this parliament acting as judiciary. As the lawyers in this place have pointed out, we have not had evidence presented before us that stands up to scrutiny and that has been analysed in an appropriate way. Good people are affected by bad laws just as bad people are. This is a bill designed to curb the activities of bad people, but I believe that it will also impinge upon good people.

Balzac—a philosopher I was inspired to look at by the philosopher's quotes of last night, as well as Catch-22 and many others—said, 'Laws are spider webs through which the big flies pass and the little ones get caught.' One little fly that was caught by a very similar law in Queensland was Sally Kuether. Last night during the committee stage, we were informed by the minister that she had rightfully come under the scrutiny of these laws in Queensland because she was associated with somebody who was carrying a flick knife. That is not the case. When I raised this matter today there were references to some report. I raised this particular case in my briefing with the government's advisers and with SAPOL and they were not aware of this case.

This case has been quite known in Queensland. It went on for some six months before resolution. One of the three people involved was held for two weeks without bail. The others were held for several days. These were not guilty people under the provisions that are intended to be applied by these outlaw motorcycle gang provisions. They were simply at the wrong place at the wrong time in the wrong outfit, wearing a T-shirt that said 'Property of Crow'. Now, if 'Property of Crow' can get you put in gaol for a few days and then going through a six-month court case in Queensland before a public outcry and a media campaign means that you finally have those charges dropped, then what is it going to take in South Australia when the first little fly, the first innocent person, falls foul of these laws?

I share some of the concerns about what is called criminal intelligence and whether or not they are allegations are assertions, when in recent weeks Dane Swan, a high profile footballer, was surrounded and pulled over by police having been mistaken for being a member of one of these outlaw motorcycle gangs. Most people in Australia would know who Dane Swan is and what he looks like, but apparently not SAPOL, and the full force of the law came down upon him.

The Hon. T.J. Stephens interjecting:

The Hon. T.A. FRANKS: No, it was in South Australia, Terry. He came to Adelaide, went out for coffee with a mate in a car, not on a motorbike, and was pulled over, told to get out of the car, to put his hands up—it was quite a sensation in the media. Most people known what Dane Swan looks like: he is a Brownlow medallist, a five time all-Australian team player, but not everyone is as high profile as Dane Swan.

Most of us are more like Sally Kuether and librarians going about our ordinary business, going to a bar, having a drink with a few mates and potentially wearing the wrong T-shirt, or perhaps something from the Alexander McQueen 2010 fall/winter collection or, as I said last night, some T-shirt from Ed Harry. They are the people I am concerned about here. Mistakes are made, they have been made before, and the answers from government in this debate were lacking or indeed absent.

We still have not received answers from the government to many of the questions raised in this debate, but what I found most offensive was the fear campaign and the way this bill was introduced, with attacks and allegations made about the Repat protesters on the front steps and an invitation from the Government Whip, inviting all members from both houses of this parliament to come to a security briefing, alluding to the fact that there were security concerns for our personal and office safety.

They were put to us by the Government Whip in the lower house and, when members attended that briefing and asked SAPOL whether or not our security was at a heightened risk due to this legislation, we were told that the answer to that was no. We were told that the only action that they believed those outlaw motorcycle gangs would be taking would be legal action, and that there was no heightened security risk. Yet, we were sent an email and told to worry about our security.

We have a Speaker who accuses protesters exercising their right to protest on the steps of this place—accused publicly of all sorts of unproven and unfounded things and certainly without due recourse given to them to clear the record. This is a government that I believe does not understand the separation of powers and does not understand that they are not judge, jury and, in some cases, potentially executioner here.

I think we will look back at this as yet another development in the culture of fear in Australian politics. Yes, law and order, tough on law and order, and tough on crime rhetoric is very popular in the polls, but it is not the way forward for a progressive nation. With those few words, I indicate that I too will oppose this bill.

The Hon. B.V. FINNIGAN (12:13): I have some reservations about this bill, which I expressed in my contributions yesterday in relation to the potential infringement of the rights of individuals and the haste in which the bill has been dealt with. I think the bill would have been improved with a judicial review provision, as was formerly proposed by the opposition. It is important, though, to keep this bill in perspective. This bill is not about law and order policy in toto or crime as a public policy issue totally; it is about the provisions of this bill and the effect it has on members of the community and the role it could play in combating serious and organised crime.

Ultimately, while the passage of the bill is assured anyway, I will with some reservations support it because we need to consider the protection of the community ultimately. There is no doubt that outlaw motorcycle gangs are composed of some very nasty people who commit crimes that have a dreadful effect on people's lives. We do need to remember that.

I am not suggesting for a moment that honourable members are not conscious of that, and it is a question of how we best combat that, but ultimately that is the judgement we have to weigh up. I think the reality is that these gangs consider themselves very much beyond the law, and perhaps even beyond our society, and we need to do what we can to give the police, and courts ultimately, the powers to do what we can to combat the illegal activities of these people.

I would express some caution. We have been going down this path for some years now of declaring gangs and seeking to make declarations about gangs and what membership of them means. We have seen that subject to court challenge; we have had legislation in New South Wales and Queensland, and this legislation has been crafted in light of court decisions and what has happened in other states as well as in our own state.

If this legislation has to be amended rapidly, or it is found ultimately to be unconstitutional—I think the government and the parliament need to say, 'This path we have trodden to declare organisations illegal and certain consequences follow from that for individuals who are associated with them,'—I think we would have to conclude that it is time to seek another way of combating the activities of outlaw motorcycle gangs, if that is the outcome. With those few words, I indicate that I will support the bill at the third reading.

The Hon. J.A. DARLEY (12:16): I rise to indicate that I will be supporting bill.

The council divided on the third reading:

Ayes 14
Noes................ 4
Majority............ 10

AYES

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Kandelaars, G.A.	Lee, J.S.
Lucas, R.I.	Maher, K.J.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Franks, T.A.	McLachlan, A.L.	Parnell, M.C. (teller)
Vincent, K.L.		

Third reading thus carried.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 June 2015.)

The Hon. T.J. STEPHENS (12:21): I rise today on behalf of the opposition to speak to the Correctional Services (Parole) Amendment Bill transmitted to this place and read a first time on 18 June. I indicate that the opposition will be supporting this bill, but I do want to make a brief contribution for the benefit of the chamber. I will start with one of the more significant and controversial aspects of this bill, and that is the section which seeks to remove the power of the executive to prevent those serving life sentences from being paroled.

When we talk of the executive here, we mean the Governor in Council, who of course acts almost exclusively on the advice of his ministers. The power of the Governor dates back a long time in the history of this province and is not necessarily controversial if used sparingly and in the right circumstances. However, in recent times the tendency to use the prole of convicted serious offenders as a political plaything in law and order debates, especially in election years, is manifest. This has been particularly true of the current Labor government, in particular under the tutelage of His Excellency the Hon. Mike Rann. I welcome this change from the government and, in a rare moment of magnanimity, the Attorney-General has heeded the calls of the judicial arm of government and has ceded some power.

The new process for dealing with the parole of those serving life sentences is established by this bill. Under the provisions of this bill, a parole administrative review commissioner (PARC) will be established. The commissioner will undertake a review of the Parole Board's decision to refuse or grant parole of a prisoner if a review is sought by the following: the Attorney-General, the Commissioner of Police and/or the Commissioner for Victims' Rights. Once the review has been completed, the PARC will then uphold the decision of the Parole Board, make a decision of their own or send the matter back to the Parole Board with directions or recommendations. In this sense, the PARC has inherited the powers once reserved for the Governor in Council.

The opposition believes this to be a very reasonable change. On one hand, we welcome removing what is essentially judicial responsibility from the responsibility of the executive, whilst technically the commission will be a statutory body. Those eligible to be appointed as the PARC will exclusively be former court judges, making it judicial in character. It is worth noting that the change from Governor veto is welcomed by the Presiding Member of the Parole Board, the diligent and passionate Frances Nelson QC, the Law Society and the Commissioner for Victims' Rights.

A further change to those granted parole whilst serving life sentences will now be subject to monitoring and parole conditions for the remainder of their life. The current provisions are a parole period lasting between six months and the remainder of the parolee's natural life. Naturally, the Commissioner for Victims' Rights welcomes this change, as does the opposition, and this has the effect that life sentences now actually mean life in every sense.

I should note that the conditions imposed on parolees are set and can be altered by the Parole Board and that the aim of this legislation should not be to undermine their good work and the trust that the government and the parliament place in that body. Therefore, the Parole Board can and should be trusted to make a call on those conditions and on how tough or lenient they are. The easing of these conditions over time, providing the parolee is showing genuine reform in their behaviour, should be the purpose of our parole system. The concerns of those who feel that a prisoner who has done their time and therefore should be free to pursue a new life are noted, but I believe that the Parole Board should be trusted in this area.

A final point on the significant aspects of this bill are on the 'No body, no parole' provisions. 'No body, no parole' is the flashy campaign name given to the policy of refusing parole to those convicted of murder who refuse to cooperate with authorities on the whereabouts of their victims. As the very good member for Morialta noted, this policy would be better known as 'no cooperation, no parole' but of course that would hardly look as good on a DL flyer—but then enough of the cynicism.

The opposition welcomes these provisions as they attempt to give the families of victims peace of mind in their being able to lay their loved ones to rest. Often our criminal justice system has copped criticism for not doing enough for victims, and perhaps these changes will go some way to rectifying that disconnect. The effect of the changes are such that the Commissioner of Police will provide a report to the Parole Board indicating the level of the prisoner's cooperation with the investigation for which the Parole Board will make a determination.

I wish to thank the honourable member for Morialta from another place for his work on formulating our party's position on this bill and for his assistance to me and my office on these issues. As I indicated earlier, the opposition will be supporting the bill. I look forward to hearing the contributions and perspectives of other honourable members. I commend the bill to the council.

The Hon. R.L. BROKENSHIRE (12:27): I will not be two hours speaking about this particular bill, but I will be more than two minutes. Family First is pleased to be able to advise the house that

we will be supporting this bill. I have had a discussion with the minister, the Hon. Tony Piccolo, in another house, and I think that there is a great deal of common sense being put into this particular piece of legislation.

I place on the public record my confidence, over a very long period of time, with any work I have done with Frances Nelson QC (the head of the Parole Board), the Parole Board, the CEO of the Parole Board and subsequence CEOs of the Parole Board. It is a very, very good board that does great work in deliberating release conditions and the like regarding offenders towards the end of their sentence. They take their work very seriously, and they are a skilful, experienced, intelligent board led by one of South Australia's most prominent people in Frances Nelson, and the parliament can sit comfortably, in my opinion, with the work they are doing presently.

There has been something that has concerned me for a very long period of time. The now deceased Hon. Trevor Griffin, who I worked with for several years and who was a very experienced and intelligent attorney-general for 11 years in this state, taught me some things when I became a young minister, and the first thing he said was, 'Be very careful about how you interfere with the Parole Board recommendations,' notwithstanding the fact that as the minister for correctional services through to cabinet you did have opportunities of putting up papers and advising cabinet of taking a different decision to the recommendations of the board.

But I can say that, during those years as a Liberal minister, neither myself, nor the attorney-general, nor the cabinet ever interfered with a recommendation of the Parole Board that I can recall. In fact, on only one occasion did the Governor ask some questions, as the Governor has the right to ask before they sign off on Executive Council. What happened just a few years after Labor got into office from 2002 with the then premier, the Hon. Mike Rann, was that he decided that it was politically beneficial for him to pick and choose whether or not he agreed with the recommendations of the Parole Board, taking into consideration none of the assessments and work that was diligently done by the Parole Board but rather what would make a good headline in the media that night.

