# LEGISLATIVE COUNCIL

## Tuesday, 5 July 2016

**The PRESIDENT (Hon. R.P. Wortley)** took the chair at 14:18 and read prayers.

**The PRESIDENT:** We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and the community. We pay our respects to them and their cultures, and to the elders both past and present.

*Bills*

### FAMILY RELATIONSHIPS (PARENTAGE PRESUMPTIONS) AMENDMENT BILL

*Assent*

His Excellency the Governor assented to the bill.

### RAIL SAFETY NATIONAL LAW (SOUTH AUSTRALIA) (MISCELLANEOUS NO 2) AMENDMENT BILL

*Assent*

His Excellency the Governor assented to the bill.

### STATUTES AMENDMENT (YOUTH COURT) BILL

*Assent*

His Excellency the Governor assented to the bill.

### CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

*Conference*

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:21):** By leave, I move:

That the sitting of the council be not suspended during the conference on the bill.

Motion carried.

*Parliamentary Procedure*

### PAPERS

The following papers were laid on the table:

By the President—

Auditor-General Supplementary Reports, 2014-15—
Department for Communities and Social Inclusion—Concessions: June 2016
Enterprise Patient Administration System: June 2016

By the Minister for Employment (Hon. K.J. Maher)—

Corporation By-laws—
City of Campbelltown—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs
District Council By-laws—
Robe—

- No. 1—Permits and Penalties
- No. 2—Local Government Land
- No. 3—Roads
- No. 4—Moveable Signs
- No. 5—Dogs
- No. 6—Cats

Port Pirie—

- No. 1—Permits and Penalties
- No. 2—Moveable Signs
- No. 3—Local Government Land
- No. 4—Roads
- No. 5—Dogs
- No. 6—Cats

Remuneration Tribunal Determination and Report No. 9 of 2016: Conveyance Allowance—Judges, Court Officers and Statutory Officers

Regulations under the following Acts—

- Emergency Services Funding Act 1998—Remissions Land Amendment
- Fees Regulation Act 1927—
  - Incidental SAAS Services—Fees
  - Public Trustee Administration—Fees
- Land Tax Act 1936—Fees
- Local Government Act 1999—Fees
- Mines and Works Inspection Act 1920—Fees
- Mining Act 1971—Fees
- Opal Mining Act 1995—Fees
- Petroleum and Geothermal Energy Act 2000—Fees
- Petroleum Products Regulation Act 1995—Fees

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

Regulations under the following Acts—

- Adoption Act 1988—Fees
- Animal Welfare Act 1985—Fees
- Aquaculture Act 2001—Fees
- Botanic Gardens and State Herbarium Act 1978—Fees
- Children's Protection Act 1993—Miscellaneous Amendment
- Children's Protection Act 1993—Fees
- Crown Land Management Act 2009—Fees
- Environment Protection Act 1993—Fees
- Fisheries Management Act 2007—
  - Demerit Point Amendment
  - Fees No. 2
  - Fees No. 3
  - Miscellaneous Amendment
- Food Act 2001—Fees
- Heritage Places Act 1993—Fees
- Historic Shipwrecks Act 1981—Fees
- Housing Improvement Act 1940—Fees
- Livestock Act 1997—Fees
- Marine Parks Act 2007—Fees
- National Parks and Wildlife Act 1972—
  - Hunting—Fees
  - Protected Animals—Marine Mammals—Fees
  - Wildlife
- Native Vegetation Act 1991—Fees
- Natural Resources Management Act 2004—
  - Fees
  - Financial Provisions—Fees

Pastoral Land Management And Conservation Act 1989—Fees
Plant Health Act 2009—Fees
Primary Produce (Food Safety Schemes) Act 2004—
Citrus Industry—Fees
Eggs—Fees
Meat Industry—Fees
Plant Products—Fees
Seafood—Fees
Radiation Protection and Control Act 1982—Fees
Retirement Villages Act 1987—Fees
South Australian Public Health Act 2001—
Legionella—Fees
Wastewater—Fees

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Save the River Murray Fund—Report, 2014-15
Regulations under the following Act—
Water Industry Act 2012—Fees

By the Minister for Police (Hon. P.B. Malinauskas)—

Regulations under the following Acts—
Associations Incorporation Act 1985—Fees
Authorised Betting Operations Act 2000—Fees
Bills of Sale Act 1886—Fees
Births, Deaths and Marriages Registration Act 1996—Fees
Building Work Contractors Act 1995—Fees
Burial and Cremation Act 2013—Fees
Community Titles Act 1996—Fees
Controlled Substances Act 1984—Fees
Conveyancers Act 1994—Fees
Co-operatives National Law (South Australia) Act 2013—Fees
Coroners Act 2003—Fees
Criminal Law (Sentencing) Act 2013—Fees
Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007—Fees
Dangerous Substances Act 1979—
Dangerous Goods Transport—Fees
Fees
Development Act 1993—
Fees
Open Space Contribution Scheme
Renewal of Social Housing
Disability Services Act 1993—
Assessment of Relevant History Amendment
Fees
District Court Act 1991—Fees
Electronic Conveyancing National Law (South Australia) Act 2013—General
Electronic Transactions Act 2000—Miscellaneous
Employment Agents Registration Act 1993—Fees
Environment, Resources and Development Court Act 1993—Fees
Evidence Act 1929—Fees
Expiation of Offences Act 1996–
Fees
Reminder and Enforcement Warning Notices—Fees
Explosives Act 1936—
Fees
Fireworks—Fees

Security Sensitive Substances
Fair Work Act 1994—Fees
Firearms Act 1977—Fees
Freedom of Information Act 1991—Fees
Gaming Machines Act 1992—Fees
Harbors and Navigation Act 1993—Fees
Heavy Vehicle National Law (South Australia) Act 2013—
Expiation Fees—Amendment No. 2
Fees
Hydroponics Industry Control Act 2009—Fees
Land and Business (Sale and Conveyancing) Act 1994—
Fees
General
Land Agents Act 1994—Fees
Liquor Licensing Act 1994—Fees
Lottery and Gaming Act 1936—Fees
Magistrates Court Act 1991—Fees
Marine Safety (Domestic Commercial Vessel) National Law (Application) Act 2013—Fees
Motor Vehicles Act 1959—
Accident Towing Roster Scheme—Fees
Expiation Fees
Partnership Act 1891—Fees
Passenger Transport Act 1994—
Miscellaneous
Taxi Fares
Plumbers, Gas Fitters and Electricians Act 1995—Fees
Police Act 1998—Fees
Private Parking Areas Act 1986—Fees
Public Trustee Act 1995—Fees
Rail Safety National Law (South Australia) Act 2012—Fees
Real Property Act 1886—
Fees
General
Registration of Deeds Act 1935—Fees
Roads (Opening and Closing) Act 1991—Fees
Road Traffic Act 1961—
Expiation Fees
Miscellaneous—Fees
Second-hand Vehicle Dealers Act 1995—Fees
Security and Investigation Industry Act 1995—Fees
Sexual Reassignment Act 1988—Fees
Sheriff's Act 1978—Fees
South Australian Civil and Administrative Tribunal Act 2013—Fees
State Records Act 1997—Fees
Strata Titles Act 1988—
Fees
Record Keeping
Summary Offences Act 1953—Weapons -Fees
Supreme Court Act 1935—Fees
Tobacco Products Regulation Act 1997—Fees
Valuation of Land Act 1971—Fees
Worker's Liens Act 1893—
Fees
Miscellaneous
Work Health and Safety Act 2012—Fees
Youth Court Act 1993—Fees

Regulation under National Scheme
Heavy Vehicle National Amendment Regulation No. 2
Rules of Court—
District Court—District Court Act 1991—
Amendment No. 3
Supplementary—Amendment No. 2
Supreme Court—Supreme Court Act 1935—
Amendment No. 3
Supplementary—Amendment No. 2

By the Minister for Emergency Services (Hon. P.B. Malinauskas)—

Regulations under the following Act—
Fire and Emergency Services Act 2005—Fees

*Parliamentary Committees*

**LEGISLATIVE REVIEW COMMITTEE**

**The Hon. G.A. KANDELAARS (14:28):** I lay upon the table the report of the committee 2015.

Report received and ordered to be published.

**NATURAL RESOURCES COMMITTEE**

**The Hon. G.A. KANDELAARS (14:29):** I bring up the report of the committee on the Pinery Fire Regional Fact Finding Trip.

Report received.

**STATUTORY AUTHORITIES REVIEW COMMITTEE**

**The Hon. J.M. GAZZOLA (14:29):** I lay upon the table the report of the committee on its inquiry into the Motor Accident Commission.

Report received and ordered to be published.

*Ministerial Statement*

**AUDITOR-GENERAL'S REPORT: CONCESSIONS REVIEW**

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:30):** I table a copy of the ministerial statement on the Auditor-General's Report on concessions made in the other place by the Minister for Communities and Social Inclusion.

*Parliamentary Procedure*

**ANSWERS TABLED**

**The PRESIDENT:** I direct that the written answers to questions be distributed and printed in *Hansard*.

*Question Time*

**NATURAL RESOURCES MANAGEMENT LEVY**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32):** I seek leave to make a brief explanation before I ask the Minister for Water and Minister for Environment a question about the NRM levy.

Leave granted.

**The Hon. D.W. RIDGWAY:** Members will be well aware that there has been a lot of debate in this place and in the other place, and also in the media, about the outrageous increases to the NRM levies and that members of the public will be getting their levy notices shortly. The minister has

cited the recovery of water planning and management costs and departmental corporate and services costs as reasons for the increase.

I just remind the minister of principle 3 of the National Water Initiative Pricing Principles, which was signed off by the state and commonwealth government ministers in 2004. It states:

> Having identified water planning and management costs to be recovered from water users, in whole or in part, activities should be tested for cost effectiveness by an independent party and the findings of that cost effectiveness review are to be made public.

My question to the minister is: has an independent party reviewed or tested the cost effectiveness of increasing the amount of money recovered from water users for planning and management costs?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:33):** I thank the honourable member for his most important question and for giving me the opportunity to put on the record again this government's wonderful achievements—

**The Hon. D.W. Ridgway:** Answer the question.

**The Hon. I.K. HUNTER:** —in terms of natural resource management. I have an answer for the honourable member. If he would like to just wait he will hear it in good time.

**The Hon. J.S.L. Dawkins:** In about eight minutes?

**The Hon. I.K. HUNTER:** Well possibly. That depends on how many interjections there are, Mr President.

**The Hon. D.W. Ridgway:** I am trying to listen, for once.

*Members interjecting:*

**The Hon. D.W. Ridgway:** I do want to hear the answer.

*Members interjecting:*

**The PRESIDENT:** Order! Allow the minister to give an answer without any interjection.

**The Hon. I.K. HUNTER:** Thank you, Mr President, very kindly. Items defined as water planning and management costs are set out in the user pays principles under the National Water Initiative. The NWI is the national blueprint for water reform in Australia and represents a shared commitment by governments to increase the efficiency and sustainability of Australia's water use. The initiative permits Australian governments to recover costs from users or beneficiaries of the water source, where practical. Recovering some of the costs involved with water planning and management is in line with the government's commitment to user pays principles under the NWI.

This government has chosen not to implement full cost recovery, but rather to continue to subsidise these costs to provide some protection to water users from financial burden. We have chosen not to implement an independent cost-effectiveness study because we have not moved to implement full cost recovery, and we have opened the books at the same time.

Representatives from Primary Producers SA have met with representatives from DEWNR on a number of occasions to go through these figures in greater detail. DEWNR has also produced a fact sheet that provides easily digestible indicative information about what it spends annually on WPM activity, and has also prepared information in relation to regional breakdowns of spend for the benefit of the PPSA and its members.

I am advised that an audit would be quite a significant cost, and any independent analysis would show that we have a very efficient system here in this state. Once again, those members opposite seek to confuse and misrepresent what the government has achieved on water management. Is the honourable member seriously suggesting that South Australia move to a full cost-recovery model? Is that what he is suggesting? I think that is what he is about to suggest, Mr President. You cannot have it both ways.

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

**The Hon. I.K. HUNTER:** You can't have it both ways. Is the member seriously suggesting—and I hope she isn't—we move to full cost-recovery models for water planning and management so then we can fund an independent report into how we fund water planning and management in South Australia? Is that seriously her plan? Is that all they've got? 'Bump up the cost and then do a review.' Bump up the cost. We have decided to do the opposite: we are only partially recovering—

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

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —and opening up the books for those organisations—

*Members interjecting:*

**The PRESIDENT:** Can the minister sit down for a second? Please do not encourage the minister to stray away from the answer. Minister, go straight to the answer.

**The Hon. I.K. HUNTER:** Thank you, Mr President, although I would counter that I have not strayed one millimetre from the answer that the Hon. Mr Ridgway deserves. We are taking a sensible approach to introducing a contribution from beneficiaries to water planning and management costs. It is important to note that the states have all taken slightly different approaches to the issue of water-related cost recovery.

When all water-related charges are taken into account, the NRM water levy rates paid by irrigators in our major food and wine producing areas, such as the South-East and the South Australia Murray-Darling Basin, are still low when compared to our interstate competitors. I have used these figures before: the $6.30 per megalitre water levy rate proposed on the SA Murray-Darling Basin for 2016-17 is well below equivalent charges in New South Wales and Victoria. In the New South Wales Murray, the equivalent charge has been around $10.51 per megalitre, assuming a full use of entitlements. In the Victorian Murray, the lowest equivalent charge has been around $11.05 per megalitre. All of this is set out, I am advised, in the ACCC's most recent water monitoring report.

Similarly, the $2.58 per megalitre water levy rate proposed in the South-East for 2016-17 is less than half the rate of the most common New South Wales groundwater charges, as outlined on the relevant New South Wales government website. The state budget papers set out how the Department of Environment, Water and Natural Resources allocates its budget. The department has calculated the total cost of water planning and management at approximately $43 million.

It should be noted that this figure represents a point-in-time snapshot and the costs incurred across the water planning and management functions and the total cost will vary year on year. Recovery of these costs from those who benefit has been on the cards since 2011; in fact, it has been in the budget papers since 2011.

The announcement contained in the 2015-16 budget of our recovery of $3.5 million from NRM boards in 2015-16 and $6.8 million in 2016-17 and indexed thereafter represents a small fraction of the total investment in water resource planning and management. Seriously, what does the honourable member opposite really expect the outcome would be of an expensive and independent inquiry? A reduction in the amount to be recovered?