Therefore, what happened was that, for a period of time, for several years in fact, we had prisoners, some of whom may have well and truly deserved parole, being denied parole time after time, notwithstanding the fact that the Parole Board had put recommendation after recommendation up that that particular prisoner should have been released on parole. I am sure that in the cabinet, towards the later years of the Rann government when premier Rann was the premier, ministers must have found it increasingly difficult to play politics with decisions of the Parole Board. I did not see in recent years the government playing politics like premier Rann did.

Whilst I do not always agree with what the government or the minister—in this case, the Hon. Tony Piccolo—puts forward, I have told minister Piccolo that we think this is a very sensible move. There are still checks and balances. I do not think this bill is ideal. I would have liked to have perhaps had more involvement with the Parole Board in the way this bill was developed; notwithstanding that, this is a huge step forward. It will actually, I believe, firstly, take the politics out of decision-making on whether prisoners should have approval for parole and other associated issues. Secondly, it will actually be a lot better for the ministers and the cabinet that they do not have to interfere with the recommendations.

It will also be fairer for those prisoners because, whilst there are some cases at times when a prisoner should never be released, I have had representation more than once from families where the prisoner had shown proper rehabilitation, had tried everything in their powers to amend their offending and were looking for a chance to go back into mainstream society but were being denied by the cabinet. That is not going to happen in the future, if we accept this bill. It will also, I think, long-term be better for whoever is in government because the government of the day will not be playing politics with the lives of people who have made mistakes and deservedly had to pay retribution to society but, after consideration by the Parole Board, believe that they should be given a democratic right to parole and therefore released into the South Australian community.

With those few words, we agree with the general principles of this bill. I look forward to its passage, and I look forward to not having to read in the media anymore that the government decided to play politics with someone. As I say, there are checks and balances in there with the commission's structure but, like the opposition, Family First will be supporting this bill for the government.

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

Sitting suspended from 12:34 to 14:15.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports—
South Australian State Election 2014—Election Report by the Electoral Commission SA
South Australian State Election 2014—Election Statistics by the Electoral Commission SA

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

SA Health Response to the Health Performance Council's Four Yearly Review, 2011-14

ANSWERS TABLED

The PRESIDENT: I direct that the written answer to a question be distributed and printed in *Hansard*.

Question Time

MEMBERS' CONDUCT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:17): I seek leave to make a brief explanation before asking you, sir, a question about members' conduct.

Leave granted.

The Hon. D.W. RIDGWAY: You may recall, and members may recall, that on 24 February this year, I asked you a question about the process for members of the public lodging complaints against, potentially, the President of the Legislative Council. I will just refresh members' memory as to my question:

> …if a member of the public believes they have been subjected to inappropriate conduct by the President of the Legislative Council, to whom should they lodge [that] complaint about [the] conduct?

Your reply, sir, was:

> I will take that on notice and bring back an answer as soon as possible.

My question to you, sir, is: have the 156 days since I asked that question been sufficient time for you to be able to give an answer to this chamber?

The PRESIDENT (14:18): That question related to an article which was in, I think, InDaily. There were two sides to that story. I disagree with the version by the other party. It's a hypothetical and I am the President. If someone has a problem, I am the person they come to.

MEMBERS' CONDUCT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): So, Mr President, the process would be that a member of the public should come to you, rather than to a member of the Legislative Council? Can you just explain how that process should take place?

The PRESIDENT (14:18): I must say, any member of the public can go to any member of the Legislative Council, if they have a particular issue, but this is all hypothetical. It has not occurred in my time as President, so it's purely hypothetical.

LAKE ALBERT-COORONG CONNECTOR

The Hon. J.M.A. LENSINK (14:19): I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray regarding the Lake Albert-Coorong connector.

Leave granted.

The Hon. J.M.A. LENSINK: The Ernst & Young report on the cost-benefit analysis of proposed Lake Albert management actions from February 2014 was commissioned by DEWNR to conduct an economic cost-benefit analysis on proposed management actions aimed at reducing current salinity levels and improving the long-term sustainability of the region.

Whilst the report determined that irrigated land was a key variable in determining the economic value on the installation of the connector, the report also acknowledges that it may result in an economic benefit to the Coorong. On page 7 it states that 'further hydrological modelling and research is required'. My question to the minister is: will the minister consider conducting further research into this project or has he written it off as something he will not even consider?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:20): I thank the honourable member for her most important question. As I have said in this place previously, a scoping study investigated potential solutions to manage the Lake Albert salinity levels. That scoping study has been released. The study was carried out after consultation with the community reference group and included the investigation of five options. Of these five options the study recommended the preferred practice of lake cycling.

The study also recommended further investigation of a temporary reset pumping policy to reset salinity in Lake Albert should it be required into the future. Despite all the scientific and environmental modelling that went into this work, as well as the community engagement and consultation that was undertaken, some members of the opposition continue to ignore the studies, responses and facts that were presented in the document. It is another example, of course, of members of the opposition ignoring science and wanting to play politics, but that seems to be just the order of the day for them.

The Hon. K.J. Maher: Their modus operandi.

An honourable member interjecting:

The Hon. I.K. HUNTER: Indeed it does—if you're going to Latin, as the Hon. Kyam Maher obviously does.

The Hon. G.E. Gago: He speaks many languages.

An honourable member interjecting:

The Hon. I.K. HUNTER: He does. For the benefit of those members of the opposition who are confused by the science and community consultation that underpinned the study, I would like to briefly outline it again. The effective long-term management of the Coorong, Lower Lakes, Murray Mouth region remains a priority for this government. Whilst they are declining, I advise that salinity levels in Lake Albert remain above the historic average of approximately 1,500 EC. At the minute, the average salinity at March 2015 was approximately 2,450 EC, compared to 2,563 EC in January of last year. More data is about to come to me about that. I understand it has dropped somewhat—another amount.

It is worth remembering that at the height of the drought salinity in Lake Albert exceeded 20,000 EC. In November 2012 funding of up to $740,000 was approved for a study into the long-term management of water quality issues in Lake Albert and the Narrows at Narrung. At the completion of the project in November 2014, approximately $650,000 of the budgeted $740,000 had been spent on this study, I am advised. This funding has come from the $137 million Coorong, Lower Lakes and Murray Mouth Recovery Project.

The Lake Albert scoping study commenced in January 2013 with the aim of identifying potential management actions to sustain water quality and ecological health in Lake Albert under

different climate scenarios over the longer term. The study considered management actions assuming the Basin Plan's 2,750 gigalitres of baseline recovery scenario: the base case of doing nothing; dredging the Narrows; removal and modification of the Narrung causeway; permanent water regulating structures in the Narrung Narrows; a Coorong connector, be it a permanent pipe or a channel or some sort of other mechanism, including temporary reset pumping; and, of course, lake cycling.

These considerations included those suggestions by the Meningie and Narrung Lakes Irrigators Association in its five-point plan for the management of Lake Albert. The project included a literature review, a community requirements study, a legislative review, qualitative engineering investigation, modelling studies, on-ground investigations, engineering feasibility, and a cost-benefit analysis.

The options paper involved extensive consultation, including the development of a community requirement study undertaken by an independent market research company to capture community opinion on potential management actions and their requirements regarding the management of Lake Albert.

Cultural considerations of the proposed management actions were also taken into account and a number of discussion forums were held with the Ngarrindjeri in the formation of its position paper. The options paper was publicly released on 1 September 2014 and it recommended lake cycling as the most feasible option for managing Lake Albert's salinity.

The options paper does not support a permanent Coorong connector due to the anticipated costs and the time frame required to deliver benefits when compared to the lake cycling option. Other engineering solutions were also discounted due to those options being either cost prohibitive or not technically feasible. The local and state irrigation community has often raised the construction of a connector as its preferred option and has raised concerns over the lake's cycling option.

As I said, the project has been connecting with a broad base of contributors and stakeholders through its engagement plan via a steering committee comprising state and Australian government representatives, a technical project advisory group, and a community reference group, which included representation from the Meningie Narrung Lakes Irrigators Association, the Coorong District Council, local community members and the Ngarrindjeri Regional Authority. All of these groups were actively involved in the development and evaluation of the preferred management actions, and proactive engagement with the broader Meningie Narrung Lakes Irrigators Association has been ongoing throughout the project.

A site visit was conducted with tribal owners of the River Murray, Coorong, Lakes and the Sea Inc., and the project manager has kept this group updated on progress. The Coorong, Lower Lakes and Murray Mouth Recovery Project community advisory panel has been regularly updated on the project's developments. Consultation has occurred with the Murray-Darling Basin Association and Regional Development Australia, Murraylands and Riverland.

During 2013, discussion forums were held with the local community and a number of media releases have been prepared to inform the community of the project's progress. The project outcomes and the options paper were communicated with key stakeholders and a follow-up briefing was provided to the broader interested community on 29 October last year addressing community concerns and questions raised since the release of the options paper and following the initial briefings. Community representatives at this meeting developed a set of resolutions for my consideration to which, I believe, I have responded.

In a nutshell, a vast amount of work, technical and engagement, has happened in relation to this inquiry. The report has been handed up and I endorse the outcome of the report. I see no need whatsoever to go to another further inquiry whilst we work on the preferred solution which is lake cycling.

LAKE ALBERT-COORONG CONNECTOR

The Hon. J.M.A. LENSINK (14:26): Supplementary question: was the Ernst & Young report incorrect when it recommended that further research be required into the environmental benefits of the Coorong connector?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:26): I am not going to be drawn on claims by the opposition. What I said is that the report findings were substantial enough to recommend that lake cycling be the preferred option and therefore I can see no reason why we should be spending money on any other research that does not lead to the best outcomes in terms of lake cycling.

WORKREADY

The Hon. S.G. WADE (14:26): I seek leave to make a brief explanation before asking questions of the Minister for Employment, Higher Education and Skills in relation to WorkReady.

Leave granted.

The Hon. S.G. WADE: Under its new WorkReady initiative, I understand the government has designated 530 places on the funded training list as TAFE only with no conditions attached. In contrast, private registered training organisations have TGSS (Training Guarantee for SACE Students) only conditions imposed. I understand this means that a private RTO in relation to those courses will only be able to offer training to enrolled high school students. My questions to the minister are:

1. With whom did the government consult to ascertain that high schools are the best place to train, for example, future aged-care workers?

2. Why are the TGSS conditions placed on RTOs for more than six times as many of the courses that appear on the funded training list as those offered through TAFE SA?

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) (14:28): I have to say that I do not really understand the latter part of your question, but that is okay. I will take that on notice and bring back a response.

In relation to the subsidised training places, as members are well aware, we have come from a significant high or record funding over the last couple of years under Skills for All where significant additional funds were made available to achieve our 100,000 additional training places. We achieved that ahead of time and we expended all of those funds.

For this financial year we are subsidising 5,000 new training places. There are also 36 per cent of current training places currently in the pipeline, which is just under 40 per cent of the budget. Around $100 million is going to provide subsidised funding for those people already enrolled in the system. We said that, once they were enrolled, we would honour those training commitments and continue to subsidise at the rate we did when those people enrolled. There are a considerable number of contestable positions, but they are in the pipeline. There are 5,000 new places, and 2,000 of those went on the jobs first STL list—3,000 to trades and some of those to TGSS.

In terms of the TGSS, we conducted a significant industry consultation to look at the subsidised training list. That took place over a number of months and was quite extensive. We received considerable input from the industry and used that information to help us streamline that subsidised training list, and I think that went from about 900 down to 500, or something like that, and we are continuing to work on that. We are continuing to tweak that too; we have found that we have needed to add some in and take some out. We will continue to work with the industry to refine that.