*Members interjecting:*

**The Hon. I.K. HUNTER:** A reduction? No; the inquiry will say, 'You are only recovering a partial amount and you should go to full recovery.' Is that what the honourable member wants? Let him say that, Mr President. Let him stand up and say to the communities he purports to represent in this state, 'We want you to go to full cost recovery,' and see how well he goes down in the regions. Probably as well as his leader did when he was out campaigning in the federal election.

## SOLID WASTE LEVY

**The Hon. J.M.A. LENSINK (14:39):** My question is to the Minister for Environment and Conservation. How many jobs does the minister project are going to be created through the increase in the solid waste levy, and can he guarantee that the financial pressures this will put on councils will not cause them to be forced to undertake fortnightly waste collections?

*The Hon. D.W. Ridgway interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:39):** I thank the honourable member for—

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

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** I thank the honourable member for her most important question. The state government recognises that growth in the $1 billion waste and resource recovery sector requires working closely with industry, especially if we are able to achieve our goal of increasing the number of jobs in the sector beyond the current figure, which is close to 5,000 jobs. I think it is currently around about 4,800, but it may have changed since the last time I was briefed. In fact, we have been working with industry for a very long time on this important issue.

**The Hon. D.W. Ridgway:** You've been doing the industry over for a very long time. Get your facts right.

**The Hon. I.K. HUNTER:** The Hon. Mr Ridgway makes some interjection, Mr President, about how well we have been working with industry for a very long time. Our consultation actually goes—

**The Hon. D.W. Ridgway:** I know what you think of business in this state and it's a disgrace. The only businessman is this bloke who ran a tobacco business.

**The PRESIDENT:** Order!

**The Hon. D.W. RIDGWAY:** You have no idea about business.

**The PRESIDENT:** Order! That is totally out of order, and I don't think you have any idea what you are talking about sometimes, the honourable leader. Will you, minister, continue?

**The Hon. I.K. HUNTER:** Thank you, Mr President. Our consultation in fact dates back to when the Leader of the Opposition from another place, Mr Steven Marshall, was a member of the waste industry. Perhaps Mr Marshall conveniently forgets that he was once strongly in favour of a levy increase when he was involved in the waste industry, or perhaps Mr Marshall hopes to be able to deceive the South Australian public like some shonky magician.

He is out on radio this morning grandstanding, calling on this waste levy announcement as stupid and running around asking where we got this idea from. I will tell you where we got it from: Compost South Australia. This submission is lodged by 'Steven Marshall, Chairman, Compost SA, c/o 66 Henley Beach Road, Mile End'.

*Members interjecting:*

**The PRESIDENT:** Order! Let the minister answer the question.

**The Hon. I.K. HUNTER:** The document I am reading from of course pre-dates the date that he came into parliament—well, I hope so.

*Members interjecting:*

**The Hon. I.K. HUNTER:** I would hope so, Mr President.

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** I would hope so. I would hope he was not actually lobbying for an industry when he was—

**The Hon. J.S.L. Dawkins:** Why don't you actually tell us the date?

**The Hon. I.K. HUNTER:** I am just about to. Here we are: Compost South Australia—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** This submission is lodged by Steven Marshall. The date of this document, which I will be quoting from quite extensively, is 27 March 2007.

*Members interjecting:*

**The Hon. I.K. HUNTER:** Point 4 states:

> Compost SA believes that the levy should be higher than the proposed $55 as disposal to landfill costs are not in line with other states or overseas.

Let me just repeat that for honourable members who weren't listening:

> Compost SA believes that the levy should be higher than the proposed $55 as disposal to landfill costs are not in line with other states or overseas.

It continues:

> The low landfill rate in [South Australia] makes it difficult to encourage (non local government) customers to recover resource from the landfill stream. A substantial differential is required to ensure that source separating of clean organic material is attractive and economically viable for customers.

So, here we have the Leader of the Opposition—

*Members interjecting:*

**The PRESIDENT:** Order! Your behaviour in this chamber is quite appalling. I know some people on the opposition bench are quite upset about events of the weekend. The reality is we have to get on with life, run this state and allow the honourable minister to answer the question.

**The Hon. J.S.L. Dawkins:** I will stand up and make a point of order if you make political statements like that again.

**The PRESIDENT:** Do what you need to do. Just allow the minister to answer the question.

**The Hon. J.M.A. Lensink:** He was actually not answering it.

**The Hon. I.K. HUNTER:** In fact I am, Mr President, and thank you very much for your protection.

**The Hon. K.J. Maher:** You can't handle the truth!

**The Hon. I.K. HUNTER:** That's the Hon. Terry Stephens who can't handle the truth, Hon. Mr Maher.

**The Hon. T.J. Stephens:** We're going to sell Medicare—

*Members interjecting:*

**The PRESIDENT:** Here it is. It's on *Hansard* now.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** Here we are, Mr President—

*Members interjecting:*

**The PRESIDENT:** Minister, take your seat. There are a number of crossbenchers who have very important questions to ask today. By wasting time, you are denying that right. So, minister, will you please now get up and answer the question.

**The Hon. I.K. HUNTER:** So here we are, with the Leader of the Opposition in a previous life telling us that the levy should be higher than the proposed $55. Lodged by the member for Dunstan himself, although not at that time. As I have outlined in this place previously, we listen to industry, which has been telling us for some time that an increase in the waste levy would generate jobs. It could improve the industry's infrastructure and, importantly, develop end markets—I think that came from some submissions at some stage—and I have read to you some of the statements which

support that position, statements lodged by Mr Steven Marshall, member for Dunstan, then chairman of Compost SA.

Compost SA's chairman, who, at the time, had a very cogent argument, but unfortunately he seems to have forgotten that he made that argument in the past—rather conveniently, I think. He asked the government to look at the viability of increasing the landfill levy and rebating some of this increase to processes. Well, goodness gracious, isn't that what the government has just announced?

An honourable member: No, it's not.

**The Hon. I.K. HUNTER:** In 2007, Zero Waste SA commissioned a review of the solid waste levy, overseen by Hyder Consulting, and Compost SA also made a submission to that inquiry. Compost SA made clear their views, and they advocated for waste levies to apply for incineration, thereby extending where the levy would apply, and revenue from the levy to be directed to projects that increased the market for recycling and further support the work of the EPA. That is exactly what the government's position has been—announced yesterday.

This same decision that Mr Marshall, the member for Dunstan, called for in 2007, but went on radio this morning and called 'stupid' and feigned anger towards it. I can only assume that he had forgotten that he had made these statements on behalf of the compost industry in 2007, but it is important because it goes to the question of leadership.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** Compost SA, under Mr Marshall's leadership, called for a levy higher than $55 a tonne to bring landfill costs in line with other jurisdictions. Now, which is it: was Mr Marshall deceiving listeners on radio this morning in calling this decision 'stupid', because when he was an industry corporate lawyer the man himself called for an increase to the levy—

*Members interjecting:*

**The Hon. I.K. HUNTER:** I'm sorry, not lawyer, he wasn't qualified. An industry corporate player—the big end of town—the man himself called for an increase to the levy, a fact that he conveniently forgot to share with people when he led with his chin in response to this announcement today. An announcement that will create jobs that will better protect the environment; an announcement that will invest in the industry. He cannot have it both ways. Well, he might try, depending on which audience he is talking to, but it cannot be both this time, because we have him in black and white advocating one position which he has absolutely repudiated.

Mr Marshall needs to come clean with his party and with the people of this state. He himself supports our decision to increase the levy to bring it in line with other jurisdictions. Here it is in black and white. This submission is lodged by Steven Marshall. He supports investing that money with the EPA and Green Industries SA; he just does not want the people of South Australia to know that he supports it. We know this, because the sector has consistently called for the waste levy to be increased in line with that charged in New South Wales, which I am advised is $135.70 per tonne in 2016-17 in metro Sydney and other regulated areas.

**The Hon. J.S.L. DAWKINS:** Point of order, Mr President. In light of your request that crossbenchers get an opportunity, this answer has been going for over eight minutes.

**The PRESIDENT:** Minister, can you get to the point, there are others who are wanting to ask questions.

**The Hon. I.K. HUNTER:** Thank you, Mr President. This sector has consistently called for the waste levy to be increased in line with that charged in New South Wales. By example, responding to the government's waste reform discussion paper last year, the industry said:

> It is also strongly believed that increasing the landfill levy to be in line with NSW (and advanced economies elsewhere in the world) will provide transformational improvement and growth in resource recovery, which will generate associated employment and improved environmental outcomes. The additional levy can be reinvested into the waste generating and services industry, and the regulation and compliance of it.

That was made by Mr Ben Sawley.

Overall SAWIN members are supportive of an increase in the levy that will drive improved resource recovery. As an economic tool, the levy has been a driver of investment in the industry and we believe that an increase in the levy together with the introduction of mass and upfront liability will further drive new investment and job creation. This in turn will drive improved outcomes for the environment and lower levels of landfilling.

Mr John Fetter.

The current waste levy for solid waste disposal—

at that time $57 per tonne—

is not reflective to the full social and environmental costs of landfill—

**The Hon. S.G. WADE:** Point of order. It is now a minute since you asked the minister to wind up. It is in defiance of you and the crossbench. I ask him to withdraw the call.

*Members interjecting:*

**The PRESIDENT:** Order! It is not in defiance. I asked him to wind up; if he needs to say this to finish his answer he needs to do it. Minister.

**The Hon. I.K. HUNTER:** Thank you, Mr President.

The current waste levy for solid waste disposal (i.e. $57 per tonne)—

that is at that point in time—

is not reflective to the full social and environmental costs of land fill. ACOR would like the government to consider an increase of the waste levy that will maximise the economics, social and environmental benefits to SA. Earlier this year, ACOR engaged Deloitte Access Economics to provide a report to investigate the economic effort of solid waste levy in SA…The report shows that a higher waste levy will;

- inject hundreds of millions into the SA economy;
- drive better environmental outcomes;
- create 600 new direct jobs—

this is the ACOR report by Deloittes—

- facilitate investment in recycling and resource recovery facilities; and
- support additional employment in the construction, servicing and maintenance of those new facilities.

Mr Grant Musgrove, Mr President.

**The Hon. J.S.L. DAWKINS:** Point of order. We have now got to 11 minutes in the answer to this question.

*Members interjecting:*

**The PRESIDENT:** Order! The minister will answer the question as he sees fit, but, in saying that, if he needs to go through this speech to allow him to answer the question that is the minister's right. Minister.

*The Hon. K.J. Maher interjecting:*

**The PRESIDENT:** Can the Leader of the Government please desist.

**The Hon. I.K. HUNTER:** Increasing the levy will help grow jobs and investment in this important sector. This is also reflected by public modelling released by ACOR last year; as I said, it was conducted by Deloitte and is specific to this state.

I understand from media reports last year in the Adelaide *Advertiser,* that the modelling showed that if the waste levy was increased to the levels of New South Wales it could generate up to almost 600 jobs in this state. These are ongoing full-time jobs. I am advised this number does not include construction and other jobs as a result of new facilities that could be constructed.

**The Hon. J.S.L. DAWKINS:** Point of order. We have now gone past 12 minutes.

**The PRESIDENT:** If you hadn't given your three points of order he might have been finished by now. Minister.

**The Hon. I.K. HUNTER:** I am also advised that ACOR has further suggested—

*Members interjecting:*

**The PRESIDENT:** Order! Sit down, minister. If you keep on interjecting and calling points of order the minister will never get through his answer. Minister, I notice you have only a couple of pieces of paper left; will you please get to and finish your answer.

**The Hon. I.K. HUNTER:** I also advised that ACOR has further suggested that some $100 million in investment in new facilities could also occur as a result of the levy changes. Using a market mechanism to help improve environmental outcomes and grow jobs is not new to this government, nor to this side of politics. The New South Wales Liberals have said this of their levy:

> The waste levy is the NSW government's key market-based instrument for driving waste avoidance and resource recovery to meet the state's recycling targets.

That was a quote from the then NSW Liberal minister for the environment, Ms Robyn Parker MP, in a media release dated 23 February 2013. Minister Parker's comments used to be close to what those on the other side used to think. Now we know the truth: back in 2006 the now Leader of the Opposition, in a written submission to the Productivity Commission, argued for an increase in the waste levy and for some of that increase to be reinvested back into industry. He said this would improve infrastructure and develop new markets.

Well, this is exactly what this government is doing, and those opposite are engaging in nothing but an opportunistic, baseless smear and fear campaign. It is time the Liberals—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —returned to their market-based roots and stopped pandering to the—

*An honourable member interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —fiscally irresponsible conservatives amongst their ranks. It is time Mr Marshall was honest with the people of South Australia—

**The Hon. J.S.L. DAWKINS:** Point of order. It is now 14 minutes, Mr President, and I ask you to take control of the chamber and ask the minister to desist.

**The PRESIDENT:** The minister has the right to answer the question, as much as we might get frustrated with it. You have had four interjections. He would have been finished but there have been four points of order. We would have been on to the next question if we had not done that. Minister, can you please wind up your answer?

**The Hon. I.K. HUNTER:** I always obey you, Mr President, in all things. It is time that Mr Marshall was honest with the people of South Australia and told them that really he does support this plan; really, truly he does because he is a market-based leader. That's what he is and that's what he was. This plan for jobs and investment in the sector and in the environment will grow South Australian jobs into the future.

## SOLID WASTE LEVY

**The Hon. J.M.A. LENSINK (14:55):** Supplementary question: what about fortnightly waste collections?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:55):** Again, the honourable member opposite is trying to give me the power over council decision-making, and I thank her sincerely for that, but really what she needs to think about is what is her leader doing. What is Mr Marshall doing when he is saying one thing and doing another? Today he is saying that this is horrendous but, when he was in another position, he said, 'No, this is a brilliant idea. Why doesn't the government do this?' He is lightning fast to talk this state down, lightning fast to dismiss a

measure, that he called for himself, that will grow the industry and will grow jobs in this state; now he wants South Australians to forget his earlier position. Like a shonky magician, he says, 'Don't look at what I'm doing here with this hand; look over here at this, bright and shiny.' I think South Australians are a little bit smarter than Mr Marshall gives them credit for.

## ABORIGINAL HERITAGE ACT

**The Hon. S.G. WADE (14:56):** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question in relation to the Aboriginal Heritage Act.

Leave granted.

**The Hon. S.G. WADE:** On 22 March 2016, parliament passed a bill to amend the Aboriginal Heritage Act 1988. During debate on the bill in the other place, the Treasurer took a number of opposition questions on notice with an assurance that detailed answers would be provided. More than three months later and more than three months after the proclamation and commencement of the amended act, answers to these important questions have not been provided to the opposition. I put these questions directly to the responsible minister in the hope that it might elicit an immediate and detailed response:

1. How many submissions that the government received in relation to the proposed changes to the Aboriginal Heritage Act asked for section 6(2) to be removed or deleted?

2. Has all of the $7.6 million allocated in the 2011-12 financial year for the implementation of changes to the Aboriginal Heritage Act over four years been preserved and, if not, how much of the funding has the government allocated to the implementation of the new act over the forward estimates?

3. What proportion of this allocation will be used to fund the operation and activities of the new recognised Aboriginal representative bodies?

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:57):** I thank the honourable member for his question. I don't have those answers in front of me now, but I certainly will take them. I would be pretty sure that if they were taken on notice—and I don't have the *Hansard* in front of me—the answers are being gathered. I will take them on notice and bring back answers for the honourable member on those questions.

## PADDY, MRS KUNMANARA

**The Hon. G.A. KANDELAARS (14:58):** My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister inform the chamber about the contribution of Mrs Kunmanara Paddy to her community and to her people?

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:58):** I thank the honourable member for his question and his ongoing interest in the area of Aboriginal affairs. Kunmanara Paddy, or the Lady from Kalka, Chairperson of the APY Executive Board and a strong leader of the Kalka and Pipalyatjara communities, passed away on 7 May 2016. I would like to say a few brief words to acknowledge the achievements of this significant Anangu leader.

The 'Lady from Kalka' was elected as the first female chairperson of the APY Executive Board in May 2015. In this role, she quickly earned the respect and confidence of many through her leadership and generous spirit. She was a board member of Regional Anangu Services Aboriginal Corporation (RASAC) and the chair of the Kalka community council. Much of the development and process in the Kalka community can be attributed to her leadership, hard work and dedication.

Her home country was in Western Australia, where she lived, prior to living in Kalka, and also just over the border in the Northern Territory. In the 1980s she moved to Kalka with her husband and her children. In 1995 the Lady from Kalka was employed by Nganampa Health Council on the Home and Community Care program. During this time she travelled to the US, Canada and Hawaii

to learn about and inspect aged-care systems in those jurisdictions. She was also a strong advocate for Anangu women and children and encouraged all children to attend school. In her spare time she looked after local rock holes and liked to paint and do woodcarving.

She was a dignified and humble lady who was respected by all who had the pleasure of meeting her. She was also a firm leader. I saw the strength of her leadership earlier this year at the opening of the Pipalyatjara/Kalka TAFE building. One of the public servants present at that opening decided to name a couple of families as having been instrumental in delivering the new TAFE.

This led to about 10 or 15 minutes of quite heated arguing of families who were at that opening about who was most instrumental and who did what. The Lady from Kalka stood up after about 10 or 15 minutes of arguing and in language let everyone know that she did most of the work, so everyone could be quiet—and they were. This was a sign of her leadership and the respect the community had for her.

Family was also very important to the Lady from Kalka. I remember when I first met her on one of my early trips to the APY lands as Aboriginal affairs minister. I was in Umuwa and was told to go and meet a couple of the significant old women who wanted to speak to me. It took me a couple of tries to find her in the accommodation behind the Umuwa administration centre. When I first met her and a couple of other significant women it was a very tentative conversation at first but when she found out I had children and showed her some pictures, the dialogue opened up and become much more free flowing.

I visited the Lady from Kalka both in the Royal Adelaide Hospital and the Alice Springs Hospital when she was sick. The very first question she asked was about my wife and children: how were my koonga and tjitji. She was quite a remarkable women, a trailblazer who always thought of her family, her community and her people first. I pay tribute to her contributions and the legacy that she leaves.

## SOUTH AUSTRALIA POLICE

**The Hon. R.L. BROKENSHIRE (15:02):** I seek leave to make a brief explanation before asking the Minister for Police a question about so-called police service reform.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** For some time this government has been claiming that the restructuring of SAPOL is about improving services rather than about budget cuts. In fact, the minister has constantly said, if you take him at face value, that the police budget for several years has been growing at a compounding growth of 9 per cent and yet we now know that the police commissioner needs to find something like $250 million or $260 million in forward estimates in savings.

Shutting the doors on nine suburban police stations, drastically reducing opening hours at others and reducing the number of officers available to members of the public at those stations lucky enough to survive is all about, according to the government, better service to the community. However, a recent survey of 1,784 of this state's police officers show that the men and women who actually do this job for a living disagree with the government and, therefore, the minister's spin.

In fact, 90 per cent of officers who responded to the survey believe that the proposed organisational reforms are about budget cuts, not an improvement in services; 64 per cent believe that service delivery will be much worse under these reforms; 90 per cent believe proposed organisational reforms were to achieve budget cuts; 86 per cent opposed or strongly opposed a fifty-fifty gender recruitment policy; 76 per cent felt workloads had increased; and 75 per cent disagreed that management would listen to their concerns.

The officers said that there was not enough consultation about the reforms. They do not believe that management wants to listen to their concerns and they say they are increasingly overworked and understaffed. They tell me that morale is at an all-time low for experienced police officers. My questions therefore are:

1. Why has the government dismissed the concerns of the very officers who know what the job entails?

2. Is the minister concerned that our police have no confidence in these reforms?

3. Can the minister explain how shutting stations, reducing opening hours and removing the public's access to police officers at stations will improve services and boost the confidence of the community?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:04):** I thank the honourable member for his important question. He refers to a survey which I am very grateful to the Police Association of South Australia for providing me with a copy of a few days ago now. Naturally, any survey of South Australian police is something that is of interest to the police minister.

**The Hon. R.L. Brokenshire:** And to me.

**The Hon. P. MALINAUSKAS:** And, indeed, to some people like the Hon. Mr Brokenshire, a frustrated ex police minister. I took note of some of the survey results. I think, of course, it would be wrong to dismiss them, and I am not aware, as the honourable member suggests, of anyone within the government, least of all me, dismissing the survey or ignoring its results. On the contrary, it is something that I am paying attention to.

Yesterday, I can inform the chamber, I met with the President of the Police Association and the Secretary of the Police Association, Mr Mark Carroll and Mr Thomas Scheffler, and was very grateful to them for giving me their time in explaining the survey and the issues that are of particular interest to them in it. There are a few things that are noteworthy, apart from the results that the honourable member referred to, not the least of which does fall within the sphere of government influence directly, that is the enterprise bargaining agreement, which applies to all members of the Police Association, indeed all police officers throughout the state.

Under that enterprise bargaining agreement, a vote took place very recently. I am advised that over 95 per cent of all police officers in the state who voted in that enterprise bargaining negotiation voted in favour of the agreement—over 95 per cent. I take that as a ringing endorsement of the level of satisfaction that police officers have in this state towards their wages and conditions.

*The Hon. R.L. Brokenshire interjecting:*

**The Hon. P. MALINAUSKAS:** The Hon. Mr Brokenshire suggests that the survey is different from the enterprise agreement. What the enterprise bargaining agreement vote refers to is the level of satisfaction that South Australian police officers have towards the wages and conditions that the government is able to afford them. Of course, we know that the wages and conditions of police officers in this state continue to increase. We have more police officers getting paid more with an ever-increasing police budget.

The honourable member was right to refer to the fact that the police budget in this state has continued to increase. In the financial year 2015-16, I am advised, it was $845.3 million, the highest number in the history of SAPOL, a number that reflects a more than doubling of the size of the police budget over the life of this government. I think the suggestion that somehow this government has not resourced SAPOL to the extent that is appropriate is an absolute outrage.

If we compare the record of this government's resourcing of SAPOL with that of the previous government's resourcing of SAPOL, which also speaks to the Hon. Mr Brokenshire's experience, it is chalk and cheese. It is not just growth in line with inflation. It has been real growth over a sustained period of time, and it speaks to how much this government values the work of those men and women working within SAPOL. We do happen to like the idea of women working within SAPOL, mind you. It speaks to our commitment to those men and women but also to how high a value this government places on community safety.

The Hon. Mr Brokenshire has referred to the issue of police stations and their back end opening hours. I have spoken about this issue at length within this chamber. I am happy to continue to do so, but we have to remember what is the reason behind the commissioner's efforts. He has at the heart of his changes, or his reform effort, the objective of improving service delivery within SAPOL for the South Australian community writ large, and I think he is doing a good job in doing it.

We acknowledge as a government that we do not necessarily think that the best expenditure of police resources is having police officers waiting for someone to walk through the front door at 3 o'clock in the morning to register a firearm, for instance.

**The Hon. J.S.L. Dawkins:** You've said this argument before.

**The Hon. P. MALINAUSKAS:** Yes, I have, and I want to persist with the example, because I think it is an incredibly applicable one. There are some police stations that currently open 24 hours a day, seven days a week, that might not necessarily be the best use of police resources, and I am happy to back the police commissioner in making an assessment on how best to allocate his resources with the objective of ensuring that community safety continues to improve in the state of South Australia.

## SOUTH AUSTRALIA POLICE

**The Hon. R.L. BROKENSHIRE (15:10):** Supplementary: does the minister agree that the cuts the commissioner is facing are $260 million—yes or no?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:10):** The Hon. Mr Brokenshire is speaking to the police budget within South Australia. The police budget in South Australia has continued to increase year on year over the life of this government. We wait and see what will be the outcome of the budget on Thursday: it is something that I think all cabinet ministers are very much looking forward to, myself included.

Over the life of this government the police budget has continued to increase. That is a record we are incredibly proud of. We have dramatically increased the size of the police budget compared with the former government's record, which of course was greatly influenced by the Hon. Mr Brokenshire.

## COMMISSIONER OF POLICE

**The Hon. R.I. LUCAS (15:11):** I seek leave to make a brief explanation before asking the Minister for Police a question about the police commissioner.

Leave granted.

**The Hon. R.I. LUCAS:** In an article *The Advertiser* dated 21 May by Isabella Fowler, headed 'She was only having a lend', Ms Fowler says:

> Police commissioner Grant Stevens' wife approached a celebrated local designer to borrow a gown for the Queen's 90th birthday in return for a positive mention on Facebook. Emma Stevens was glowing in her praise for fashion designer, Jaimie Sortino, on her profile, posting, 'Wow, what an amazing experience this has been. A very, very big thank you to Jaimie Sortino for this amazing gown I got to have the privilege of wearing and was so proud when asked if I'd bought it and London and got to say, 'No, it's from an amazing designer from Adelaide.'

Further on it makes clear in the article:

> While Ms Stevens was asked to return the gown, Sortino requested a promotion on social media as payment.

A direct quote from Mr Sortino was:

> 'It was paid in publicity, sort of thing. I just asked her to put something on Facebook,' he said. 'I joked that she could pass my card on to Kate Middleton.'

My questions to the Minister for Police are:

1. Is it now acceptable for any police officer or their partner to borrow and use expensive items of clothing from a business in exchange for promoting that business on social media?

2. Will the minister on notice ask the commissioner to advise the house whether there have been any other examples where the commissioner or a family member had borrowed and used from a business expensive items of clothing and, if so, can the commissioner provide details to the house?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:13):** Of course I am familiar with

the police commissioner's overseas travel that was recently widely reported on. The chamber and members would be aware of the fact that we would reasonably expect police commissioners to travel overseas, as is appropriate to do so, to ensure the South Australian police force remains a world-leading police force, and with that objective at heart it is appropriate that travel take place.

The police commissioner is entitled, under his contract, to be accompanied by his wife on occasions throughout the course of that travel. That is an entitlement that has existed in former police commissioner's contracts, including contracts that were initiated under the former government. With respect to the questions regarding the borrowing of a dress, I am happy to take that on notice and provide a response where it is appropriate to do so.

## SOUTH-EAST FOREST WATER LICENSING PROGRAM

**The Hon. G.E. GAGO (15:14):** My question is to the Minister for Water and the River Murray. Will the minister inform the chamber about a recent award given to our very own South-East Forest Water Licensing Program in recognition of the state's innovative water management practices?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14):** I thank the honourable member for her most important question. Each year in celebration of the United Nations World Environment Day, 5 June, United Nations Association of Australia holds a World Environment Day awards. These awards recognise innovative and outstanding environmental programs and initiatives from across the country. They play an important role in raising awareness about key environmental issues and challenges, and they are a source of inspiration for others to take positive steps toward sustainability and environmental excellence in their homes, schools, communities and workplaces.

It was a proud moment when the Department of Environment, Water and Natural Resources, and the South-East Natural Resources Management Board were announced as the winners of the Excellence in Water Management Award for the state’s forest water licensing program.

This program which was developed in 2013 is highly innovative. It is at the forefront of policy and legislative reform with respect to the impact of commercial forests in the Lower Limestone Coast on water resources. It does this by requiring that all commercial forests be issued a forest water licence—in a similar way to irrigators—with a water allocation that offsets the impacts of the forest on the groundwater resource. This ensures that the water resource impacts of commercial forests in the Lower Limestone Coast are managed within sustainable limits.

This program is the first of its kind, as I understand it, to be introduced anywhere in the world. Water allocations and water planning are important issues for the South-East community. The Lower Limestone Coast Water Allocation Plan was developed following an extensive consultation program with stakeholders over a number of years. It was decided, following this consultation, that in order to ensure the long-term sustainability of groundwater resources, plantation water use needed to be accounted for when managing water allocations. Winning this award is a great honour in itself for our state, but such awards also generate and promote a greater awareness of our state’s capabilities in the field of water and water research. We are seeing growing interest from aboard.

Our Water For Good Plan, for example, has received considerable recognition and attention internationally as a highly innovative policy for water security. Countries including the United States, India and China are increasingly looking to South Australia to assist them to address various water related issues. As a result, many delegations have come to South Australia over the past five years to learn from our experience. It is a real honour for the state to receive this award for Excellence in Water Management.