It was during that stage that we also received feedback around the TGSS, so industry gave us some feedback, but in particular DECS gave us feedback around the TGSS list, and we will continue to monitor that. Obviously the link with the connection of VET training with our SACE sector is a really incredibly important training pathway for many students. It offers an alternative to those who may not seek to pursue further education through higher education means. It is a wonderful way of ensuring that not only these young people successfully complete their SACE, because these training subjects are accredited as part of their SACE, but those units are also credited for future VET training opportunities.

So, it is a wonderful training pathway for many young people and it is found to be extremely successful. We have valued the feedback we have received from DECS about which places are

popular and are the sorts of places young people are looking for. We continue to monitor that and we will continue to develop and evolve those places over time as trends often change. In relation to that second part of the question, I will take that on notice and bring back a response.

WORKREADY

The Hon. S.G. WADE (14:33): By way of supplementary question, can the minister assure the house that the TGSS only conditions on that list in relation to private providers is not being used as a non-subsidy based method of strengthening the viability of TAFE, and that the changes she talked about, the 900 to 500, are being driven by client need and not by the need to prop up TAFE?

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) (14:33): TGSS is subsidised, so that is subsidised training, and in some cases it is unlimited. If children enrol in a number of those courses it will be subsidised, so it is demand driven by students, their interests and their needs rather than the service provider, the RTO provider. Some of that TGSS is provided in TAFE, but I know that a lot of it is provided by private providers. But, as I said, it is driven by student choices and not RTO choices, and it is pretty much demand driven, not in all qualifications though.

APPRENTICES AND TRAINEES

The Hon. G.A. KANDELAARS (14:34): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question regarding apprentices.

Leave granted.

The Hon. G.A. KANDELAARS: Previously the minister has talked about the importance of apprenticeships in South Australia, and indeed they are very important. Can the minister advise the chamber about the recent TAPS awards of excellence and graduation ceremony?

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) (14:34): Last night it gave me great pleasure to speak at the TAPS awards of excellence and graduation ceremony for 2015. I felt particularly honoured to be part of that graduation and award night. There were hundreds of people in attendance: graduates, staff members, friends and family of the graduands. It was an incredibly vibrant and wonderful occasion, and of course it was rewarding some of the state's best and brightest upcoming apprentices.

I would particularly like to congratulate all the graduates from last night. There were 51 graduates who successfully completed a Certificate III in Plumbing and Roof Plumbing, and there were also two graduates who successfully completed a Certificate III in Business. I would like to congratulate all the finalists for the different award categories and finally, but not least, the winners of the various TAPS awards. There were some 17 categories. I will not go through each of those here today, but I do congratulate each of those winners.

I particularly wanted to acknowledge the dedication and support of the TAPS organisation—the GTO—and its staff. In the years since it was established in 1997, TAPS has employed more than 1,200 apprentices and trainees. In the plumbing and roofing industries alone, TAPS currently employs over 210 apprentices, who are hosted across more than 100 host businesses. Of course, we have to acknowledge the commitment of those host employers. If they were not prepared to supervise on-the-job training, this would all fall apart, so we thank them for their contribution.

TAPS has shone in both quantity and quality. Its apprentices have been recognised at a national level for high achievements in their chosen field. In 2014, a TAPS apprentice won the gold medal in the regional World Skills competition and went on to compete in the national World Skills competition in Perth.

The state government is pleased to support TAPS and the plumbing industry more broadly. TAPS is a fantastic organisation and it produces quality training outcomes year in and year out. Of course, that does not happen by accident; it happens because this organisation and its staff are very committed and dedicated professionals who are prepared to go the extra distance year in, year out.

As those in the chamber would be aware, Work Ready focuses our current training skills and employment investment to better target the connections between training and jobs as well as improved completion rates. These are two areas where the group training organisations, GTOs such as TAPS, perform exceptionally well. Additionally, the state budget will deliver $985 million in a stimulus package including major tax reforms and targeted investment in growth industries to boost the economy and create jobs.

We will also continue to support job growth through the numerous construction and infrastructure projects which have been announced. The ones that are in the pipeline include the Port Adelaide development, SAHMRI 2, the Riverbank Precinct redevelopment and the $20 million investment in refurbishment of our Housing Trust properties. These projects and others will help stimulate the South Australian economy and provide job opportunities into the future for these graduating apprentices and many others.

Unfortunately, the national decline in the number of apprentices enrolling and completing training has not been assisted by the federal Liberal government's budget cuts. As I have said in this place before, the federal government has abandoned numerous skills and training programs such as the Australian Apprenticeships Access program and the Joint Group Training program, and replaced the Tools for Your Trade funding for apprentices with a loan scheme.

I was talking to an apprentice who said to me when he lost his tool allowance that he cannot afford to take out another loan for his tools. He already has a loan; he needed to take out a loan for his car so he was able to get to and from work. He said he is just simply not able to take out a second mortgage. It does have a profound effect on these people's lives. That is estimated to fund and support less than 50 per cent of previous expenditure levels.

The most recent federal budget is again a missed opportunity. It did not reverse the $97.2 million in cuts to apprentices and trainees made by the federal Liberal government nationally through the midyear economic and fiscal outlook. In the three years to 2017-18, some $66.1 million will be removed from the support for the adult Australian apprentices incentive and $31.1 million to be removed from the Australian apprentices support services. This continues the widespread cuts to apprenticeship and traineeship incentives since 2012, and this is in addition to the commonwealth government's decision to withdraw entirely from the very successful Joint Group Training Program 2015-16.

Unlike those opposite, the state government remains committed to supporting employers to employ and train apprentices, particularly where training is linked to areas of economic and social priority and, more importantly, we remain committed to providing South Australian jobs. I again take this opportunity to congratulate the 2015 apprentices and trainees (TAPS) on their wonderful achievement, and I wish them all the very best in all their future endeavours.

STATE GOVERNMENT CONCESSIONS

The Hon. K.L. VINCENT (14:41): I seek leave to make a brief explanation before asking the minister representing the Minister for Communities and Social Inclusion questions regarding the new cost of living allowance concession.

Leave granted.

The Hon. K.L. VINCENT: Back some time in May, the government announced the introduction of the cost of living concession. It was to be not just for homeowners paying council rates but also for all South Australians who meet low income criteria. Payments are either $100 or $200, I understand, depending on whether a person is a homeowner or a renter.

The government is obviously very proud of this payment, particularly the fact that it now includes a $100 payment eligibility for low income earners. However, it seems to me that the implementation of this project could be somewhat problematic. First, low income renters do not seem to know, from my consultation and research, that the payment exists or is available to them. Secondly, the application process seems to have some accessibility issues for people with disabilities wishing to apply; and, thirdly, there does not seem to be any particular way to get further information or support with the application process.

This afternoon on my behalf, my office called the concessions hotline on the number 1800 307 758 to get information on the application process for constituents, but instead of speaking to a real person—this is where it gets interesting—my staff member was greeted by an answering machine automated message, which stated the following:

> Thank you for calling the South Australian concessions hotline. We are currently experiencing an extremely high volume of calls and are unable to take your call. If you are calling about the cost of living concession, you can access this information from the website from Friday 15 May.

In other words, it didn't put the person on hold, it didn't tell them who they could speak to to get more information: it told them that they could check a website in a little while's time. Dignity for Disability is also concerned that the window to apply for a payment will see very few eligible people aware since the window expires on 31 October. Anyone who applies after this time will not be eligible until the following year. My questions to the minister are:

1. How does the government plan to ensure that low income earners in particular, and particularly renters, actually find out that this cost of living concession exists?

2. Is this possibly going to be another DCSI software debacle along the lines of COLIN?

3. Why is the hard-copy downloadable application form in PDF only, meaning that it could be inaccessible to people using screen readers?

4. Is there a plan to make a version of the application form that is in easy English and plain language for people with low literacy skills?

5. Why can't those applying post 31 October access the payment for this financial year?

6. Why will it take up to 31 March—nine months if you applied on 1 July—for your payment to be received? Why does it take nine months to receive $100?

7. Why is the cost of living concessions helpline so busy that people calling up for information and assistance cannot be queued or even called back by DCSI?

8. Will the department be providing face-to-face support, as well as phone and internet support, for South Australians through an agency such as Service SA to assist people to apply for this concession?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:44): I thank the honourable member for her most important questions. I undertake to take her questions on the cost of living allowance to the Minister for Communities and Social Inclusion in the other place and seek a response on her behalf.

WORKREADY

The Hon. A.L. McLACHLAN (14:45): I seek leave to make a brief explanation before asking the Minister for Higher Education, Employment and Skills a question regarding the government's WorkReady initiative.

Leave granted.

The Hon. A.L. McLACHLAN: During the inquest into the death of Chloe Valentine, the Coroner heard evidence from child protection expert Freda Briggs, who stated that social workers did not have the tools to detect abuse and that signs of neglect could easily be ignored. She also said that there was a reluctance among social workers to accept that children were abused within their families and that, as they are not adequately educated, they would be relying on their emotions rather than their professional knowledge.

One of the Coroner's recommendations was concerning the training of social workers in the art of proper note taking with an emphasis on the need to be factually accurate and make a clear distinction between the facts of an event and the worker's opinions, a mistake commonly made by those involved in the Chloe Valentine case.

TAFE SA's Certificate IV in Child, Youth and Family Intervention and Certificate IV in Community Services Work are both funded through the government's WorkReady program. A core

unit of both of these courses is to identify and respond to children and young people at risk. My question is: can the minister advise whether she has entered into, or intends to enter into, any discussions with TAFE SA to ensure that these government funded courses implement the Coroner's recommendation regarding the adequate training of social workers?

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) (14:46): I thank the honourable member for his most important question. It is not my responsibility or my role as minister for employment and training to make judgements on the curriculum content of various courses. There are many of them, and clearly I do not have the expertise to say what should be included in a plumber's course or a hairdressing course, social work or any suchlike courses.

What we have in place is a system to ensure that at a state and national level curricula are accredited through a process that involves very close industry input. We prefer that these are accredited at a national level through ASQA so that the same qualifications are then consistent throughout the states. So, an aged care worker in South Australia is being exposed to the same curriculum as an aged care worker in New South Wales as in the Northern Territory, etc.

We are working much more towards a national accreditation system. I am not too sure whether social work is a nationally accredited system; I imagine that it would be. Nevertheless, where that does not occur on a national level, a similar thing happens at a statewide level. The courses that the honourable member refers to are accredited. They have passed the rigorous process involving industry and other key stakeholders to ensure that that curriculum is relevant, and I am absolutely confident that they would also be considering very carefully the Coroner's recommendation and making any changes to the content of those curricula.

As I said, I am not the keeper of curriculum content. My role is to make sure that there is a process in place so that training is accredited, that it is of high quality and that it meets national and international standards, and I continue to work very hard to ensure that that occurs.

FUR SEALS

The Hon. J.M. GAZZOLA (14:49): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about how the government plans to address the growing number of long-nosed fur seals in the Coorong and Lower Lakes area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:49): I thank the honourable member for his very important question. A great deal has been spoken about the growing number of long-nosed fur seals in South Australian waters, particularly in the Coorong and Lower Lakes area. I would like to take this opportunity to clearly outline to the chamber the way the government plans to address some of the associated concerns around those population increases.

Long-nosed fur seals are a state and nationally protected species. They are a natural part of our marine ecosystem. The widespread practice of seal hunting saw the population plummet during the 19th century. The best science available to me is that we are now seeing a recovering population of long-nosed fur seals, up from those very low levels which were close to extinction levels.