As I said, Mr Frank Brennan, the presiding member of the South-East Natural Resources Management Board has been quoted as saying:

> The national award recognises the foresight, leadership and innovation of the Board, the Department and the many staff who provided the scientific, planning and community engagement experience to develop this program.

I join Mr Frank Brennan in congratulating all those involved in developing this groundbreaking program. I would like to, in particular, thank the South-East community and the industries whose input and support has ensured the success of this groundbreaking water program.

## SPARK RESOURCE CENTRE

**The Hon. T.A. FRANKS (15:17):** I seek leave to make a brief explanation before addressing a question to the Minister for Sustainability, Environment and Conservation, representing the Minister for Communities and Social Inclusion, on the topic of funding to the Spark Resource Centre.

Leave granted.

**The Hon. T.A. FRANKS:** Members would be well aware, and indeed the South Australian community would be well aware, of the work of the Spark Resource Centre. For over four decades it has supported the sole parent community of our state. It currently faces unprecedented challenges. It has been in receipt of only a six-month transitional contract of funding and also was recently the victim of an extensive fraud, which is currently under police investigation. I should note that no current member or volunteer at Spark is considered to have perpetrated this fraud. Indeed they are victims of having been defrauded.

Spark does amazing work. Spark supports sole parents, those who live in the greatest levels and greatest rates of poverty in our society. Indeed, the community that Spark supports is the community that many other services refer them to because they are put in the too hard basket. Indeed, in the words of a letter of support written on 8 June by Alison Meneaud, Acting Manager of the Eastern Adelaide Domestic Violence Service, the hundreds of individuals who she has personally referred to Spark had complex needs such as:

- Mental illness
- High level substance abuse issues
- Mothers who had relinquished children or who had children removed from their care
- Indigenous women suffering complex trauma associated with child abuse, incarceration, members of the stolen generation and deaths in custody
- Domestic and Family Violence and sexual abuse
- Adults and children with co-morbidity and disability diagnosis
- Women with a history of torture and trauma from their country of origin

As Alison writes in this letter:

> Many were used to being put in the 'too hard basket', judging from their stories of experiences with other organisations that had been unable to meet their need as they often didn't fit within the organisations particular framework. Consequently most struggled with the effects of 'system abuse', homelessness, violence and addiction.

These particular sole parents are facing the prospect, as of next week, that they will have nowhere to go, nowhere to seek the counselling support that they currently get, nowhere to get cheap and free op shop provisions for their children that they currently get, nowhere to get an emergency supply of formula for babies that they are unable to feed, and nowhere to continue the parenting classes that they are currently engaged in.

My question to the minister is: why has this government chosen to further victimise the victims of fraud at the Spark Resource Centre, and where will these sole parents who are currently put in the too-hard basket by all the other services go as of next week when the doors potentially have to shut?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:21):** I thank the honourable member for her most important question on the subject of the Spark Resource Centre and its funding. I undertake to take that question to the Minister for Communities and Social Inclusion in the other place and seek a response on her behalf.

## SOUTH AUSTRALIA POLICE

**The Hon. T.J. STEPHENS (15:21):** I seek leave to make a brief explanation before asking the Minister for Police a question about gender-based recruitment.

Leave granted.

**The Hon. T.J. STEPHENS:** I refer the minister to his answer to my questions on Tuesday 21 June. I thank him for his verbal commitment to female police officers and improved female application numbers. By way of a follow-up question, I ask: what improvements in flexible working arrangements has the police commissioner made since his appointment, and does the minister have any specific plans for improving flexible working arrangements in the future?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:22):** I thank the honourable member for his question. I am advised the police commissioner has spoken on more than one occasion about his commitment to improving the number of women that exist within the South Australian police force. Again, on more than one occasion, I have spoken in this place about the policy benefits of that in respect of policing more generally, and the importance of a police force reflecting the community they serve.

In respect of SAPOL policies that go beyond the fifty-fifty recruitment target itself, I am advised that the police commissioner is looking at a number of ways to be able to ensure that SAPOL is an employer of choice when it comes to attracting and retaining female police officers. If the honourable member would like some specific examples of things that are being contemplated or may have been implemented, I am happy to see if I can seek that information from SAPOL and provide it to him.

## NAIDOC WEEK

**The Hon. T.T. NGO (15:23):** My question is to the Minister for Correctional Services. Can the minister tell the house about his visit today to the Yatala Labour Prison and the celebrations taking place for NAIDOC Week?

*The Hon. T.J. Stephens interjecting:*

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:23):** Do you want to ask me about that?

**The Hon. T.J. Stephens:** I am wondering, are you are celebrating you caught one that you let go?

**The Hon. S.G. Wade:** They had to make room for the minister's visit.

*Members interjecting:*

**The Hon. P. MALINAUSKAS:** Let me start by thanking the honourable member for his important question. NAIDOC Week is an incredibly important event and is a time to celebrate Aboriginal and Torres Strait Islander history, culture and achievements. It is an opportunity to recognise the contribution that Indigenous Australians make to our country and our society, so I thank the honourable member for his interest in that.

NAIDOC stands for the National Aboriginal and Islander Day Observance Committee. Its origins can be traced to the emergence of Aboriginal groups in the 1920s which sought to increase awareness in the wider community of the status and treatment of Indigenous Australians. The Department for Correctional Services holds many significant events around the state to celebrate this week and the contribution that Indigenous Australians make to the corrections community.

Regrettably, as I have spoken about previously, Aboriginal and Torres Strait Islander people continue to be over-represented in the criminal justice system of Australia. It is an unfortunate reflection on something that all Australians, especially those within the criminal justice sector, should be cognisant of and something that we must strive to do better on. Aboriginal people represent about 2 per cent of the total population, yet more than 27 per cent of Australia's prison population. While

we continue to strive towards improving these alarming numbers, we as a government and the department as an agency cannot do it alone.

As a community, we have a responsibility, and it was fantastic to hear that the Port Adelaide Football Club and its players and community engagement officers were visiting Yatala Prison. Today, I took the opportunity to get down there and talk to players and people involved in the Port Adelaide Football Club's community engagement program and thanked them for the opportunity that they took time out of their busy schedules to visit Yatala Labour Prison today and talk to and engage directly with Aboriginal offenders to hopefully give them the encouragement, inspiration and courage that they may need to be able to commit themselves to actively engaging within programs that DCS provide which reduce the likelihood of reoffending.

I particularly really want to thank those players who took the time to attend today. Chad Wingard, Nathan Krakouer, Jake Neade, Brendon Ah Chee, Aidyn Johnson, Jarman Impey and Karl Amon took the opportunity to get to the prison today. I was there as they actively talked and engaged and spoke to many Aboriginal gentlemen there. They explained to them where they were from and the role they played within the footy club, but then they took the time to individually make themselves available to Aboriginal men who were at the prison today and talked to them. You could really see on the faces of the people they engaged with how grateful those offenders were for those players to come down and talk to them.

Whenever you witness an event or an occurrence that gives a source of hope or inspiration to those young Aboriginal men, it is only a good thing. I just want to applaud the Port Adelaide Football Club for making the effort to do that. There are a number of stories we are aware of. It was not long ago that we heard Eddie Betts' story, who plays for the other team in this state—the one I won't comment on—about his struggles with the law and overcoming adversity. It is these stories that should give hope to those currently incarcerated and provide a light at the end of the tunnel and the self-belief that they also can turn their lives around. I think Eddie Betts' story that he shared is an inspirational one.

In keeping with the football theme, today the prisoners at Mobilong will also battle it out for the Joy Wilson Memorial Shield match, a game of Aussie Rules that brings people together to celebrate NAIDOC Week. At the Cadell Training Centre, celebrations will culminate on Friday when they will hold a barbeque and open cook fire for prisoners and staff, with a band and a footy match. Joining Corrections to celebrate NAIDOC Week around the state are Aboriginal elders who work closely with the department. At Yatala, prisoners were joined by Heather Agius, Diane Sansbury and George Kenmore.

Aboriginal Elders continue to play an important role within the department, being involved in the department's spiritual programs that aim to promote healing and foster the relationship to country. Representatives from the department of the Aboriginal Services Unit, a unit established in response to recommendations that arose from the Royal Commission into Aboriginal Deaths in Custody back in 1991, provide a range of services across the department for prisoners and offenders, and will also be celebrating around the state.

At the AWP (the women's prison) yesterday, they had a flag-raising event and morning tea, and today will be celebrating an arts, health and wellbeing project exhibition. Partnerships established with community organisations will also be actively involved in the department's celebrations, including Helping Young People Achieve, Hepatitis SA, TAFE SA, Kornar Winmil Yunti Aboriginal Corporation, APOSS (a fantastic organisation), the Tauondi College and the Aboriginal Legal Rights Movement.

Amongst the many barbecues and AFL footy matches there will also be live entertainment and education stalls. I just want to congratulate the department for their active engagement in NAIDOC Week and in recognising the valuable contributions that Indigenous Australians make to our country and our society as we as a state and nation seek to reduce the number and over-representation of Aboriginal and Torres Strait Islander people in our corrections system.

## INDIGENOUS INCARCERATION

**The Hon. T.A. FRANKS (15:30):** Supplementary: will this government commit to a target for the reduction in the number of Indigenous incarcerations, which target continues to fall?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:30):** There is no specific target that currently forms part of government policy. That being said, I thank the honourable member for her question, and I am aware of her keen interest in the subject. The government and I are continuing to learn about the complexity of this area of public policy. Recently I had the opportunity to attend the Chief Justice of the Supreme Court's forum that he held, again, at the Port Adelaide footy club, to discuss this issue. It is an incredibly complex policy area that I know the honourable member has a degree of awareness of. But in direct answer to her question, there is not currently a specific target, but I do not think the lack of a target prohibits or inhibits our capacity to continue to work in this area.

## HIGHGATE PARK DISABILITY SERVICES

**The Hon. K.L. VINCENT (15:31):** I seek leave to make a brief explanation before asking questions of the minister, representing the Minister for Disabilities, regarding the future of Highgate Park.

Leave granted.

**The Hon. K.L. VINCENT:** It has come to my attention that the Minister for Disabilities attended a meeting with families of people living at Highgate Park on 4 May this year. I understand that during that meeting the minister discussed the rollout of the NDIS and the future of residents at Highgate Park; that is, the future of Highgate Park as a facility itself. My questions to the minister are:

1. What case management services will be provided to the residents and their families at Highgate Park as they transition to the NDIS in the coming years?

2. Why did the minister and the department state that adults in eastern Adelaide would not begin rolling out for some time yet, so planning was not yet necessary?

3. What certainty can be given that accommodation at Highgate Park for residents will be available, and at what point will the department decide it is no longer economically viable?

4. Is the minister saying that accommodation at Highgate Park would continue with only two residents living there?

5. Why are only 100 homes of the 'One Thousand Homes in 1000 Days' project being built to be accessible to people with disabilities, when making all 1,000 homes base-level accessible would be cost negligible?

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:33):** I thank the honourable member for the question. Naturally, I will have to refer the question to the responsible minister in the other place for a response to her specific questions. With regard to the park that she refers to, unfortunately I do not have the information at hand to be able to respond immediately, but I am more than happy to take the question on notice and make sure that we try to get a response back as expeditiously as possible.

Apart from that, I also mention, of course, that the Minister for Disabilities, I know, has a great interest in making sure that all South Australians, including those people with a disability, should be able to get access to basic services, including reasonable access to parks, but I am sure she will be able to provide an absolute—

**The Hon. K.L. Vincent:** It is not a park, it is a residential facility. It is a home called Highgate Park.

**The Hon. P. MALINAUSKAS:** I am more than happy to make sure that the honourable member gets a response back from the minister as quickly as possible.

## BUSINESS TRANSFORMATION VOUCHER PROGRAM

**The Hon. A.L. McLACHLAN (15:34):** My question is to the Minister for Manufacturing and Innovation. Can the minister advise the chamber how many applications the government has received for grants under the Business Transformation Voucher Program to date?

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:35):** I thank the honourable member for his important question and for his exceptional enthusiasm in relation to our grants programs, and for the very stylish and 'leadership-ish' sort of way that he asks such questions.

*Members interjecting:*

**The Hon. K.J. MAHER:** Yes, 'leadership-ish'; it is a good word. I can inform the honourable member that to date there have been 64 successful applications to the Business Transformation Voucher Program. Again, I thank the member for his question, and I look forward to more questions looking at various aspects of our manufacturing grants programs.

*Bills*

## DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

*Final Stages*

Consideration in committee of the House of Assembly's message.

(Continued from 7 June 2016.)

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

That the Legislative Council do not insist on its amendment.

**The Hon. T.A. FRANKS:** The Greens will oppose the motion.

**The Hon. R.L. BROKENSHIRE:** I can advise that Family First will be supporting the government.

**The Hon. J.M.A. LENSINK:** Our position has not changed. We will not be supporting the government.

**The Hon. K.L. VINCENT:** At this point I think we are inclined not to support the government, after careful consideration.

Motion negatived.

*Conference*

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:40):** I move:

That a message be sent to the House of Assembly requesting that a conference be granted to the council respecting an amendment to the bill and that the House of Assembly be informed that, in the event of a conference being agreed to, this council will be represented at such conference by five managers and that the Hon. T.A. Franks, the Hon. G.E. Gago, the Hon. J.M.A. Lensink, the Hon. A.L. McLachlan and the mover be the managers of the conference on the part of the Legislative Council.

Motion carried.

## STATUTES AMENDMENT (GENDER IDENTITY AND EQUITY) BILL

*Committee Stage*

In committee.

Clause 1.

**The Hon. I.K. HUNTER:** I indicate at the outset that my intention is to put on the record some answers to questions that were asked of me during the debate and then not to proceed any further today. However, I am in the hands of the committee; if there are further questions that people want to put to me, that is reasonable as well.

The Hon. Stephen Wade asked a number of questions, and I will go through those separately. One of the questions was regarding the Criminal Law Consolidation Act. I can advise that, when referring to a pregnant person, the South Australian Law Reform Institute recommended amending all clauses relating to pregnancy by removing binary references to gender.

The bill was amended in the other place to remove the clauses that dealt with references to pregnancy and pregnant women. Had those acts been amended as proposed, it would have been clear that all circumstances of pregnancy were covered. Removing these amendments makes the application of the current legislation to pregnant men less clear. It would be a matter for the prosecuting authority in this case and the courts to determine how the legislation is applied in those circumstances.

In response to the question regarding crown advice, I can confirm that advice was sought from the Crown Solicitor's Office regarding the statutes amendment and the fact that it did not identify concerns with the proposed amendment to the Criminal Law Consolidation Act. However, as with all such advice, the contents are bound by legal professional privilege and therefore confidential.

In response to the question regarding the term 'gender diversity', I can advise that this bill seeks to amend legislation to remove binary references to gender that are no longer contemporary or appropriate. Previously, the term 'chosen gender' was used to achieve this effect but this term is no longer considered appropriate, I am advised.

In its audit report, the South Australian Law Reform Institute cited the Equal Opportunity Commission which considered the term 'chosen gender' to be problematic, firstly, because it is not consistent with comparable state and federal legislation and, secondly, the use of the word 'choice' is problematic because gender identity is not considered by medical professionals, or indeed by transgender people, to be a choice.

The commonwealth Sex Discrimination Act uses the contemporary term 'gender identity'. Gender identity is defined in the Sex Discrimination Act as the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person whether by way of medical intervention or not, with or without regard to the person's designated sex at birth.

One of the core aims of the South Australian Law Reform Institute is to ensure that wherever possible uniformity is achieved between the laws of other states and the commonwealth. The South Australian Law Reform Institute's report therefore recommended that the term 'chosen gender' be replaced with the term 'gender identity' in accordance with the definition in the Sex Discrimination Act. This is the definition also used in this bill.

In response to questions put on the record by the Hon. Mr Lucas, I can advise that there were three key sources of references used. The Hon. Mr Lucas asked a number of questions in relation to the Statutes Amendment (Gender Identity and Equity) Bill that I will try to respond to. In response to the questions regarding definitions, there are three key sources of references that we used:

1. The South Australian strategy for the Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People 2014-16, accessible on the Department for Communities and Social Inclusion website.

2. The Australian Human Rights Commission, Resilient Individuals: Sexual Orientation, Gender Identity and Intersex Rights 2015.

3. The South Australian Law Reform Institute's Audit Report, Discrimination on the Grounds of Sexual Orientation, Gender, Gender Identity and Intersex Status 2015.

The South Australian Law Reform Institute's definitions draw on both points 1 and 2 from above, I am advised. I also asked that members and their staff were invited to attend a number of briefings on this bill, including briefings covering the various definitions where copies of the definitions were also distributed in hard copy. If any honourable member would seek to have those definitions resupplied to them, please let me know.

In response to a question of the Hon. Mr Lucas regarding intersex, I can advise that this is a term used for people born with atypical physical sex characteristics. I am also advised that there are many different intersex traits or variations. In Australia there is a small number of people who have undertaken a process to be legally recognised as neither male nor female. Unfortunately, there are still many in our community who identify similarly but for various reasons, including legal difficulties

or inconsistency across jurisdictions, are not able to be legally recognised as such, and this state is no exception in that case.

In 2012, the Department for Communities and Social Inclusion conducted the South Australian Rainbow Survey as part of developing the government's LGBTIQ inclusion strategy. At that time I am advised that two survey participants identified as being intersex. Last year, the Department for Communities and Social Inclusion undertook a further survey, and while the results are not yet published I am advised that three survey participants identified as being intersex.

The South Australian Law Reform Institute and the Legislative Review Committee of this parliament released reports earlier this year concerning the Sexual Reassignment Act and the legal recognition of gender diverse people. These reports recommended legal reform to allow for the legal recognition of people who identify, amongst other things, as intersex. The government looks forward to introducing legislation to bring effect to these recommendations in the near future. In any event, the intent of this bill is to ensure that all South Australians are encompassed, irrespective of their gender identities.

In response to the question asked by the Hon. Mr Lucas regarding the effect of gender diversity and intersex status on sporting clubs, toilets and correctional facilities, I can advise that these amendments do not place an additional burden on clubs, associations and public authorities to introduce alternative facilities such as intersex toilets or change rooms. Individual associations and organisations will deal with this issue by implementing policy that is suitable for their respective organisation.

This bill simply seeks to ensure that the language we adopt in our laws does not discriminate against people on the grounds of their sexual orientation, gender, gender identity or intersex status. With that, I am in the hands of the chamber and the committee. The proposal is that we move that the report be adopted and come back at a later stage to finalise consideration of this legislation.

**The Hon. S.G. WADE:** I welcome the minister's answers and his undertaking to allow the house time to consider them. Could I, by way of clarification—and this may need to go on notice—just clarify the minister's answer in relation to one of my questions. The question was: does the government have formal legal advice on this issue? I understand that the minister's response was that there was crown law advice and it did not raise concerns with the amendments.

I presume the minister in providing that answer is saying that crown law did not have any concerns about the government's amendments, not the deletion of those amendments from the bill, and to be frank, my concern was more about the impact of deleting those provisions from the bill. Whether now or on a subsequent occasion, I would be interested to know whether the government has had advice on the impact of deleting those clauses of the bill.

**The Hon. I.K. HUNTER:** The advice I have just received is that the crown advice related to the amendment bill, not to the subsequent activity in the lower house.

**The Hon. S.G. WADE:** I am not sure if this is an appropriate question to the minister. Perhaps it is something that I might be advised by the Chair but consult with the Clerk about subsequently. If this house was inclined to have this bill address the provisions of the Criminal Law Consolidation Act, considering that the bill that arrived from the House of Assembly does not open up that bill, is it possible for us to consider amendments in relation to that act in the context of this bill?

I thank the Chair for giving me the opportunity to consult the table. My understanding is that considering this bill arrived without any reference to the CLCA and because of the stage of the bill we have now reached, it will not be possible to reopen the CLCA in the context of this bill.

**The Hon. T.A. FRANKS:** I simply wish to reiterate the Greens' support for this bill and note that while I had foreshadowed an amendment, I will not be moving that amendment because we have now progressed with that piece of legislation recognising lesbian coparents.

Progress reported; committee to sit again.

## MENTAL HEALTH (REVIEW) AMENDMENT BILL

*Committee Stage*

In committee.

Clause 1.

**The Hon. S.G. WADE:** If I could, I would just like to indicate that the opposition appreciates the responses we received from the government in relation to the queries of the Aboriginal Health Council. We have had the opportunity to consult the council, and they appreciated the advice. The opposition will not be proposing any amendments as a result.

Clause passed.

Clauses 2 to 20 passed.

Clause 21.

**The Hon. P. MALINAUSKAS:** I move:

Amendment No 1 [Police–1]—

Page 13, lines 2 to 4 [clause 21(5), inserted subsection (7)]—

Delete 'A psychiatrist or authorised medical practitioner who has examined a patient to whom a level 2 inpatient treatment order applies may, once only, extend the order' and substitute:

A level 2 inpatient treatment order may, once only, be extended by a psychiatrist or authorised medical practitioner (other than the psychiatrist or authorised medical practitioner who made the order) who has examined the patient to whom the order applies

**The Hon. S.G. WADE:** It would be useful for the committee to have an explanation as to why the amendment is necessary.

**The CHAIR:** You should have said, 'We support the amendment with explanation.' Minister, would you like to give an explanation for the amendment?

**The Hon. P. MALINAUSKAS:** The remarks I have available to me at this point—I am happy to get more if the honourable member would like it—are that a number of amendments to section 25 are consequential. The clause includes an amendment that corresponds to the earlier amendments relating to the making of treatment orders and the impaired decision-making capacity of a person with mental illness. The clause amends section 25 to enable a psychiatrist or authorised medical practitioner to extend a level 2 inpatient treatment order for a further maximum period of 42 days. Does that suffice?

**The Hon. S.G. WADE:** Considering this bill has been well consulted and well received, I do not intend to push the issue, but I indicate that my expectation as a member of this council is that, if the government feels it necessary to amend its own bill, it might do us the courtesy of telling us why.

**The Hon. P. MALINAUSKAS:** My understanding is that the principle objective of the amendment is to provide the patient with additional rights by ensuring that they get access to a second psychiatrist rather than just the initial one.

**The Hon. S.G. WADE:** I thank the minister for his advice.

Amendment carried; clause passed.

Clauses 22 to 24 passed.

Clause 25.

**The Hon. P. MALINAUSKAS:** I move:

Amendment No 2 [Police–1]—

Page 13, after line 34—Insert:

(3) Section 29(3)—after 'to whom a' insert 'level 1,'

I understand that this clause makes amendments to section 29 of the principal act that correspond to earlier amendments. It is a consequential amendment.

Amendment carried; clause passed.

Clauses 26 to 67 passed.

New clauses 67A and 67B.

**The Hon. P. MALINAUSKAS:** I move:

Amendment No 3 [Police–1]—

Page 34, after line 34—Insert:

67A—Amendment of section 79—Reviews of treatment orders and other matters

(1) Section 79(1)(a)—delete paragraph (a)

(2) Section 79(1)—after paragraph (c) insert:

(ca) a review of the circumstances involved in the making of an order to extend a level 2 inpatient treatment order (which review must be conducted as soon as practicable after the making of the order to extend a level 2 inpatient treatment order);

67B—Amendment of section 81—Reviews of orders (other than Tribunal orders)

(1) Section 81(1)—after 'review of the order by the Tribunal' insert:

under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*

(2) Section 81(1a)—delete subsection (1a)

(3) Section 81(2a)—delete 'not be constituted by a medical practitioner sitting alone' and substitute 'be constituted of at least 1 medical practitioner and 1 legal practitioner'

(4) Section 81(4) and (5)—delete subsections (4) and (5)

These new clauses amend section 79 to remove the requirement of the South Australian Civil and Administrative Tribunal to automatically review all level 1 community treatment orders and adds the requirement for the tribunal to automatically review all level 2 inpatient treatment order extensions. I understand that this is also a consequential amendment.

In regard to new clause 67B, this amends section 81 to clarify and streamline the protocols for the review of community treatment orders and inpatient treatment orders by the South Australian Civil and Administrative Tribunal.

**The Hon. S.G. WADE:** I wonder what 'streamline' means in that context.

**The Hon. P. MALINAUSKAS:** Can you repeat that?

**The Hon. S.G. WADE:** I ask the minister to clarify what he meant by 'streamlining' in that context—'streamline the consideration by the tribunal'. What is the effect of the clause in terms of 'streamline'?

**The Hon. P. MALINAUSKAS:** I understand that 'streamlining' refers to streamlining in respect of speeding up of procedure; it is a procedural issue. The changes to section 81 ensure that reviews of community treatment orders and inpatient treatment orders made by health professionals are held within the more appropriate review jurisdiction of the South Australian Civil and Administrative Tribunal. As such, review tribunals must consist of at least one medical practitioner and one legal practitioner. In addition, the changes remove provisions from the Mental Health Act 2009 that duplicate the review provisions from division 3 of the South Australian Civil and Administrative Tribunal Act 2013.

**The Hon. S.G. WADE:** Considering this bill had been under consideration for so long, why did the government think it was important to add a legal practitioner in that review role?

**The Hon. P. MALINAUSKAS:** I have been advised that SACAT has a number of legal practitioners who operate within it, obviously, and they made a request that this take place. This accommodates that request.

**The Hon. S.G. WADE:** So SACAT requested the insertion of a legal practitioner?

**The Hon. P. MALINAUSKAS:** Yes.

**The Hon. S.G. WADE:** Could we clarify why we are deleting subsections (4) and (5)? The tribunal has to do something, and it seems to me that:

> (4) On hearing a review of an order, the Tribunal must revoke the order, with immediate effect, if the Tribunal is not satisfied that there are proper grounds for it to remain in operation—

is actually almost a statement of principle. We assume that the least restrictive means are used, and if it is not required then it should not be there. I am a bit concerned to see subsections (4) and (5) deleted at such a late stage.

**The Hon. P. MALINAUSKAS:** I understand that this was the advice that was received from parliamentary counsel about how best to go about drafting the provision.

New clauses inserted.

Remaining clauses (68 to 82), schedule and title passed.

*Third Reading*

**The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:09):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

## CONSTITUTION (APPROPRIATION AND SUPPLY) AMENDMENT BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 21 June 2016.)

**The Hon. S.G. WADE (16:09):** I rise to oppose the Constitution (Appropriation and Supply) Amendment Bill. I advise members that I will not be brief. I want to take this opportunity to put my support for bicameralism and the role of the Legislative Council on the record. I would hope that members of the other place who seek to devalue this place may get the message from this speech that I do not regard this council as some fading colonial relic trying to defend itself.

For my part, I believe that the Legislative Council over the past 40 years has shown itself to be the most dynamic reformist chamber of this parliament, and I look forward to the years ahead being the best years of the council's history. To quote the Prime Minister, there is no more exciting time to be a member of the Legislative Council. This bill is rooted in the Labor Party's disdain for upper houses. It was Labor that abolished the upper house in Queensland. It was Labor who described the Senate as 'unrepresentative swill'. It was Labor who proposed a referendum to abolish this chamber less than 10 years ago.

In the context of a persistent campaign which is often accompanied by the denigration of this chamber and its members, I think it is important to go back to first principles to assert the contemporary importance of bicameralism, the practice of legislative bodies having two chambers. Let me share a few quotes putting the classical arguments for bicameralism. Charles Louis de Secondat, Montesquieu, wrote in *The Spirit of Laws*, 'The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting.'

The American Founding Fathers were heavily influenced by Montesquieu and also used their support for two houses in legislative assemblies to assuage concerns that any new federal government would become tyrannical. James Madison wrote in *The Federalist No. 62*:

> It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents, and prove unfaithful to their important trust. In this point of view, a senate, as a second branch of the legislative assembly, distinct from, and dividing the power with, a first, must be in all cases a salutary check on the government. It doubles the security to the people, by requiring

the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient.

An American Founding Father, John Adams, the first vice president and the second president of the United States, argued for bicameralism in a pamphlet written during the American War of Independence, entitled Thoughts on Government. In it, he said:

> A representation of the people in one assembly being obtained, a question arises, whether all the powers of government, legislative, executive, and judicial, shall be left in this body? I think a people cannot be long free, nor ever happy, whose government is in one assembly. My reasons for this opinion are as follow:—
>
> 1. A single assembly is liable to all the vices, follies and frailties of an individual; subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice, and consequently productive of hasty results and absurd judgments. And all these errors ought to be corrected and defects supplied by some controlling power.
>
> 2. A single assembly is apt to be avaricious, and in time will not scruple to exempt itself from burdens, which it will lay, without compunction, on its constituents.
>
> 3. A single assembly is apt to grow ambitious, and after a time will not hesitate to vote itself perpetual. This was one fault of the Long Parliament, but more remarkably of Holland, whose Assembly first voted themselves from annual to septennial, then for life, and after a course of years, that all vacancies happening by death or otherwise, should be filled by themselves, without any application to constituents at all.