While it is generally a good thing when a species recovers, I am also quite sympathetic to the impacts this has had on the local fishing and Aboriginal communities as well. In contrast to the Liberal opposition in this state, the government will oppose the culling of seals. The member for Hammond in the other place, on behalf of the Liberal Party, seems fixated on the only way forward being to go out there with a gun and shoot seals and clearly has not taken advantage of the scientific information that has been available to me at least and which I have been trying to communicate broadly to the Liberal Party.

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

The Hon. I.K. HUNTER: But, as the Hon. Michelle Lensink says, they seem to have their head stuck in sandhills. Science and past experience around the world and here locally tells us that culling would be ineffective, because culled seals would simply be replaced by new seals—unless the member for Hammond and the Liberal opposition are proposing that we go out and kill another

100,000 seals; that might be one way forward. That would be something they might want to do, but removing a few seals would just encourage the seals to replace them.

We are also opposed to culling because of the detrimental effect it would have on South Australia's reputation as having a clean, green and sustainable environment which produces premium food and wine. We want to help the fishing industry, and in particular the Coorong fishery, preserve their reputation as a premium South Australian food producing area. This is what gives these industries an advantage in successfully marketing their produce domestically, but more importantly also, internationally.

Let's not forget that many tourists travel to our state because of that reputation we have. Our nature-based tourism accounts for around $1.1 billion a year expenditure in this state, I am advised. We believe that the best way to address the impact of seals on fishers is by industry and government working together, and through industry investing in new techniques, equipment and changing practices. This approach has been strongly supported by the local community.

The state government is investing $100,000 towards research into fishing gear, methods and deterrent devices in an effort to reduce the impacts of long-nosed fur seals on Coorong fishers. This will also assist in trialling humane, non-lethal deterrents, such as small underwater crackers (known as seal scarers) as an additional tool to assist fishers to manage seal impacts.

In addition, we are setting up a high level working group to investigate and address issues associated with fur seals and their interactions with industries and the environment. This working group will be made up of representatives from relevant government agencies, the Ngarrindjeri Regional Authority, local council and natural resources management boards, environmental NGOs, research institutions and key industry groups. In a statement released on 22 July, I am advised, Conservation SA, the state's peak environment body, strongly backed the state government's plan to set up this working group. I am pleased with that support.

It is always, as I have said previously in this place, tempting to grasp at some short-term solution to a problem, but it is not a rational way at all to approach complex environmental issues. I look forward to working very closely with local groups and experts to ensure we tackle this challenge in a humane and sustainable manner for the benefit of the environment and industry alike in the long term because, quite simply, there is no alternative that is going to work. Yes, the member for Hammond might be pleased to have seals shot but it will not help the industry: the seals will just come back.

FUR SEALS

The Hon. J.M.A. LENSINK (14:54): Supplementary. I congratulate the minister for only taking three years to acknowledge there is a problem there. Minister, have you had any advice from any of the local Indigenous rangers or indeed the Ngarrindjeri elders on their views on this matter?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:54): I am quite aware that the local Ngarrindjeri community is concerned about some of its totem creatures that are being impacted by seals. The seals are not impacting on just the fishing industry; they are, of course, having an impact on other species, but seals are predators and will prey on many animals. However, I am happy to advise that I am also meeting with the Ngarrindjeri Regional Authority tomorrow and will be discussing some of these issues.

This is, again, an indication of the hubris that is held by the Liberal opposition in this place, that they think they can have the solution to all these problems by just shooting seals. It is breathtaking in its naivety, it is breathtaking in its wilful abandonment of scientific advice, and it just does not make sense.

ROYAL ADELAIDE HOSPITAL

The Hon. D.G.E. HOOD (14:55): I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question about the new Royal Adelaide Hospital.

Leave granted.

The Hon. D.G.E. HOOD: Members would have seen that *The Advertiser* reported, on Saturday 25 July this year, that the Minister for Health has reneged on a pledge that all services currently offered at the RAH would be transferred to the new Royal Adelaide Hospital. The Royal Adelaide Hospital, as it currently stands, offers over 70 outpatient services, such as dietetics, general weight lost provisions, drug and alcohol services, sleep disorders and women's health services. I have been contacted by a concerned constituent who has raised this issue with the minister in relation to the future location of these clinics, if not at the RAH, and I would like to follow-up on his behalf. My questions are:

1. Will the same outpatient clinics that are currently based at the Royal Adelaide Hospital be transferred over to the new Royal Adelaide Hospital?

2. If not, what, if any, clinics will be transferred and where will the other clinics be located?

3. Is it anticipated that the new Royal Adelaide Hospital will be conducting laparoscopic surgery?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:56): I thank the honourable member for his most important question. I should say at the outset that I reject the unfounded opinion inherent in the honourable member's explanation. However, in regard to the three questions he has asked, I undertake to bring them to the attention of the Minister for Health in the other place and seek a response on his behalf.

BUSINESS CONFIDENCE

The Hon. J.S. LEE (14:57): I seek leave to make a brief explanation before asking the Minister for Business Services and Consumers a question about South Australia's business confidence.

Leave granted.

The Hon. J.S. LEE: It was reported by *ABC News* on 28 July 2015 that almost 70 per cent of businesses across South Australia believe the state's economy will weaken in the next 12 months. The Business SA survey asked 200 businesses for their views on the state's economy and expectations for the year ahead, and nearly 60 per cent of those surveyed said they had recorded a decline in profitability in the June quarter. Business SA chief executive Nigel McBride said that the findings of the survey showed businesses were feeling a lot of pressure. He continued, saying:

> Declining business confidence and conditions combined with SA's high unemployment provide a strong imperative for the state government to act boldly to reduce the cost of doing business in South Australia…

Amongst these industry comments, it is very disappointing to hear that the Premier of this state has no plan when it comes to fighting unemployment, as he was quoted as saying, 'It's going to get worse before it gets better.' My questions are:

1. With 70 per cent of businesses concerned about the future of the state's economy and 60 per cent recording a decline in profitability, what actions will the minister take to rectify the situation?

2. Can the minister inform the council how many South Australian registered businesses have closed down or deregistered in South Australia in the last 12 months?

3. Can the minister explain what strategies will be put in place to safeguard jobs in the business sector, with the trend showing the state's economy will weaken in the next 12 months?

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) (14:58): I thank the honourable member for her most important question. While I am on my feet, and before I answer that question, I need to draw to the chamber's attention the fact that my trusty advisers have reminded me that the subsidised training list was reduced from 900 to 700 (I think I said 500). The other thing is that I think I inadvertently said

ASQA was the accrediting body; what I meant to say was the Australian Industry and Skills Committee. They do the accreditation.

The Hon. R.I. Lucas: We didn't think that was right; it didn't sound right at the time.

The Hon. G.E. GAGO: It didn't sound right to the Hon. Rob Lucas—he usually jumps up and down right there and then, but he obviously restrained himself today.

Members interjecting:

The Hon. G.E. GAGO: He's all tuckered out. It is interesting, though, isn't it, whether you are a glass half full or a glass half empty type of person. Indeed, it's not surprising that we see the Liberal opposition always viewing the world from a glass half empty point of view. A number of reports have recently come out and, indeed, it's not all good news and I accept that. However, it's not all bad news either.

It's interesting that Deloitte Access Economics' Business Outlook for June 2015, which was just released on 20 July, showed that, over the five years to 2019-20 for South Australia, DAE estimates a decline in unemployment to 6.7 per cent, an employment growth of 0.7, which would result in around 30,000 additional people in employment, and they anticipate an economic growth of 1.8 per cent per annum on average. The Business Outlook discusses a number of positives for South Australia that, I notice, the Hon. Jing Lee failed to mention, so I feel responsible to draw it to the chamber's attention.

An honourable member: She's usually pretty good.

The Hon. G.E. GAGO: She is usually pretty good, too. It was obviously just an oversight.

The Hon. I.K. Hunter: She might have missed that page.

The Hon. G.E. GAGO: Perhaps it was on the next page of her notes.

The Hon. I.K. Hunter: They might have been stuck together.

The Hon. G.E. GAGO: Yes; obviously, her notes were stuck together, so I will just refresh her memory. The Business Outlook discusses a number of positives for South Australia. Record low interest rates and a depreciated Australian dollar are supporting the farming sector, tourism, housing construction, retail turnover and the manufacturing sector more broadly.

Contrary to the national trend, business investment in South Australia has been a rising share of the state's economy since early 2014. Future business investment will be supported by the state government's announcement of the abolition of business stamp duties, including on commercial property transfers. We anticipate that those measures and, no doubt, some of our other tax reforms will have a positive impetus particularly on small and medium-sized businesses.

Also, they reported that prospects going forward for engineering construction activity are relatively positive, with a collection of 10 new road projects with a combination of $6.3 billion entering the pipeline, following the recent budget.

The SACES Economic Briefing Report which came out in July 2015, just recently, apparently showed that, over the next two years for South Australia, SACES forecasts the unemployment rate to be around 6.8 per cent, employment growth of 0.75 per cent in 2015-16 and of 0.5 per cent in 2016-17, which would result in 10,000 additional people in employment, and economic growth of 1.5 per cent. Although the figures aren't exactly the same as those of Deloittes, nevertheless, the trending is quite similar, which is very encouraging.

Over the past year, they found that growth in demand has accelerated, supported by stronger business investment, solid growth in household spending and a continued recovery in residential building. Also, the depreciation of the Australian dollar has supported strong growth in the value of services exports.

Going forward, low interest rates and a depreciated Australian dollar, it is anticipated, will continue to support economic activity in South Australia. Businesses will be supported by the recent tax initiatives announced by the federal and state governments; new major infrastructure projects,

they anticipate, will generate economic activity; and merchandise exports will improve as Olympic Dam resumes full production.

Of course, we see another fabulous report that came out today with South Australia bucking nationwide investment slump trends, with a new report showing that the total value of capital investment projects in the state has risen to $42.3 billion, which is an increase of 16 per cent in the quarter and a 23 per cent increase over the last 12 months.

Again, that is a fabulous outcome for South Australia in terms of our nationwide investment slump, as I said, with an increase of 16 per cent in the quarter and 23 per cent over the last 12 months, bucking national trends. It is not all doom and gloom. There are some very positive things happening on the horizon as South Australia continues to work to diversify its economy, to drive investments and to grow new job opportunities.

MEDICAL DEVICE INDUSTRY

The Hon. G.A. KANDELAARS (15:05): My question is to the Minister for Manufacturing and Innovation. Can the minister tell us how the government's investment in the medical device industry is providing opportunities for the South Australian economy?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (15:05): I certainly can, and I thank the honourable member for his question and his ongoing interest in manufacturing and industry in this state.

An ageing population in South Australia, and in many countries around the world, is resulting in an increased demand for medical devices that will improve the quality of life for people as they age. The ageing global population has created the need for such devices to aid in the care of an ageing population but also a need for devices that better address age-related ailments and disease.

In 2014, Australian Medical Devices: A Patent Analytics Report found that Australia had a small share of the global medical devices market, yet exhibited relative specialisation in medical device inventions. In terms of the relative specialisation index, Australia is one of the 14 out of 49 countries that rank positively on the scale for medical devices. We know that South Australia has a global specialisation in eye laser and imaging technology driven by Ellex which has been very successful in utilising research from the University of South Australia.

It makes sense that as a government we support sectors where we have a growing competitive advantage to maximise the economic opportunities for this state. That is why the government is committed to investing in growing our capability in medical device development and commercialisation. I have spoken in this chamber previously about the support the government has provided to the Photonics Catalyst Program, a program that seeks to commercialise the significant research capabilities this state has in photonics, and our medical technology program assists industry to commercialise medical devices here in South Australia.

I am pleased to be able to announce that the government is extending its support to the medical device industry through the establishment of the MedDev Alliance, the medical device alliance. Alliance members will work together to commercialise South Australian medical resources and seek out international markets for those products. The MedDev Alliance is a cluster made up of businesses focused on the specialisation of medical devices and includes representatives from leading companies in the field, including companies like Ellex and Austofix.