From the other side of the Atlantic, the Englishmen, one of my favourite political philosophers, John Stuart Mill, wrote in his treatise on representative government the following:

> The consideration which tells most, in my judgment, in favour of two Chambers (and this I do regard as of some moment) is the evil effect [brought] upon the mind of any holder of power, whether an individual or an assembly, by the consciousness of having only themselves to consult. It is important that no set of persons should, in great affairs, be able, even temporarily, to make their sic volo prevail without asking any one else for...consent. A majority in a single assembly, when it has assumed a permanent character—when composed of the same persons habitually acting together, and always assured of victory in their own House—easily becomes despotic and overweening, if released from the necessity of considering whether its acts will be concurred in by another constituted authority. The same reason which induced the Romans to have two consuls makes it desirable there should be two Chambers: that neither of them may be exposed to the corrupting influence of undivided power, even for the space of a single year.

Walter Bagehot, in his classic, *The English Constitution*, in relation to the House of Lords, wrote:

> A formidable sinister interest may always obtain the complete command of a dominant assembly by some chance and for a moment, and it is therefore of great use to have a second chamber of an opposite sort, differently composed, in which that interest in all likelihood will not rule.
>
> The most dangerous of all sinister interests is that of the executive Government, because it is the most powerful. It is perfectly possible—it has happened, and will happen again that the Cabinet, being very powerful in the Commons, may inflict minor measures on the nation which the nation did not like, but which it did not understand enough to forbid. If, therefore, a tribunal of revision can be found in which the executive, though powerful, is less powerful, the government will be the better; the retarding chamber will impede minor instances of parliamentary tyranny, though it will not prevent or much impede revolution.

Let me summarise what I see as the classic arguments for bicameralism that are woven through those very different justifications of it.

Firstly, two chambers control the exercise of power in that each time power is exercised by one chamber the exercise of that power is tempered by the knowledge that it may be challenged by the other. Secondly, two chambers protect the community from a single chamber acting in its own interest in terms of power, privileges or tenure. Thirdly, two chambers act as an opportunity to take time to review decisions in the nature of a quality check. Fourth, two chambers provide insurance about the corruption of either chamber—not only corruption in the sense of personal interest prevailing over public interest but also corruption in the sense of distortion of effective representation. In particular, a chamber reconstituted over two terms allows us to moderate the impact that a short-term factor may have on the election of one chamber.

Also, the most threatening form of distortion, in my view, is cabinet government. The House of Assembly anoints the government, but having done so, its members form themselves into a secretive committee called cabinet. A mere half-dozen in cabinet can use cabinet solidarity to assert its will, first, on the party room, and then on the House of Assembly chamber. In this way, it is not uncommon for a mere half-dozen members of the House of Assembly to determine the view of the chamber. This chamber, the Legislative Council, on the other hand, cannot be so easily controlled.

Having looked briefly at the political principles supporting bicameralism, I now want to turn to the history of how this parliament, the Parliament of South Australia, became a bicameral legislature. There are some from the left who want to portray us as some colonial relic, which of course tried to duplicate the British parliament in some determined way. But, in fact, it was not inevitable that the Parliament of South Australia would be bicameral.

Certainly, our founding fathers would have been influenced by the stream of political thought that I have already referred to, but our bicameral parliament was not a given. In fact, in 1855, 14 years after the first self-government election, the old Parliament House was built, and it was built for a unicameral parliament. It stands as a monument to the struggle for a bicameral parliament in the 1850s.

Before responsible government, all legislative chambers in Australia were unicameral. In 1850 the Australian Colonies Government Act was passed. Section 7 gave authority for a legislative council to be constituted in Van Diemen's Land and South Australia with up to 24 members, with one-third appointed members. Section 32 specifically foreshadowed a shift to bicameralism by empowering the governor and the Legislative Council of each colony to establish, instead of a legislative council, a council and a house of representatives or other separate legislative houses consisting of persons to be appointed or elected. Any such bill had to be reserved for royal assent.

A report of the Legislative Council in 1852 supported a bicameral legislature with an elected upper house. Significantly, in 1853 then governor Henry Fox Young and conservative elements in the Legislative Council pursued vigorously a single house of parliament. After much rancour, the Legislative Council sent a parliament bill to the Colonial Office which proposed a nominated upper house; not a hereditary upper house like the House Of Lords, but it was proposed to be nominated, not elective. There was immediate and strong reaction by the colonists; there was a 5,000-person petition, and the bill lay for royal assent for an extended period. A British election ensued, and the Colonial Office disallowed the bill in 1855.

Having got rid of one English governor with a commitment to unicameralism, London sent us another one. The newly arrived governor, Richard Graves MacDonnell, was committed to unicameralism. He called an early election to try to get endorsement for his plan for a single house of parliament with 52 members, including four nominees and 12 elected from a special, highly qualified constituency. There was a very strong Liberal response to those proposals and, at the election that MacDonnell had called on, there was very clear and strong support from the colonists for two chambers, no nominees, responsible government, a liberal franchise, and election by ballot.

I make the point that the colonists in South Australia had to fight two representatives of the Crown in the 1850s to assert bicameralism and, far from merely replicating the London model, the elements I have just espoused were significantly contrary to the London model. There were no nominees in the Legislative Council, the upper house, proposed coming out of that election, in contrast to an hereditary House of Lords, there was no liberal franchise in the United Kingdom, we had some years to go before the Reform Act and, of course, election by ballot was many years away.

After the election, the bill to establish a parliament was passed on 2 January 1856, and elections held on 9 March 1857. The province had insisted on bicameralism with both houses fully elected from day one. A bicameral parliament appealed to the colonists in terms of being both a liberal check on power and a conservative protection of property interests.

There are not insignificant interests today which argue that, in spite of political theory, it is not now in South Australia's interests to have an upper house. Let me reflect on a couple of assertions that have been made in more recent times. First, it is argued that the Legislative Council impedes sound government. I think one of the reasons why groups such as Business SA want a unicameral legislature is that they find it simpler and easier to deal with the government and do not appreciate the tempering influence that the Legislative Council can provide; it is an inconvenient administrative expense.

Some argue against a second chamber of parliament on the ground of avoiding duplication. They seem to reflect the views of the French political philosopher Emmanuel Joseph Sieyes, who said: 'If a second chamber dissents from the first, it is mischievous; if it agrees it is superfluous'. In his paper 'A Defence of the South Australian Legislative Council', presented to the 2007 APSA

conference, Jordan Bastoni of Adelaide University said that the Rann government's pursuit of the abolition of the Legislative Council was founded on its conceptualisation of the relationship between the government, the parliament and the people.

He observed that the comments of Rann and his ministers show them all to be adhering to a view of the democratic process which he described as the extreme prescriptive view of mandate theory. He quoted Stanley Bach on the operation of the theory as follows:

> Here is the mandate theory in full bloom. What need is there for any deliberative legislative process at all? The election determines a winner, so the winner—the government—has the right and responsibility, and should have the power, to do anything and everything that it said it would do. The government allows the Opposition to criticize its proposals, but the government would be violating its commitment to the public if it allowed itself to be swayed by the merits of the Opposition's arguments.

The Liberal Party does not support the extreme prescriptive view of mandate theory. We accept, of course, that governments have a mandate to govern, and they have a right to pursue their mandate within the dynamics of a parliament where other mandates exist. We have one parliament, two houses, two ballots and, to be frank, numerous mandates. Each house expresses different aspects of the democratic will of the South Australian community. Each house carries its own mandate, both of which should be respected.

The executive chosen by the House of Assembly has a mandate to govern, and the Legislative Council has a particular mandate to represent broader community interests. The House of Assembly ballot, with a single ballot and single member electorates, provides South Australians with a fairly simple binary mandate well suited to a house of government. Using single member electorates means that local geographic interests are given higher priority in the formation of government.

To be frank, the House of Assembly has not been very effective in expressing the will of the people in the formation of government. For three of the last four elections, the assembly has managed to deliver government to a party with less than 50 per cent of the vote. Labor currently has control of the lower house with a mere 35.8 per cent of the primary vote. The Legislative Council, on the other hand, has a statewide mandate and its members are elected on a proportional representation basis.

The statewide ballot allows for a range of other filters to be brought to the parliament and, arguably, a range of mandates. I would argue that the Legislative Council is inherently more democratic than the House of Assembly. First, there are fewer wasted votes in the Legislative Council elections compared to the House of Assembly elections. Single member elections produce a large number of votes that are wasted, that is, votes that do not serve an elected member of the parliament even though they are formal and even after preferences are fully distributed.

An analysis of the Electoral Reform Society found that the 2014 state election was one of the worst elections since 1975 in terms of the number of wasted votes and in terms of the distortion of the representation of political parties. The analysis found that the votes of 45.2% of South Australian electors did not contribute to electing a member in the House of Assembly. A large 460,000 electors found that, even though their votes were formal and even though their preferences were distributed, their votes were wasted.

On the other hand, as the Legislative Council is elected by proportional representation, very few votes are wasted. In fact, the maximum number that could be wasted at a Legislative Council election is the highest possible number of votes a candidate could receive without being elected, which I understand is 8.32 per cent. At the 2014 election, that was 84,000 electors. If you like, the House of Assembly waste was five times the number of votes that could be wasted in the Legislative Council.

Also, as I continue reflecting on why the Legislative Council is more democratic than the House of Assembly, I note that the Legislative Council is elected using an electorate of the state as a whole, which avoids any prospect of distortion by boundaries. Proportional representation also allows mandates that are non-geographic to express themselves. The interests and views of the broader community are not binary and they are not fundamentally determined by geography.

For example, a person may have a strong conviction that Christian moral principles should be reflected in the laws of this state. They may want to express that view by voting for Family First. Support for this approach is too dispersed to get a person elected in a single member district but when pooled across the state they can contribute to a quota for representation in this chamber. I note that Family First has had a member in this chamber for the past 14 years.

It is my view that the parliament would be a poorer reflection of the interests of the broader South Australia community if it only had one house and one mandate. The engagement of Independents and minor parties also gives tangible expression to the important democratic principle that majority rule should be tempered with respect for minorities. In his essay *On Liberty* John Stuart Mill warns of the tyranny of the majority; that is, in a representative democracy if you can control the majority then you can control everyone. I quote:

> The will of the people, moreover, practically means that the will of the most numerous or the most active part of the people; the majority, or those who succeed in making themselves accepted as the majority; the people, consequently, may desire to oppress a part of their number; and precautions are as much needed against this as against any other abuse of power. The limitation, therefore, of the power of government over individuals loses none of its importance when the holders of power are regularly accountable to the community, that is, to the strongest party therein…in political speculations 'the tyranny of the majority' is now generally included among the evils against which society requires to be on its guard.

The fact that an action is supported by the majority is not sufficient. We should also ask: does it fairly balance the interests and impacts on the minority? The Hon. Trevor Griffin, a former leader of the Legislative Council Liberal team, when referring to the possibility of watering down the powers of the Legislative Council said:

> It would change the balance of power and would tip the power in favour of the government with fewer protections for the wider community for the potential abuses by a ruling majority in the House of Assembly. It would make the government even less accountable, subject to scrutiny and less accountable.

In my view, this council has a very noble vocation to be a bulwark against the tyranny of the majority. The Australian Labor Party has had a long commitment to abolishing or severely weakening the Legislative Council or other upper houses. Historically, I can understand Labor's animosity. In colonial times, upper houses were put in place as bastions of privilege and property as the universal franchise was introduced. I suspect that George Strickland Kingston, the great advocate for bicameralism in this state, may not have been able to have universal male suffrage adopted in the lower house without supporting an upper house.

As the Labor Party formed, some 40 years later upper houses were seen as an undemocratic conservative handbrake on the democratic will and a constraint on the power of a party formed to be the political wing of the industrial movement. Labor has succeeded in abolishing one upper house, that of Queensland in 1922, and the lack of an upper house there has been seen as a significant factor leading to a higher level of corruption in that state.

However, in my view, Labor is living in the past. It has not adjusted to the realities of the democratisation of the Legislative Council in the mid-1970s. Now in South Australia in particular the upper house is very democratic, with universal suffrage and a statewide electorate elected by proportional representation. I would argue that this house is a more pure expression of the democratic will of the people of South Australia than the lower house. I acknowledge that we are yet to deal with the issue of preference harvesting but I am confident that we will do so.

Let's remember that the House of Assembly has managed, as I mentioned before, to elect a government for three of the last four parliamentary terms that did not have the support of the majority of electors and, in my view, that is a scandal. If we cannot fix the House of Assembly electoral processes perhaps an alternative might be to make the Legislative Council the house of government.

Labor's disdain for the Legislative Council flies in the face of its own penchant for participatory democracy. The 2003 Constitutional Convention specifically recommended that the Legislative Council be maintained, yet in 2006, under the then premier, Mike Rann, the Labor Party made yet another attempt to abolish this council. He described the Legislative Council as dysfunctional and accused us of holding up legislation, but the facts simply do not support that claim.

When he made it, at the end of the first term of the Rann government, only two bills had been negatived or laid aside by this chamber. I refer members to the remarks of the Hon. Rob Lucas, who has already reminded the council that of the 1,743 government bills considered by the Legislative Council over the last 20 years, only 19 have been negatived or laid aside in the Legislative Council. That is approximately 1.1 per cent of bills. The Rann push failed to gain any public support, and the bills were defeated without controversy.

The government will believe that this is not a bill to abolish the Legislative Council. They will say that it is only a bill to curtail its power. For my part, I would rather go to the gallows and abolish the council than suffer the death by 1,000 cuts promised by bills such as these. Labor has failed in its attempts to abolish the Legislative Council; now they seek to neuter it step by step.

First, let me highlight how Labor tries to undermine this council by preselection. As the shadow minister for ageing, I do not want to downplay the need for retirement homes for trade union leaders, but let me just say that the Labor Party does not send its best and brightest to the Legislative Council. At one stage during the last parliament, the Labor caucus could only find one member of the Legislative Council team worthy to serve as a minister. In contrast, the Liberal team has consistently included four shadow ministers and two parliamentary secretaries in this place.

Secondly, Labor constantly disrespects and undermines this council by trying to rush through legislation in defiance of the role of this council agreed by process and convention. Repeatedly, the government has misused the conventions relating to budget bills to try to reduce the scrutiny on measures that are not in fact budget bills. I recall in particular the repeated attempts to have the awarding of costs against police in court prosecutions. Legislative Council initiated private members' bills are often left to languish on the House of Assembly *Notice Paper* awaiting consideration.

This council has done a good job in defending itself and will continue to do so, but lastly Labor is trying to close us down by winding back our powers. The houses of parliament of South Australia are coequal in their legislative power and roles. The key difference is that the House of Assembly determines the government. By convention, the Crown uses votes of confidence in the House of Assembly as determinative of whether the executive has the confidence of the parliament. In my view, the Legislative Council has generally respected the government's right to govern. Our standing orders give priority to government legislation and authority to ministers of the Crown in the proceedings of this place that are not available to other members.

In relation to matters which are central to the government's mandate, the Legislative Council should and does allow the government to pursue its legislative agenda, but the Legislative Council always reserves the right to amend or block legislation. I can think of no case of a major issue of the government's mandate not receiving the support of the Legislative Council. Passage may need to be negotiated, but the executive has been allowed to get on with the job of governing. Both the Roxby Downs bill and the ETSA bill relied on Labor members crossing the floor to achieve passage.

Government ministers get irritated by delays in legislation, but true masterpieces show their virtue under scrutiny, and so often delays in parliament relate to a failure to properly consult with the community and stakeholders before the legislation is brought into parliament. The recent planning legislation, in my view, is a classic example of where Legislative Council consideration was significantly delayed by a failure to properly consult. The government's failure to accept the right of the Legislative Council to amend bills means that a number of pieces of legislation have not been progressed when a modicum of effort could have negotiated a compromise.

One of the bills before us seeks to provide a double dissolution as an alternative to the deadlock processes of this parliament. My personal view is that the deadlocked conference is not an idea that has been tried and has failed; it is an idea that has not been tried in recent years. The Clerk of the House of Assembly, Mr Rick Crump, suggests the following:

> The private, flexible and informal procedures of the conference provide an ideal consensual forum where true negotiation and compromise can be employed by representative groups of both houses to effect agreement where the exchange of messages has failed.

I have gone to a number of deadlocked conferences, and repeatedly in my view government representatives apparently have not come to the table with an intention to seek a consensus.

It is bizarre that the government should suggest that we go to the expense of an election to resolve a conflict when a deadlocked conference is a far cheaper way to resolve. The fundamental problem goes back to Labor's primary diagnosis, the extreme proscriptive view of mandate theory. They have an inflated view of their political superiority that they would not demean themselves to countenance any changes to their masterpieces. It is a pervasive arrogance completely at odds with the mutual respective roles inherent in bicameralism. Bicameralism is predicated on the fact that someone else might have views worth listening to, that the best outcome for the people of the state may be to agree to modify your position. To again favourably quote J.S. Mill, in his chapter on a second chamber in On Representative Democracy, he said:

> One of the most indispensable requisites in the practical conduct of politics, especially in the management of free institutions, is conciliation: a readiness to compromise; a willingness to concede something to opponents, and to shape good measures so as to be as little offensive as possible to persons of opposite views; and of this salutary habit, the mutual give and take (as it has been called) between two Houses is a perpetual school; useful as such even now, and its utility would be even more felt in a more democratic constitution of the Legislature.

In my view Labor needs to learn the art of compromise.

We have also been accused of delay: the facts do not support that claim. Filibusters are rare. The Hon. Rob Lucas suggests that there has only been one unnecessary filibuster in his view in recent times, and he suggested that that was the debate in relation to the workers compensation legislation. With all due respect to the other place, I suspect analysis would suggest that the House of Assembly wastes more of its time with filibusters, where the opposition is trying to fight back against programming decisions of the government.

There are many examples, as I have already mentioned, of the Legislative Council doing the heavy lifting of giving proper scrutiny to legislation, and often that does take time. Governments are inherently more diligent in the preparation and consultation on draft legislation for the fact that they know they will need to try to get the laws through the Legislative Council. Governments and bureaucracies, in my view, will continue to try harder to iron out issues in the community consultation if they know that, if they do not, they will be forced to do so in the Legislative Council. The committee stage in the House of Assembly, if it happens at all is, shall we say, light.

So, let us come to the nub of this bill. One can accept bicameralism, one can accept value out of the Legislative Council, but still be attracted to the government's proposal to trim the powers in relation to money bills. In my view, this council has and should have full parliamentary authority, even to the point of blocking supply. I say that as a person who hopes to be a member of the executive one day, hopefully soon. Of course, there will be times when the priorities of government will clash with the views of this council, but I hope we waste no time as a government by coming to the conversation of not even accepting the legitimacy of the Legislative Council voice.

These bills show that the government does not accept that the two houses are coequal. On the classic principles of bicameralism, equality of the chambers is logically the starting point. Constitutionally the Legislative Council and the House of Assembly are equal. This was, and remains, a foundation stone of this parliament and I believe is important for its ongoing effectiveness. The only exception is, and should be, the determination of government and the responsibility of government to manage the funding of government, that is to originate and directly amend money bills.

This issue is not new, in fact, it was recognised at the very birth of this parliament. In the same 1855 session of what was then the unicameral Legislative Council, when George Strickland Kingston delivered a bicameral parliament for South Australia, he did insist that money bills only originate in the lower house. Even in the unicameral parliament drafting the constitution this proposal was so bitterly resisted that so many of Kingston’s own supporters crossed the floor that the proposal only passed by one vote.

The Constitution Act 1855-1856 placed limitations on the power of the Legislative Council to initiate financial measures, but there were no restrictions on the council’s power to amend them. As soon as the new parliament was established in 1857, conflict between the houses over their respective powers emerged. In the book *Responsible government in South Australia from the foundations to Playford*, Gordon D. Combe puts it this way:

In the first session of the first parliament a violent dispute arose between the two houses on this issue and shook the infant parliament to its foundations.

In less than the completion of the first year of that first parliament, on 21 August 1857, John Baker, interestingly a member of the Legislative Council not the House of Assembly, became the second premier of the province.

John Baker told the Legislative Council, the first time that he went into that chamber as premier, that the sole policy of his ministry would be to settle the differences which had arisen between the two houses as to their respective powers in relation to money bills. I think it is noteworthy that Baker only remained the premier for 11 days, but he did go on to play an active role in prolonged discussions between the houses and a joint conference of representatives which nutted out a compromise.

The houses evolved a modus vivendi known thereafter as the Compact of 1857. The Compact comprised of three resolutions passed by this council, which the assembly agreed to adopt for the present. If I can summarise, rather than quote, the Compact, my understanding of the Compact is that it had the following key elements: firstly, the Legislative Council claims the full right to deal with the monetary affairs of the province. However, the Legislative Council considers it desirable not to enforce this right in relation to the ordinary annual expenses of government.

If the Legislative Council objects to any clause of an appropriation bill, the council shall demand a conference with the House of Assembly to state the objections of this council and receive information. Beyond ordinary annual expenses, the council resolved that the council could suggest any alteration in a money bill. If any suggested amendment is not agreed to by the House of Assembly, the bill shall either be assented to or rejected by this council as originally passed by the House of Assembly. If I have bastardised the Compact in summary, I apologise to the Clerk.

The council effectively was resolving to constrain itself from exercising its power to the full. Blackmore did suggest that the Compact was to a certain extent a surrender of the Legislative Council position, but as Blackmore put it, the difference between an amendment and a suggested amendment was not very great in effect and the council retained most of the substance of the function which it had claimed. The Compact of 1857, though at all times dependent for existence on the will of either house, succeeded in keeping the peace for 56 years. Each chamber continued to hold its original view, and from time to time the issue flared.

An article by Professor David Clark entitled The South Australian compact of 1857: the rise, fall and influence of a constitutional compromise, explains the history in the following terms:

During its 57 year life the compact was testament to the parliamentary virtues of moderation, creativity and compromise, and the overwhelming recognition in both houses that public business had to be forwarded for the sake of the province and its people.

The peace was broken in late 1911 during the first term of the first Labor government. The Legislative Council refused to pass the Appropriation Bill, which included the appropriation of sums to set up a brickworks and the purchase of timber and firewood for resale. The Legislative Council emphatically objected to the tacking of these new proposals on the Appropriation Bill. The House of Assembly refused to accept the view of the council and a conference between the managers from the two houses proved futile.

The laying aside of the Appropriation Bill was the climax of a crisis that had been brewing all through the session. On 23 December 1911, the Verran Labor government secretly transmitted a cablegram to the secretary of state for the colonies seeking Imperial legislation to curtail the powers of this council. The plea was fruitless. Just three days later, the day after Christmas—never let it be said that London bureaucrats will not work through Christmas—the secretary of state for the colonies declined the request, saying that the:

…interference of Imperial Parliament in internal affairs of a self-governing State would not be justified under any circumstances until every constitutional remedy has been exhausted and then only in response to a request of the overwhelming majority of the people, and if necessary to enable Government of country to be carried on.

The Verran Labor government immediately decided to go to the polls. This was the first election contested by the newly formed Liberal and Democratic Union. Reportedly, it was said to be the fiercest political battle ever fought in South Australia. At the general election of 10 February 1912,

the Verran government was soundly defeated. Sixteen Labor government supporters were returned to assembly, as against 24 Liberal candidates.

The first Labor government ever formed in South Australia was effectively replaced by the first distinctively and definitely Liberal ministry, the Hon. A.H. Peake forming his second administration. Now, 104 years later, one thing has not changed, and that is that Liberal and Labor are still divided on the value of having a full-blooded Legislative Council. The incoming Peake administration introduced amendments to the constitution act, by which the principles enunciated in the Compact of 1857 and the general practice that had been built up over 60 years were given statutory force.

The terms used were defined more precisely, drawing on the language used and the imperial Parliament Act 1911, the commonwealth of Australia act and the South African act. It was further provided that appropriation would be provided for by two separate bills whenever the government desired to authorise expenditure of revenue on any purpose not previously authorised by parliament. The provision relating to money bills was enacted in 1913 has basically remained intact until this day. There are no recent examples of appropriation bills or supply bills being defeated.

Throughout its history, the Liberal Party has strongly defended bicameralism and the role of the Legislative Council. We still do that today. The government says that there is a risk that the Legislative Council could misuse that power and, for example, unacceptably delay the annual appropriation and in doing so disrupt the machinery of government. That is rubbish.

It is more than 100 years since the Legislative Council last blocked an appropriation bill. There have been in recent years vigorous debates about the companion bill, the Budget Measures Bill. Trying to remove a reserve power that the Legislative Council has not used for more than 100 years is hardly a high legislative priority. If the Liberal Party did not block supply after the State Bank crisis, why does the government think that we would try now? The Liberal Party is of the view that matters need to be dealt with in the course of scheduled parliamentary elections. I can imagine a government so bad and so corrupt that blocking supply was appropriate and I do believe it is appropriate that we maintain this reserve power.

In the last 40 years since the reforms of the mid-1970s, the South Australian community, for its part, has increasingly used the Legislative Council to give depth and tone to its democratic will. Firstly, electors are increasingly using the Legislative Council as a check on the government. Electors are increasingly voting for groups in the council which have not formed government in the assembly. At the last election, more than two-thirds of Legislative Council votes were cast for non-government parties.

The Liberal Party is the only party to have won government in the lower house and a majority of Legislative Council votes since the reforms were introduced in 1975. In 1979, the Liberal vote for the Legislative Council was 50.6 per cent and in 1993 it was 51.8 per cent. I hasten to note that, due to the staggered terms of the Legislative Council, no government has ever had a majority in the Legislative Council since the reforms in the mid-1970s. I seek leave to have incorporated into *Hansard* a table showing the non-government vote in the Legislative Council from 1975 to 2014. I assure the council that it is a table which is purely statistical in nature.

Leave granted.

Non-Government Vote in Legislative Council

The Primary Vote of the Legislative Council Group which formed Government in the House of Assembly

| | | |
|---|---|---|
| 1975 | Labor | 47.3 |
| 1979 | Liberal | 50.6 |
| 1982 | Labor | 46.6 |
| 1985 | Labor | 48.0 |
| 1989 | Labor | 39.7 |

| | | |
|---|---|---|
| 1993 | Liberal | 51.8 |
| 1997 | Liberal | 37.8 |
| 2002 | Labor | 32.9 |
| 2006 | Labor | 36.6 |
| 2010 | Labor | 37.3 |
| 2014 | Labor | 31.0 |

**The Hon. S.G. WADE:** Secondly, South Australians are increasingly choosing to vote differently in the Legislative Council from how they vote in the house. At the 2014 election, 13.6 per cent of voters voted for the two major parties in the House of Assembly but did not vote for them in the Legislative Council. The Liberal vote in the House of Assembly was 44.8 per cent, 8.8 per cent higher than the Legislative Council vote of 36 per cent. The Labor vote was 35.8 per cent, 4.8 per cent higher than the 31 per cent in the Legislative Council. If you like, that is more than 138,000 voters who wander between the houses.

There is more support for non-major parties in the Legislative Council. From 1975 to 1993, the vote for the two major parties averaged 85 per cent of the vote. Since 1997, it has averaged 69.5 per cent—a drop of 15 per cent. Last election saw the second-lowest vote share for the major parties since the reforms of the 1970s. One in three voters is voting for a non-major party. I seek leave to have incorporated into the *Hansard* a table showing the major party vote in the Legislative Council from 1975 to 2014. I assure the council that it is purely statistical in nature.

Leave granted.