The alliance will grow the medical device industry here in South Australia. We know that South Australia already has a globally competitive advantage in this niche global market and, through this alliance, the underlying technology and expertise will be applied to other areas of medicine and have spillover effects into other industries. The state government has provided $750,000 over three years to be utilised to establish the alliance that will develop a growth-oriented medical devices industry in this state.

The alliance will foster links between industry to develop increased capabilities and critical mass, to enable South Australian-based companies to grow their profitability both in domestic and international markets, increasing skilled employment opportunities in this state as industry grows

and, importantly, promoting South Australia as a centre of excellence for both domestic and international companies to attract new investment in partner organisations based in South Australia.

I understand that in its first year the alliance will be undertaking an in-depth local and global market analysis for products and services related to the medical devices sector and will identify market opportunities and the capabilities needed to exploit those markets. Research and analysis of medical device companies will also be undertaken to identify those that have the potential and are interested in collaborating to increase their export growth. The alliance will also develop an intellectual property and collaboration framework to ensure that companies within the cluster are protected, but can also very easily collaborate.

I look forward to keeping the chamber informed of the successes of the alliance as it grows opportunities for the South Australian economy, increases export opportunities for the medical devices sector, collaborates with businesses and researchers, and increases the international profile of industry specialisations found in South Australia that can develop in such a way.

ENVIRONMENTAL DEGRADATION

The Hon. M.C. PARNELL (15:10): I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation regarding departmental responses to environmental degradation.

Leave granted.

The Hon. M.C. PARNELL: Recently my office has received numerous phone calls regarding the repeated and wilful trashing of native vegetation and important natural habitat in the Upper Spencer Gulf region. One constituent, in particular, is very diligent at reporting the weekly goings-on in the Port Augusta region, and he informs me that local people with four-wheel drives and dirt bikes are ignoring gates, fences and the instructions of rangers and driving over dune and bushland near Port Augusta and Stirling North.

I brought these matters to the minister's attention before, and I thank him for his previous response which invited this particular constituent to participate in the Living Flinders community action planning program. By way of update, this morning I received a phone call from this constituent who is most concerned about the fact that a bulldozer appears to have been driven through precious mangrove and samphire habitat in the North Basin beach area, and this is adjacent to the place where the Stirling North drain empties into the Gulf.

I understand that it was reported in *The Transcontinental* paper and on local TV station Channel 4 recently that a bulldozer had been stolen from a machinery yard nearby, and my constituent suspects that it may be the machine involved. My questions to the minister are:

1. Is the minister aware of the situation and, if so, what action has been taken to deal with those involved in what, at face value, looks to be criminal behaviour and, in particular, have the police been notified?

2. Given the massive reductions in departmental staff over the last several years, what other strategies is the government adopting to detect environmental damage and deal with those who cause it?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:12): I thank the honourable member for his most important follow-up questions from one he has asked me previously. I am advised that concerns have been raised by two members of the local community regarding crown land located near the township of Port Augusta at Yorkey's Crossing, about two kilometres outside of the township. These concerns relate, as the honourable member has said, to the impacts of off-road vehicles driving over these parcels of land, including an area which has been referred to as the Arid Lands Conservation Park.

I am actually advised that there is no arid lands conservation park gazetted as a reserve under the National Parks and Wildlife Act, and that the area in question is, in fact, a parcel of crown land that is leased to the Port Augusta City Council for conservation purposes.

I understand that this piece of crown land has undergone a range of land management and conservation works in the past few years as part of a TAFE training program, including fencing, track closure, revegetation and erosion control, and that signage is in place which identifies it as a conservation zone. This parcel is part of a larger area of the land that is made up of road reserve, crown land and inundated coastal land. The majority of the area is under the care and control of the Department of Planning, Transport and Infrastructure, I am advised, and also, as I have just said, the Port Augusta City Council.

The area referred to as the Old Salt Works is unalienated crown land, and management responsibility rests with the Department of Environment, Water and Natural Resources. I am also advised that on 9 February departmental staff conducted an inspection of the site and the surrounding land and invited the community member to attend so that their concerns could be highlighted in further detail and a further inspection was undertaken by departmental officials to clarify tenure issues.

I understand that staff are working with the local council and DPTI to determine the sections of crown land for which they are responsible. These agencies are investigating appropriate long-term management options for the area.

The Yorkey's Crossing area is in the Northern and Yorke NRM region and is within the footprint of the Living Flinders: from peaks to plains program. I am advised that the Living Flinders program is a comprehensive plan for protecting and restoring the landscape and creating new sustainable opportunities for local communities. It also provides a tool which brings valuable local knowledge, together with contemporary science, and puts the community at the forefront in developing solutions to issues such as this. The successful program has been in operation for two years.

In relation to the control of off-road vehicles, as the honourable member would be aware, it is quite a complex issue. In some areas of the state, local councils are actively promoting off-road vehicle experiences, with their associated tourism benefits. However, some local councils are finding the control of off-road vehicles an increasingly difficult problem to manage. We as an agency have an important role to play in managing off-road vehicle access to coastal parks and reserves across the state in areas of high biodiversity.

I am advised that, in dedicated reserves, National Parks and Wildlife regulations make it an offence to drive or tow a vehicle in a reserve, except in an area set aside for that purpose. Fines up to a maximum of $1,000 may be imposed for breaches. I am advised, in regard to crown land, that it is outside land dedicated under the National Parks and Wildlife Act. Most of the state's beaches are under the care, control and management of local councils, which administer the land pursuant to the Local Government Act 1999.

Additionally, the Road Traffic Act 1961 applies to any vehicle on roads or road-related areas. Road-related areas are defined in the act and can include beach, foreshore and adjacent public coastal land. Vehicles driving on these areas must comply with the requirements of this act and those of the Motor Vehicles Act 1959, including speed limits, registration, licensing and roadworthiness. Police officers have power to enforce the prescribed provisions.

I understand that staff of DEWNR are photographing and mapping with GPS some of the areas impacted by off-road vehicles and we will be liaising with our department about who has responsibility for policing these crown lands areas. I am happy to say that local involvement has been ongoing in terms of people who have taken the time to contact my department about this matter and, if the person who is talking to the honourable member is not a person who is contacting my department, I invite him also to do so.

I am advised that at this stage (and this is very early preliminary advice) it does not appear that the damage was caused by a bulldozer. It does not appear at this early stage that it is an illegal clearance type of situation. It may very well have been someone who was being irresponsible with a four wheel drive vehicle; we do not have sufficient information to say any more than that at this stage. I am also advised, from a preliminary investigation of the site, that there does not appear as yet to have been extensive damage to the native vegetation of the area.

Nonetheless, the important point is that, whilst some councils are doing their best to control inappropriate access by off-road vehicles to areas under their control or under my agency's control, there are a limited few people who persist in doing the wrong thing, who drive over gates and fences, who cut bolts and chains, who break padlocks and pull up bollards. This is a problem around the state for councils, for my agency and for other agencies that own sensitive land properties, and it is something we continue to grapple with.

Some of the responsibility is with police, some with DPTI, some with my agency and some shared with council. We are pursuing an across agency and government response to this, but the difficulty is how you manage in very large land areas for the few people who disregard the importance of the areas, disregard the legislation and the by-laws appropriate to those areas and cut bolts, drive over fences and do other things that are obviously illegal but which they feel they can get away with.

The department will be pursuing these issues and putting in place new tactics, and they may include some of the tactics that were alluded to in the crossbench anecdotal joking, but at this stage I do not wish to advise just yet what those approaches will be. We need to consult with the community, which is doing the right thing, and get a concerted approach where we can catch these people, name and shame them and, hopefully, educate the community as well through those four-wheel drive owners who do the right thing, who use their vehicles in sites allocated for them—

The Hon. G.E. Gago: It is so important to them.

The Hon. I.K. HUNTER: Indeed. Hopefully they will also be very helpful in educating their own community of four-wheel drive users and applying peer pressure on those who do the wrong thing.

ENVIRONMENTAL DEGRADATION

The Hon. R.L. BROKENSHIRE (15:19): By way of supplementary question, does the minister believe that his rangers have sufficient powers when it comes to addressing these issues?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:19): Again, I just outlined a comprehensive answer. The honourable member very rarely actually listens to answers. Of course, he then asks another question which goes through some of the issues that I just raised in my answer. Just to summarise very quickly for him—my leader would like me to actually continue for another 10 minutes or so—but to summarise very quickly for him, this is a complicated cross-agency, cross-government issue. It goes to private land, crown land, and land in the care and control of local government and other government departments. It is something that is going to need a cross-government approach to actually get a result involving the local communities and involving those four-wheel drive vehicle owners who are doing the right thing and encouraging them to self-police and police other four-wheel drive owners who are doing the wrong thing.

Ministerial Statement

AMY GILLETT FOUNDATION

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (15:20): I table a copy of a ministerial statement made in another place by the Minister for Transport on the topic of the commemoration of the 10th anniversary of Amy Gillett's death.

Bills

RESIDENTIAL TENANCIES (DOMESTIC VIOLENCE PROTECTIONS) AMENDMENT BILL

Introduction and First 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) (15:20): Obtained leave and introduced a bill for an act to amend the Residential Tenancies Act 1995. Read a first time.

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) (15:21): I move:

That this bill be now read a second time.

The Residential Tenancies (Domestic Violence Protections) Amendment Bill 2015 amends the Residential Tenancies Act 1995 to provide further protections to victims of domestic violence in the tenancy sector to terminate a residential tenancy or rooming house agreement where the South Australian Civil and Administrative Tribunal (SACAT) is satisfied domestic abuse has occurred or there is an intervention order in force against a person residing at the premises.

Domestic violence continues to have a profound impact on the South Australian community. It is found across all cultures, ages and socioeconomic groups, but the majority of those who experience domestic violence are women. However, it is not possible to measure the true extent of the problem, as most incidents of domestic violence go unreported. Australian women are most likely to experience physical and sexual violence in their home, at the hand of a male current or ex-partner. For 62 per cent of women who have experienced physical assault by a male perpetrator, the most recent incident was in fact in their home.

The Weatherill government has made a strong commitment to addressing domestic violence in our community. Last year, the Premier reaffirmed domestic violence prevention as a priority for this government with the release of the 'Taking A Stand—Responding to Domestic Violence' paper. Since then, the government has embarked on a series of initiatives to address domestic violence in our community. To build on these initiatives, the government is pursuing changes to strengthen the level of protection afforded to victims of domestic violence in the tenancy sector.

As currently structured, the residential tenancies legislation does not provide sufficient protection to victims of domestic violence in the tenancy sector. Presently, a tenant or landlord may apply to SACAT to terminate a residential tenancy based on hardship, and SACAT may consider any special circumstances that may result in undue hardship to the tenant or landlord. However, SACAT's powers are limited in cases where the tenant is a co-tenant with the person being violent towards them. Co-tenants are jointly and severally liable.

It flows from this that SACAT cannot terminate a residential tenancy unless the other tenant joins the application, indicates no opposition to it, or SACAT is satisfied that the other tenant has abandoned the residential tenancy. This means that where a tenant has established that there are grounds which would ordinarily have met the test required to terminate a tenancy based on hardship, because the person is a co-tenant, SACAT is unable to terminate the tenancy unless one of those other situations that I mentioned occurs.

SACAT is also unable to make an order that one tenant in a co-tenancy is liable for compensation to the landlord (to the exclusion of the other co-tenants). In situations of domestic violence this generally results in the victim being required to pay for damage caused to the property by the perpetrator, either out of the bond or as compensation, or in some cases both. This may also lead to a victim of domestic violence being listed on a Residential Tenancy database, often referred to as a 'tenant blacklist', as a result of damage caused to the property by the perpetrator from a situation of domestic violence.

On application by a landlord where there is risk that a tenant (or person permitted on the premises by the tenant) may cause serious damage to property or personal injury, SACAT may make an order restraining the tenant or other persons on the premises from engaging in certain conduct. However, at present it is not explicit that the tenant may apply for a restraining order against the co-tenant or person permitted on the premises by the co-tenant.

The Intervention Order (Protection of Abuse) Act 2009 (the IO Act) contains measures to help victims of abuse safely stay in their home. It allows an intervention order to prohibit the perpetrator from being anywhere near the family home, even though the perpetrator may own or rent it. The aim is to encourage victims of abuse and their children to stay in the family home if they want

to and to prevent their lives being unnecessarily disrupted. It also offers a means of longer-term security to protected persons who wish to stay in the home.

The IO Act allows the court, when making an intervention order that excludes a defendant from rented premises in which the defendant lives with the protected person, to make another order by which the defendant's interest in the tenancy agreement is assigned to the protected person or to some other person or persons other than the defendant. This measure takes into account the needs of the landlord and prevents the order being made if incompatible with the legal obligations of the landlord. These orders do not terminate the tenancy agreement but allow it to continue in terms that are consistent with the assignment of a tenant's rights in a residential tenancy agreement under the act.

The bill aims to support victims of domestic violence in the tenancy sector to leave a hostile environment or to remove the perpetrator from the environment without incurring further unfair expenses caused by the perpetrator and to minimise any further dealings with the person in relation to the tenancy in the future. Domestic violence is not limited to physical and sexual assault; it is violent, threatening or other behaviour that controls a member of the person's family or causes the family member to be fearful. It is not always between partners; it can be perpetrated by grandchildren, cousins, brothers, sisters uncles, aunts, mums or dads.

Domestic violence can include a wide range of behaviour between family members. It is proposed to adopt existing definitions under the IO Act, including, abuse, act of abuse, and domestic abuse in the act. 'Domestic association' is a new term; however it reflects the relationships outlined in the IO Act for the purposes of domestic abuse, which includes a broad range of intimate, family and informal care relationships. It is also proposed to define a co-tenant for classification purposes.

There are some sort of definitions here, so I am inclined at this stage, Mr President, to seek leave to have the remainder of the second reading explanation and the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Under the Bill a tenant may apply to SACAT to terminate a residential tenancy based on domestic abuse in the following circumstances:

- where there is a Court issued intervention order in force against a person residing at the premises for the protection of the applicant or a domestic associate of the applicant residing at the premises. The inclusion of domestic associates aims to extend these protections to children or other domestic associates that are not named on the tenancy agreement. An intervention order may relate to domestic or non-domestic abuse. This aims to afford a level of protection to victims of non-domestic abuse. Requiring a Court issued intervention order provides a level of protection to the landlord against applicants fabricating evidence of non-domestic (or domestic) abuse in order to terminate a residential tenancy agreement; or
- where a person who resides at the premises has committed domestic abuse against the applicant. Without limiting the evidence that may satisfy SACAT that domestic abuse has occurred, it may include a South Australia Police report or report from a domestic violence service provider.

Under the proposed Bill, on application to terminate a residential tenancy based on domestic abuse, SACAT may make an order terminating the residential tenancy and:

- requiring a new tenancy agreement be entered into on the same terms and conditions for the remainder of the tenancy between the landlord, applicant and /or any co-tenants, subject to any objections by the landlord or any co-tenants. SACAT must not make an order effectively creating a new tenancy agreement if the hardship likely to be suffered by the objector, is greater than the hardship likely to be suffered by the applicant (or domestic associate of the applicant), if the order was not made. This aims to support the victim to remain in the premises and remove the perpetrator from the residential tenancy; or
- requiring a new tenancy agreement be entered into on the same terms and conditions for the remainder of the tenancy between the landlord, perpetrator and any co-tenants, if the landlord has not indicated that it would be unreasonable to do so. This aims to support the victim to leave the residential tenancy and no longer be liable for any damage caused to the premises.

However, SACAT must not make an order requiring a new tenancy agreement, unless satisfied that any co-tenant under the new agreement could reasonably be expected to comply with obligations under the agreement. This aims to ensure that any co-tenants remaining at the premises under a new agreement are not caused hardship.

The Bill extends these protections to rooming house residents and empowers SACAT to terminate the rooming house agreement of either the applicant or the perpetrator. This takes into consideration the nature of rooming houses and the likelihood of the applicant having a separate agreement to the perpetrator at the same premises.

It is proposed that SACAT may find that one or more, but not all, co-tenants are responsible for compensation to the landlord, either in relation to the early termination of a tenancy or for damage to the premises or ancillary property. The Bill empowers SACAT to make an order that the responsible co-tenant/s are liable (to the exclusion of other co-tenants) for a payment of compensation to the landlord. SACAT may direct the bond be paid in such proportions as it thinks fit, to the landlord and any co-tenant who is not liable for making a payment of compensation, but not so as to unduly disadvantage the landlord. In making such a direction, SACAT should consider which co-tenants were liable for a payment of compensation to the landlord, which co-tenants contributed to the bond and in what proportions, and the existing principles of the Act, including the intended purpose of the bond. These amendments aim to provide a balance between the victim's interest in the bond, if any, and the landlord's right to compensation out of the bond. However, compensation exceeding the bond will be an order against the responsible co-tenants only.

Where SACAT makes an order requiring a new tenancy be entered into, the tenant (or co-tenants) to the new agreement may be required to lodge a new bond, at the request of the landlord. It is proposed that SACAT will consider the payment of any bond when making the order and may make a self-executing order terminating the new tenancy agreement if the new bond is not lodged by the date specified in the order.

Under these proposed amendments, a tenant may apply for a restraining order against a co-tenant and SACAT may prohibit a tenant's personal information being listed on a Residential Tenancy Database in certain circumstances relating to domestic abuse.

By this Bill, the Government strengthens its commitment to women's safety in South Australia, which is reinforced through *A Right to Safety* the next phase of the Women's Safety Strategy 2011-2022. A key part of our Government's agenda is supporting women to remain in their homes when it is safe to do so rather than a response that results in the woman and any children she may have being displaced from their familiar surroundings, social supports, school and employment. The Government is committed to ensuring victims are respected and supported and not suffering hardships associated with relocating. This can often mean leaving employment which leads to financial hardship, and leaving community connections and support, impacting their children's education and isolating them further.

If these reforms are enacted, Parliament will send a clear message that the use of violence to control or intimidate another person will not be tolerated, particularly in a domestic setting. Consequences of violence should not have further negative impact on victims and the Bill aims to ensure that victims are supported and can remain in their homes when it is safe to do so.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Residential Tenancies Act 1995*

4—Amendment of section 3—Interpretation

The clause inserts several definitions into the Act to support provisions in the measure.

5—Amendment of section 5—Application of Act

This amendment is consequential on proposed section 89A(2).

6—Amendment of section 72—Right of entry

This amendment is consequential on proposed section 89A(4)(b).

7—Insertion of section 89A

This clause inserts a new section:

89A—Termination based on abuse of tenant

Proposed subsection (1) provides that the Tribunal may, on application by a tenant or co-tenant, terminate a residential tenancy from a date specified in the Tribunal's order if satisfied that an intervention order is in force against a person who resides at the residential premises for the protection of the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises.

Alternatively, the tenancy may be terminated if the Tribunal is satisfied that a person who resides at the residential premises has committed domestic abuse against the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises.

Proposed subsection (2) provides that the Tribunal may, on application by the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust, terminate a residential tenancy from a date specified in the Tribunal's order if satisfied that an intervention order is in force against a tenant for the protection of a person who normally or regularly resides at the residential premises, or if the Tribunal is satisfied that the tenant has committed domestic abuse against a person who normally or regularly resides at the residential premises. The applicant, the landlord and any tenant or co-tenant under the agreement are all parties to proceedings concerning a tenancy dispute (proposed subsection (3)).

Proposed subsection (4) sets out a number of orders the Tribunal may make on application by a party to proceedings under the proposed section including:

- an order requiring the landlord to enter into a new residential tenancy agreement with the applicant or a co-tenant under the terminated agreement (or both) for the remainder of the term of the tenancy. The Tribunal must be satisfied that the co-tenants under the new residential tenancy agreement could reasonably be expected to comply with the obligations under the agreement and, if the landlord is the South Australian Housing Trust, meet the Trust's eligibility requirements (proposed subsection (6)). The new agreement must be on the same terms and conditions as the terminated tenancy agreement subject to any changes made by the Tribunal (proposed subsection (8)). The Tribunal must not make an order requiring the landlord to enter into a new residential tenancy agreement with a co-tenant under the terminated agreement if the co-tenant is the person against whom an intervention order is in force, or who has committed domestic abuse against the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises, if the landlord indicates that the landlord considers it would be unreasonable for such an order to be made (proposed subsection (5));
- an order that the landlord may enter the residential premises at a time determined by the Tribunal to inspect the premises before a determination is made under the proposed section;
- an order for possession of the premises on a date specified by the Tribunal;
- an order that the landlord, landlord's agent or a database operator must not list the applicant's personal information in a residential tenancy database under section 99F(1) if the Tribunal is satisfied that the applicant did not cause or reasonably cause a breach of the residential tenancy agreement, or if the nature of any breach of the residential tenancy agreement resulted from an act of abuse or domestic abuse against the applicant.

Proposed subsection (7) provides that if a landlord or co-tenant objects to the making of an order under proposed subsection (1) or (4)(a), the Tribunal must not make the order unless satisfied that the hardship likely to be suffered by the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises would, if the order were not made, be greater than any hardship likely to be suffered by the objector as a consequence of the making of the order.

Proposed subsection (9) lists a number of orders and proceedings the Tribunal must have regard to in considering an application under the proposed section.

Proposed subsection (10) provides that if a residential tenancy is terminated under the proposed section, the Tribunal may order a co-tenant to make a payment of compensation to the landlord for loss and inconvenience resulting, or likely to result, from the termination of the tenancy or from any additional order made under proposed section 89A(4).

Proposed subsection (11) provides that if the Tribunal finds, in relation to a residential tenancy that is terminated under proposed section 89A, that 1 or more, but not all, of the co-tenants under the residential tenancy agreement are responsible for damage to the residential premises or ancillary property, the Tribunal may determine that the responsible co-tenant or co-tenants are liable (to the exclusion of other co-tenants) for making any payment of compensation ordered under section 110(1)(c).

Proposed subsection (12) provides that if a payment for compensation is ordered under subsection (10) or (11), the Tribunal may give a direction under section 110(1)(i) that the bond (if any) be paid to the landlord and any co-tenant who is not liable for making the payment in such proportions as the Tribunal thinks fit, but not so as to unduly disadvantage the landlord.

8—Amendment of section 99F—Listing can be made only for particular breaches by particular persons

These amendments are consequential on proposed section 89A(4)(d).

9—Insertion of section 105UA

This clause inserts a new section:

105UA—Termination based on abuse of rooming house resident

Proposed subsection (1) provides that the Tribunal may, on application by a resident, and from a date specified in the order, terminate a rooming house agreement if satisfied that an intervention order is in force against a person who resides in the same rooming house as the applicant for the protection of the applicant or a domestic associate of the applicant who normally or regularly resides in the rooming house. Alternatively, the agreement may be terminated if the Tribunal is satisfied that a person who resides in the same rooming house as the applicant has committed domestic abuse against the applicant or a domestic associate of the applicant who normally or regularly resides in the rooming house. The applicant, the proprietor and any other resident under the rooming house agreement are all parties to proceedings concerning the tenancy dispute (proposed subsection (2)).

Proposed subsection (3)(a) provides that if the Tribunal makes an order under proposed subsection (1) the Tribunal may also make an order requiring the proprietor to enter into a new rooming house agreement with the applicant or another resident under the terminated rooming house agreement (or both) for the remainder of the term of the agreement. Proposed subsection (3)(b) provides that the new rooming house agreement must be on the same terms and conditions as the terminated rooming house agreement, subject to any changes determined by the Tribunal. The Tribunal must also be satisfied that the residents under any new rooming house agreement could reasonably be expected to comply with the obligations under that agreement (proposed subsection (5)).

Proposed subsection (4) provides that the Tribunal must not order a new rooming house agreement between the proprietor and a resident against whom an intervention order is in force, or whom the Tribunal is satisfied has committed domestic abuse against an applicant or a domestic associate of the applicant who normally or regularly resides in the rooming house if the proprietor indicates, as part of proceedings before the Tribunal, that the proprietor considers it would be unreasonable for such an order to be made.

Proposed subsection (6) provides that if a party to proceedings objects to the making of an order, the Tribunal must not make the order unless satisfied that the hardship likely to be suffered by the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises would, if the order were not made, be greater than any hardship likely to be suffered by the objector as a consequence of the making of the order.

Proposed subsection (7) lists a number of orders and proceedings to which the Tribunal must have regard in considering an application under the proposed section.

Proposed subsection (8) provides that if a rooming house agreement is terminated under the proposed section, the Tribunal may order a resident to make a payment of compensation to the proprietor for loss and inconvenience resulting, or likely to result, from the termination or an order under proposed subsection (3).

Proposed subsection (9) provides that if the Tribunal finds, in relation to a rooming house agreement that is terminated under this section, that 1 or more, but not all, of the residents under the agreement are responsible for damage to the rooming house or property provided by the proprietor, the Tribunal may determine that the responsible resident or residents are liable (to the exclusion of other residents under the agreement) for making any payment of compensation ordered under section 110(1)(c).

Proposed subsection (10) provides that if a payment for compensation is ordered under proposed subsection (8) or (9) the Tribunal may give a direction under section 110(1)(i) that the bond (if any) be paid, to the proprietor and any resident who is not liable for making the payment in such proportions as the Tribunal thinks fit, but not so as to unduly disadvantage the proprietor.

10—Amendment of section 112—Restraining orders

This clause inserts new subsections 112(1a) and (1b). Proposed subsection 112(1a) provides power for the Tribunal, on the application of a tenant, to make a restraining order against a co-tenant or other person on the premises if the Tribunal is satisfied that the person may cause serious damage to property, cause personal injury, or if the co-tenant is a domestic associate of the tenant, commit an act of domestic abuse. Proposed subsection 112(1b) lists a number of orders and proceedings the Tribunal must have regard to in considering an application under proposed subsection 112(1a), as are relevant to the application.

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

JUDICIAL CONDUCT COMMISSIONER BILL

Committee Stage

In committee.

(Continued from 30 June 2015.)

Clause 1 passed.

Remaining clauses (2 to 36) passed.

Schedule.

The Hon. S.G. WADE: I thank the Leader of the Government for facilitating this matter to be dealt with earlier as I have a commitment at Government House later in the day. I also indicate to the chamber that at the request of the government I will make my contribution and we will adjourn at the end of that contribution so that the government and other members might consider the points I make. I move:

Amendment No 1 [Wade–1]—

Page 27, after line 18—After Part 9 insert:

Part 10—Amendment of *Parliamentary Committees Act 1991*

16—Amendment of section 15H—Membership of Committee

Section 15H—after subsection (1) insert:

(1a) A Minister of the Crown is not eligible for appointment to the Committee.

17—Amendment of section 21—Removal from and vacancies of office

Section 21(2)(e)—delete 'becomes' and substitute 'is'

Amendment No 2 [Wade–1]—

Long title—Delete 'and the *Ombudsman Act 1972'* and substitute:

, the *Ombudsman Act 1972* and the *Parliamentary Committees Act 1991*

On 6 August 2014, this council resolved to invite the House of Assembly to reconsider its appointment of the Attorney-General to the Statutory Officers Committee in the context of section 21(2)(e) of the Parliamentary Committees Act 1991, which states:

A person ceases to be a member of a committee if the person…becomes a Minister of the Crown.

It was a polite way of this council saying that we consider that the house was not complying with the Parliamentary Committees Act. It took four months for the house to respond, and it did so in a motion moved by the Attorney-General on 2 December 2014, which states:

That a message be sent informing the Legislative Council that the House of Assembly notes the resolution of the Legislative Council and invites the Legislative Council to reconsider its apparently adverse reflection on the deliberations of the House of Assembly in appointing the Hon. J.R. Rau to the Statutory Officers Committee. Further, the House of Assembly invites the Legislative Council to reconsider inviting the House of Assembly to reconsider its appointment to the Statutory Officers Committee.

So, we are getting into a bit of a ping-pong match on the request for reconsideration. However, I note that the Attorney offered no comments in the House of Assembly to support what is implicit in his position, which is that it is appropriate for ministers to be on parliamentary committees and in particular the Statutory Offices Committee.

The motion was passed by the House of Assembly. Whilst in that sense there is a standing request for our house to reconsider our position, I do not think that message has been formally considered. Be that as it may, the issue arose again in the context of this bill, and it is the Liberal Party's view that it is an opportunity to address this issue in the act in which it arises, which is the Parliamentary Committees Act.

As I understand the government's position, it is based on a legal and technical reading of the act, which says that a current serving minister can be appointed to a parliamentary committee as they have not 'become' a minister while they were on the committee. It seems illogical, in our view, that if a person was not a minister when appointed and then became a minister, they would cease to be a member of the committee, but if they were already a minister, they could be appointed to the committee.

I think, and this council has affirmed its view, that the intent of the legislation is that ministers should not be members of parliamentary committees. The first reason is the general reasons for the independence of parliament and its committees from the executive. A key function of the parliament is to oversee the executive. Committees of the parliament are a key vehicle of oversight. The

independence of committees and their oversight is weakened if members of the executive sit at the table of the committee.

On 6 August of last year, when the Hon. Gerry Kandelaars was speaking on behalf of the government in relation to the motion, he said:

> I can advise the house that crown law has advised that the Parliamentary Committees Act 1991 does not prohibit the Deputy Premier from being a member of the Statutory Officers Committee on the basis of his being a minister.

It is worth looking at the act. As an example, if we go to Part 2—Economic and Finance Committee, concerning membership of the committee, members will note that section 5(2) states:

> A Minister of the Crown is not eligible for appointment to the Committee.

That provision exists in all of the committees bar three, and those three committees are: the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation, the Statutory Officers Committee and the Natural Resources Committee. In fact, in terms of the Natural Resources Committee there is an extra provision that specifically allows the minister to be a member of the committee. It provides:

> A Minister of the Crown is eligible to be a member of the Committee, and section 21(2)(e) does not apply in relation to the members of the Committee.

I thought the comments of the Hon. Gerry Kandelaars highlight what I understand is the default parliamentary practice, that members are not members of parliamentary committees unless there is a strong reason for members to be so.

Similar drafting also appears in the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill 2014. The bill that the Attorney-General introduced in the House of Assembly contained a specific clause, clause 15Q(2), that allows a minister to sit on the Electoral Laws and Practices Committee and further provides that section 21(2)(e) is not applicable. I submit that the Attorney's own bill implied that a minister should not sit on a committee without specific legislative exemption. If section 21(2)(e) does not have the effect of barring a minister then why specifically exclude its application?

In a bizarre coincidence, on 6 August of last year, the very day the Hon. Gerry Kandelaars was blessing the council with his rant against enforcing the Parliamentary Committees Act, the Attorney-General amended his own bill in the other place to remove the right of ministers to sit on the Electoral Laws and Practices Committee as proposed by that bill. He offered no argument for his changed position, but I think that it is appropriate. As the minister responsible for the Electoral Act, it would be inappropriate for him to be a part of the committee making recommendations on electoral law, most likely recommendations calling on him as minister to take action to change the law or the administration of the law.

So, the question that arises is whether, in spite of this general principle, there are strong reasons for ministers to be able to sit on the Statutory Officers Committee. Is there any reason why the Statutory Officers Committee has less need of independence such that parliament should allow ministers to sit on the committee? Alternatively, would ministers bring a special insight such that the committee would benefit from having ministers amongst their membership?

The Statutory Officers Committee exists to oversee the appointment of certain persons established under statute. Officers of the parliament, such as the Auditor-General and the Electoral Commissioner, are appointed by the parliament to reinforce the independence of the officers, independence both from the executive and from the parliament.

As a starting point, I think there are good grounds to provide that the Statutory Officers Committee does not include ministers. First, I put it to the council that as a general rule ministers should not sit on parliamentary committees. Secondly, I put it to the council that the Statutory Officers Committee in particular should not include ministers. Thirdly, I would argue that the bill before us and other recent acts make it inappropriate for the Attorney-General in particular to sit on the Statutory Officers Committee.

In relation to this bill, I would refer members to the appointment process in section 7. Section 7(4) provides that a person may only be appointed to be the commissioner if, following referral by the Attorney-General of the proposed appointment to the Statutory Officers Committee, the appointment has been approved by the committee or the committee has not, within seven days of the referral, or such longer period as is allowed by the Attorney-General, notified the Attorney-General in writing that it does not approve the appointment.

So this bill and another bill which had a similar process of appointment, the Independent Commissioner against Corruption Bill, both provide for the Attorney-General to select and formally nominate a candidate for a parliamentary officer position. That is, shall we say, a recent innovation by this parliament, and I think it fundamentally changes the context in which it is not appropriate for the Attorney-General, in particular, to sit on the Statutory Officers Committee, because we have the bizarre situation where the Attorney is making a recommendation, as a member of the executive, as to who he thinks is an appropriate person to fulfil a statutory role.

Unlike other Statutory Officers Committee appointments it is not the committee itself that manages the selection process, so the Attorney-General thinks it is appropriate to actually make the nomination, to make the referral to the committee, and also to be a member of the parliamentary committee considering his own nomination. We do not believe that is good governance, and it undermines the ability of the committee to provide for scrutiny of the appointments. The whole point of having these mechanisms is to protect the independence of the officer.

For all three of these reasons the opposition urges the council to support this amendment, to reaffirm its position as laid down on 6 August last year by supporting this amendment. As I indicated, the opposition understands that the government would like time to reflect on the amendment and our argument in support of it, and we have no objections to reporting progress.

Progress reported; committee to sit again.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. T.A. FRANKS (15:43): The Greens support this bill before us. We acknowledge that this government made a commitment in the 2014 election to introduce reform in this area of work. The Correctional Services (Parole) Amendment Bill 2015 will amend the Correctional Services Act 1982 to implement changes to the process for release on parole of a prisoner sentenced for murder, a life sentence.

The bill ensures that a prisoner sentenced assists and cooperates with investigative authorities to locate the remains of the victim or victims. The 'no body, no parole' changes compel the Parole Board to give consideration to the degree to which life sentence prisoners who have applied for release on parole have cooperated with authorities in the investigation of the offence. It is supported by victims' advocacy groups and, indeed, the Law Society of South Australia.

We thank the minister's office for providing us with a briefing and undertaking to get back to us with responses to the concerns we raised on behalf of the Aboriginal Legal Rights Movement. My office has been informed that the minister's office was not aware of this bill being brought in for debate in the Legislative Council today, so we are still awaiting a written response from the minister's office with regard to the concerns we raised. I raise those concerns again today, on behalf of the ALRM of South Australia.

Clause 6(1)(6) and (7) requires the Parole Board not to grant parole to a person convicted of murder unless satisfied that the prisoner 'has satisfactorily cooperated in the investigation of the offence' either before or after they were convicted of the offence. The ALRM has raised a question in regard to this clause. They ask, 'How can he or she cooperate in relation to a crime he or she genuinely knows nothing about?' Could the minister please clarify what the process is for someone who cannot cooperate with the investigating authorities in this situation? The ALRM has also raised the following with my office:

Only a judge of Supreme Court status is able to sentence a prisoner for murder; only a retired judge of that status should sit as the proposed Review Commissioner. It would be inappropriate (for example) to have a retired licencing, or industrial judge sitting as Commissioner without the benefit of any experience in criminal law sentencing or penology.

Could the minister please respond to those questions during the committee stage of this 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) (15:46): I thank honourable members for their second reading contributions and their indicated support during the second reading debate, and I look forward to it being dealt with expeditiously through the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. T.J. STEPHENS: Obviously, my crossbench colleagues are comfortable with us proceeding with the parole bill. I said in my second reading contribution that the Liberal Party is quite comfortable. We have had the appropriate consultation and a positive negotiation with the government. As I said earlier, we support the bill and, as long as my crossbench colleagues are ready to go, hopefully there will be a speedy passage.

The Hon. G.E. GAGO: I have done the rounds and I understand that all honourable members, including the crossbenchers, are supporting this. The bill obviously seeks to make changes to the process for life sentence prisoners to achieve release on parole. It strengthens the supervision of these offenders in the event that they are released on parole, ensuring that the Parole Board considers electronic monitoring and making life on parole mandatory. These provisions will further assist parolees to lead offence-free lifestyles. As indicated, I thank honourable members for their support for this important bill.

Clause passed.

Remaining clauses (2 to 11) and schedule passed.

Title.

The Hon. T.A. FRANKS: Chair, I did raise questions in the second reading contribution. I would hope that those two questions would be addressed.

The Hon. G.E. GAGO: Are you able to just remind me again of those questions?

The Hon. T.A. FRANKS: Certainly. I can repeat them, if you like, or I can pass you the bit of paper.

The Hon. G.E. GAGO: It is perhaps easier just to read them.

The Hon. T.A. FRANKS: How can someone cooperate in relation to a crime that they genuinely know nothing about?

The Hon. G.E. GAGO: The board would satisfy themselves that they had been cooperative. They can access a number of reports that they would consider; for instance, a report from the Commissioner of Police along with other reports like the community safety reports under section 3A and section 4, and other matters contained under section 7 and section 6.

The Hon. T.A. FRANKS: The second question raised by the ALRM is that only a judge of Supreme Court status is able to sentence a prisoner for murder and only a retired judge of that status should sit as the proposed review commissioner. Can the minister clarify this and also clarify that it would not be, for example, a retired licensing or industrial judge sitting as the commissioner without any experience in criminal law sentencing?

The Hon. G.E. GAGO: The intent of the act was not to be too prescriptive. The intention was to make available as broad a pool of candidates as possible from which to choose. It did not

want to narrow the pool, so it can be a person who is a former judge of the High Court, Federal Court, Supreme Court or any other court in any state and territory. So obviously they can come from any court but, obviously, a great deal of consideration and weight will be given to those who have a relevant background and relevant experience. The view during consultation was that the act should not be overly prescriptive: it should open up the prospective candidates, not narrow them down too closely.

Title passed.

Bill reported 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) (15:57): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SUPERANNUATION) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 July 2015.)

The Hon. R.I. LUCAS (15:57): I rise on behalf of Liberal members to support the second reading of the legislation. I note that the legislation was only introduced into the Legislative Council yesterday and I place on the record—because I know there has been considerable interest in this evidently from the Police Association and those who represent police officers in this state—that this bill was actually introduced into the parliament almost three months ago on 3 June by the government into the House of Assembly. It was not passed by the House of Assembly and the government until yesterday, 29 July, because the government controls the numbers in the House of Assembly.

I hope our very good friends in the Police Association and, as I said, others who represent the interests of police officers in South Australia, will note that the passage of the bill has been completely in the control of the government and that it has spent almost two months in the House of Assembly. It arrived in the Legislative Council yesterday and 24 hours later, on behalf of Liberal members, I am speaking at the second reading and indicating the Liberal Party's support for the second reading of the legislation.

The legislation is relatively straightforward. As I indicated earlier, it has the very strong support of the Police Association. It makes amendments in relation to their superannuation arrangements. It amends the Police Superannuation Act 1990 and the Southern State Superannuation Act 2009. The bill, amongst other things, seeks to permit police officers who are members of the Triple S Superannuation Scheme to elect to make their compulsory superannuation contributions required under the Southern State Superannuation Act 2009, which is 4.5 per cent for most police officers, on a salary sacrifice or a pre-tax equivalent basis.

In order to ensure that the final benefit is not reduced by tax, it is necessary for the salary sacrificed amount to be increased to take account of the 15 per cent tax that will be payable on the contribution when it is paid from the scheme as a benefit. This would mean that police officers will be required to make a contribution of at least 5.3 per cent of pre-tax moneys to ensure that the equivalent after tax contribution of 4.5 per cent is maintained.

Any police officer who makes a pre-tax contribution of at least 5.3 per cent (or the greater adjusted applicable percentage required in respect of those wishing to maintain the minimum benefit guarantee) will no longer be required to make their compulsory contribution on a post-tax basis. However, such officers will be permitted to make extra after tax contributions on a voluntary basis. The maximum 10 per cent employer contribution rate will continue to apply to those making a pre-tax contribution of at least 5.3 per cent or a post-tax contribution of at least 4.5 per cent.

The other major proposal in the bill seeks to implement the proposal to increase from 10 to 11 per cent the rotating shift allowance multiple, recognised under The Police Superannuation Act 1990, in respect of contributors to the Police Pension Scheme who hold the rank of senior sergeant or a lower rank, who at any time during the contribution period were rostered to work on day, afternoon and night shifts, or on any two of those shifts on a rotating basis.

Other than from the Police Association, which has indicated its strong support for the bill, the Liberal Party has received no other submissions in relation to the bill, either for or against. We offered the Public Service Association the courtesy of commenting if they wish, but they indicated they had no wish to comment on the legislation. We received no other contributions or submissions from any other organisation or individual.

As members will be aware, the Liberal Party is a very strong supporter of the South Australian police force and the police officers who make up the South Australian police force. We would therefore give great weight to their wishes, where they are able to be accommodated within budgetary circumstances. The government and its advisers have made the judgment that it is possible to meet the wishes of police officers in this particular piece of legislation, and for those reasons we indicate our preparedness to support the second reading of the legislation this afternoon.

The PRESIDENT: There are no further speakers. Minister?

The Hon. I.K. HUNTER: I am happy to go ahead. My last understanding was that the Greens were not ready to speak, so I think we had better adjourn it.

Debate adjourned on motion of Hon. J.M. Gazzola.

The Hon. J.M. GAZZOLA: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:13):

That standing orders be so far suspended as to enable me to move that the order made this day for Order of the Day, Government Business No. 11 to be made an order of the day for the next day of sitting to be discharged, and for the order of the day to be taken into account forthwith.

Motion carried.

The Hon. I.K. HUNTER: I move:

That the order of the day made this day for Order of the Day, Government Business No. 11 to be made an order of the day for the next day of sitting be discharged and for the order of the day to be taken into account forthwith.

Motion carried.

Bills

STATUTES AMENDMENT (SUPERANNUATION) BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:13): I would like to thank all honourable members who have spoken thus far into the debate. I am also particularly grateful for Ms Tammy Franks' determination to allow us to proceed with this bill at this point in time, and I look forward to a speedy passage through the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. R.I. LUCAS: Things have obviously moved on since this bill was adjourned by the minister to the next day of sitting, and I understand the minister has now brought it back on. As I indicated in my second reading speech, I was happy to speak and indicate the Liberal Party's support for the bill, but the position that we put to the government was that the government needed to have the agreement of the minor parties and Independents in the Legislative Council for the passage.

With the greatest respect to the minister, there are three or four groups represented by the minor parties and Independents and I would, I guess, seek the assurance from the minister that he and the government have spoken with each of the Independents and minor parties to get their agreement to push the bill through, because the government's *Notice Paper* does have the superannuation bill being adjourned.

I was asked by the Leader of the Government, minister Gago, whether I was prepared to speak at the second reading. I certainly did speak at the second reading and indicated the Liberal Party's support for the bill, but my position has been that, if the government wanted to expedite the passage, as I outlined in the second reading, this bill was introduced into the parliament on 3 June and it has been entirely the province of the government that it has been delayed for two months in the House of Assembly. It was only debated, as I understand it, and passed yesterday and we received it yesterday into the Legislative Council. My question to the minister is: can he assure the committee—not him personally, because he may well have only just inherited control of the bill—but has the government had assurances from each of the Independents and minor parties that they are happy to proceed with processing the bill today?

The Hon. I.K. HUNTER: Mr Chair, I cannot give that assurance. My understanding from my briefing, however, was that the only impediment to its passage (and I could be completely wrong in this) was that the Greens were saying to us that they wanted more time to consider it. However, since the adjournment motion was carried, in subsequent discussions with the Hon. Tammy Franks, who was in the chamber, she indicated that she was prepared to have this bill moved through the remaining stages, which is why we brought it on. I am unaware, and I stand to be corrected, whether there is any opposition from any other crossbenchers, but I do not have that information.

The Hon. D.G.E. HOOD: Just for the record, Family First have not been approached as to whether or not we are happy for the bill to proceed. That being the case, this is a bill we have paid attention to as it has slowly progressed through the House of Assembly and, during that time, we were able to acquaint ourselves with the bill. We were able to have a discussion with the Police Association about it last week. There is really no reason, from our perspective, why the bill cannot proceed today, other than that we were not specifically consulted.

Nonetheless, I did intend to speak to this bill after the winter break in some detail in support of it. I am happy to forgo that opportunity if it enables the bill to be expiated today. (There is a bit of a play on words, there.) I certainly would not want to delay the police from their superannuation changes. Just for the record, Family First does support the bill. Our police are very hardworking individuals. They place themselves at risk in a way that almost no other state-based job does, perhaps with the exception of the defence forces, and they deserve everything they get as far as we are concerned.

The Hon. J.A. DARLEY: I have not been approached, but it is a fairly straightforward bill. We will be supporting it. I have no objection to its proceeding.

Clause passed.

Remaining clauses (2 to 9) and title passed.

Bill reported without amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (16:19): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

At 16:23 the council adjourned until Tuesday 8 September 2015 at 14:15.

Answers to Questions

DOMESTIC VIOLENCE

In reply to **the Hon. T.A. FRANKS** (21 May 2014). (First Session)

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): The Premier has advised the following:

Addressing violence against women is a priority for the State Government. During 2014 a number of significant inquiries into violence against women were commenced.

In June 2014, the prevalence and impact of domestic violence in Australia was referred to the Australian Senate Finance and Public Administration References Committee for inquiry and the South Australian Government made a submission, outlining the strategies used in this state for responding to and preventing violence.

In October, the State Government released Taking a Stand: Responding to Domestic Violence, a whole-of-government response to the findings of the State Coroner in the inquest into the death of Zahra Abrahimzadeh.

Also in October, the Social Development Committee of the South Australian Parliament established an inquiry into the prevention of domestic and family violence.

The committee will commence hearing oral submissions in early 2015 and we await the findings for the committee with interest. At this stage there are no plans for a royal commission.