Major Party Vote in Legislative Council

| | Labor | Liberal | Total |
|---|---|---|---|
| 1975 | 47.3 | 27.8 | 75.1 |
| 1979 | 39.7 | 50.6 | 90.3 |
| 1982 | 46.6 | 40.9 | 87.5 |
| 1985 | 48.0 | 39.3 | 87.3 |
| 1989 | 39.7 | 41 .1 | 80.8 |
| 1993 | 27.4 | 51.8 | 79.2 |
| 1997 | 30.6 | 37.8 | 68.4 |
| 2002 | 32.9 | 40.1 | 73 |
| 2006 | 36.6 | 26.0 | 62.6 |
| 2010 | 37.3 | 39.4 | 76.7 |
| 2014 | 31.0 | 36.0 | 67 |

**The Hon. S.G. WADE:** Of course, the increased vote share for non-major parties has also been accompanied by an increase in the number of groups in the Legislative Council. That increase has been relatively rapid. From 1975 to 1997, there were only three groups in the Legislative Council: the Liberal group, the Labor group and the Australian Democrat group, or variants of the Australian Democrats. Since 2006, there have been six groups in the Legislative Council coming out of each of those last three elections. I seek leave to have incorporated into *Hansard* a table showing the Legislative Council seats by group. I assure the council that it is purely statistical in nature.

Leave granted.

Legislative Council seats by group

| | ALP | Lib | LM | AD | NXT | FF | Grn | D4D | Groups in LC |
|---|---|---|---|---|---|---|---|---|---|
| 1975 | 10 | 9 | 2 | | | | | | 3 |

| | ALP | Lib | LM | AD | NXT | FF | Grn | D4D | Groups in LC |
|---|---|---|---|---|---|---|---|---|---|
| 1979 | 10 | 11 | | 1 | | | | | 3 |
| 1982 | 9 | 11 | | 2 | | | | | 3 |
| 1985 | 10 | 10 | | 2 | | | | | 3 |
| 1989 | 10 | 10 | | 2 | | | | | 3 |
| 1993 | 9 | 11 | | 2 | | | | | 3 |
| 1997 | 8 | 10 | | 3 | 1 | | | | 4 |
| 2002 | 8 | 9 | | 3 | 1 | 1 | | | 5 |
| 2006 | 8 | 8 | | 1 | 2 | 2 | 1 | | 6 |
| 2010 | 8 | 7 | | | 2 | 2 | 2 | 1 | 6 |
| 2014 | 8 | 8 | | | 1 | 2 | 2 | 1 | 6 |

**The Hon. S.G. WADE:** As a member of the Liberal Party, I will continue to try to boost the Liberal vote in this council, but we all need to respect the judgement of the people and the long-term trend to bring greater diversity to this chamber. I think the minor parties and Independents play an important role in this chamber, but they are like adding salt to meat. In moderation, they can add flavour, but too much and they will ruin the whole experience.

In this bill and related bills, the Labor Party shows that they do not respect the distinct mandate of the council and seek to emasculate it, if not abolish it. For my part, I see that the Legislative Council has evolved and will continue to evolve in the years ahead. I do believe that reform is important. We face widespread disengagement and disenchantment with parliament and politics right across the Western world.

Part of meeting this challenge is, in my view, to reform the parliament. Here again, I differ from the government. The government seems to think that reinvigorating democracy will be achieved by the executive disengaging of parliament and engaging with other consultative processes, such as the citizens' juries. I do not think that such bodies have the moral authority of a properly constituted representative to speak for the whole community.

I would cite, in that context, the recent experience of the Irish referendum on marriage equality. Being a democratic representative vote of the whole community, it was able to settle the issue in a way that no citizens' jury could have done. Similarly, the debate on cycling laws has shown that the parliament is better placed to connect with and speak for the diverse range of interests that a proposal such as that enlivens.

I consider that a key opportunity to improve our performance and engage the community is through restructuring and refocusing our parliamentary committees. Committees of this place could be better used to engage the broader South Australian community, particularly in the development of legislation. Consideration of a bill by the council could start as soon as the bill is tabled in the House of Assembly. I understand that in recent years the House of Lords has used its committees to not merely review bills before the parliament but also to engage the community on draft legislation. In my view, the select committees of the Legislative Council are proving to be increasingly useful to the South Australian community.

The Budget and Finance Committee is showing the value of an ongoing financial scrutiny committee. Whilst in their early days yet, investigative committees like the chemotherapy dosing committee, chaired by the Hon. Andrew McLachlan, are showing that they can shine a light on events and drive reform. The Transforming Health select committee, of which I am a part, will be, I hope, a vehicle for the revelation of information and a platform for clinical and consumer perspectives.

Overall, the council is well placed to take the lead in improving the accessibility and accountability of the parliament to the people. For one thing, we are more inclusive than the House of Assembly. Every South Australian elector is represented by every member of the council. This chamber has more of a whole-of-state approach than the other place. Every group is chasing every vote.

Through proportional representation we better represent the diversity of the broader community. This is not just a comment about minor parties giving voice to significant minority interests but also the way that larger parties often look to the council to enhance the demographic and gender diversity of their teams. But, perhaps most importantly, we are not controlled by the government. As a result, particularly through private members' times, we are engaging on a whole range of issues that never get an airing in the vacuum sealed House of Assembly.

In concluding, whilst I am keen for reform to help this council to better serve the people of this state, I consider that these bills are taking us in exactly the wrong direction. They are a fallback to a failed attempt to abolish the council and to support them would, in my view, be to acquiesce in the first steps towards abolition. I oppose this bill and all of its companion bills.

**The Hon. I.K. HUNTER:** Mr President, I draw your attention to the state of the council.

*A quorum having been formed:*

**The Hon. K.L. VINCENT (17:06):** I speak this afternoon on the Constitution (Appropriation and Supply) Amendment Bill, and indicate that this speech will also cover the three companion bills: the Constitution (Deadlocks) Amendment Bill; the Referendum (Appropriation and Supply) Bill; and the Referendum (Deadlocks) Bill. Dignity for Disability speaks in strong opposition of these bills, perhaps not at the same length as other members but certainly with the same level of passion—

*The Hon. S.G. Wade interjecting:*

**The Hon. K.L. VINCENT:** That is not a criticism at all, Mr Wade; just a statement of fact. However, I certainly do not want our brevity to be mistaken for a lack of passionate defence of this chamber; that, of course, we certainly do share with the Hon. Mr Wade. We speak in strong opposition to these bills which, at best, can be labelled only as a thinly veiled threat against the existence of this very chamber, the Legislative Council, by the Attorney-General and the Deputy Premier, and by extension, one assumes, the Labor government.

Last sitting week an invitation was emailed from the Labor whip's office to all MPs and our staff about a screening to detect the presence of atrial fibrillation to be held—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Ms Vincent is trying to give an important contribution here, so we need to do it in silence.

**The Hon. K.L. VINCENT:** Thank you, sir; I was so caught up in the spirit of things I did not even notice, but thank you for your protection. Last sitting week an invitation was emailed from the office of the Labor whip to all MPs and staff about a screening to detect the presence of atrial fibrillation to be held here in Parliament House next month. Sent on behalf of the Minister for Health, the Hon. Jack Snelling, in the other place, it was unremarkable in many respects other than an intriguing, possibly Freudian slip. It was addressed to 'Members of parliament and the Legislative Council.' As I understand it, the same email with the same text was sent out again yesterday.

Now, I know that we can play semantics here but I was of the understanding that, as a member of the Legislative Council, I was, in fact, a member of parliament. One has to wonder what the writer of this email was trying to say. Yes, we are MLCs in a technical sense, as opposed to MPs, but we are still members of parliament, representing—though some might like to forget it—all South Australians. The entire state is our electorate and we should be very proud of that.

Perhaps I digress slightly. I appreciate that the Attorney-General's office has provided my office with a briefing on these bills; however, I remain completely unconvinced that they are necessary. I understand it has been more than 100 years since supply was last blocked in this parliament, so why now the sudden and urgent need for a change in law?

There are far more pressing legislative issues for this parliament to spend its time debating. How about access to the justice system for people with disabilities? How about protections within, and from, disability service providers? What about laws and resources to ensure that it is mandatory to report abuse and neglect against people with disability living in at-risk environments? How about

legislating to ensure that buildings, and the built environment more generally, face inspection by qualified access inspectors post-build to check for disability access compliance?

I think what the weekend's general election results have shown us thus far is that people are very happy to have an upper house in our parliaments that can try to make the government in the lower house more accountable. There would not be such a significant vote in this state for independent voices if people thought small parties and Independents were bad news. Instead, one in three voters, as other speakers have said, have once again voted in both houses for someone other than the old party candidates. The electorate has completely rejected the tired old rhetoric from the major parties about stability.

Due to continuing unmet need in this state, there are still people with disabilities who may only be able to shower twice per week as they do not receive adequate funding for their support needs. There are still people who occasionally sleep in their wheelchairs or in dirty clothing because their support agencies have not found a staff replacement for a worker who has called in sick or is otherwise unable to attend their shift. There are still people with disabilities—and without disabilities, I would add—experiencing violence in domestic settings, in schools or in the community because we do not yet prioritise the rights of people with disabilities and other people who may be susceptible to abuse and neglect for other reasons.

Instead of spending an estimated $2.5 million on having a referendum that the public, to the best of my knowledge, has next to zero interest in, how about we direct that funding to providing adequate education support to people with disabilities, people looking for employment opportunities, people experiencing homelessness or young people and children in need. Perhaps this government could do a better job on child protection with that money.

Also, on the issue of the role of the upper house, I believe that if the Attorney-General truly wanted electoral reform and truly wanted a democratic parliament that could properly deal with the issues that this parliament is supposed to deal with, such as employment, health, education, homelessness, he would not get rid of this chamber but reform it. I dare to suggest that they could reform it in such a way that there were no longer any government members here so that it could truly be a house of review, an independent house that could review government policy and improve on it in an unbiased way, instead of having government members in this chamber further promoting the government agenda. Why not make this a truly independent house of review?

I do not see that idea catching on any time immediately soon, but I will continue to suggest it in any event because I think that, if we truly want a democratic parliament that is able to get the job done, we should not start by getting rid of this chamber just so that governments can ram through any thought bubble they might have: we should make sure that proper procedures are in place to ensure that legislation and policy can be properly reviewed and independent new ideas can be put forward. With those words, we certainly do not support the second reading of this bill.

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (17:14):** I rise to conclude the debate. I thank honourable members who have contributed to the discussion around this bill; however, I remain bitterly disappointed at the lack of support from honourable members for these are very important reform bills. However, the chamber's views are very plain and I will not seek to delay the council any further other than to remark at the shocking suggestions of the Hon. Kelly Vincent in her contribution which will send a chill down the spine of the Hon. Stephen Wade and his ambitions for the future.

Second reading negatived.

## CONSTITUTION (DEADLOCKS) AMENDMENT BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 9 March 2016.)

**The Hon. R.I. LUCAS (17:15):** I rise on behalf of Liberal members to oppose the second reading of this bill. Given the comprehensive nature of the vote on the companion bill which we have

just had, the Constitution (Appropriation and Supply) Amendment Bill, members will be delighted to hear that I do not propose to speak at length on this bill. A number of members including myself have addressed broad comments on that previous debate relating not only to that bill (the appropriation and supply bill) but also this, the Constitution (Deadlocks) Bill, as well.

I have to say that when one is talking in the South Australian community at the moment about issues that in any way relate to South Australian politics, issues like the cost of living, jobs and unemployment, child protection, health and Transforming Health issues—there are many issues that get raised by constituents, friends and acquaintances with each of us as members of parliament—I have never had anybody, not only in recent times but in my long history in this parliament, raise with me as a barbeque conversation starter, or otherwise, the question, 'Why don't we do something about the deadlock provisions in the Legislative Council and the House of Assembly?'

I think for reasons that we have outlined earlier, this is essentially an attempt at distraction which has obviously not been successful because there has been very little media, community or public debate about the issues. I think that is because they are seen for what they are and that is that it is a distraction, a side issue and certainly not addressing the major issues that are of concern to South Australians at the moment.

As outlined in my previous contribution, our system of government is one where the houses of parliament essentially have equal powers except on the issue of money bills. What this particular bill is seeking to do is to again chip away at the powers of the Legislative Council and, in particular, it is setting up a new prospect of a deadlock provision between the two houses of parliament. Put briefly, the second reading outlines a series of steps which would need to occur.

That is, the House of Assembly would pass a bill, the Legislative Council would either fail to pass the bill within 15 sitting days, so if the Legislative Council was still debating the bill after 15 sitting days, such as a planning bill or a workers compensation bill or something complicated like that, that would trigger the first provision for a double dissolution and a deadlock arrangement; or if the Legislative Council rejected the bill or it passed the bill with amendments that the government or the House of Assembly does not agree, that is the first trigger point.

The second trigger point is then the House of Assembly introduces a similar bill (it could be the same bill or a similar bill; I will not go through the caveats but essentially the same or similar bill) but on this occasion the Legislative Council does not have 15 sitting days to consider the bill, it only has nine sitting days and if it does not consider the bill within nine sitting days, or it rejects the bill or passes the bill with amendments, amendments that the House of Assembly does not agree to, then the second trigger point for the double dissolution or the deadlock provisions is triggered.

Then essentially what is to occur is that there is to be a double dissolution election which means all members of the House of Assembly and the Legislative Council would have to face election. After the double dissolution, the third trigger point—or the fourth trigger point if you take the double dissolution as the third trigger point—was that if the government was re-elected and introduced the same or a similar bill again, it could do so, and if the Legislative Council failed to pass the bill within nine sitting days, or rejected the bill for the third time, or passed the bill with amendments to which the House of Assembly did not agree, then you had the fourth and final trigger for a joint sitting of the members of the Legislative Council and the House of Assembly.

At that joint sitting, the intention would be of the government of the day that the government might have the numbers at the joint sitting to pass the bill contrary to the wishes of the majority of members of the Legislative Council. Again, without going through the detail, this bill outlines a process whereby that bill is to be passed into law without ever having passed the second house of parliament, that is the Legislative Council.

That is the structure that is set up in the bill for resolution of deadlocks. Without entering the current debate about the success or otherwise of double dissolutions and resolutions of deadlocks in the commonwealth arena (because this is modelled, so we are told, on the commonwealth arrangements) the reality is, as I outlined in my previous contribution, that the argument for this has not been made by the government.

The overwhelming majority, or approximately 99 per cent of bills, over the last 20 years, or let me put it another way, just on 1 per cent of bills that the government might have introduced and

had considered by the Legislative Council have either been defeated or laid aside over the last 20 years. There is certainly no argument that can be made which has said that over a period of 20 years the Legislative Council has been obstructionist to the program of either Labor or Liberal governments, for that matter, over that 20-year period.

That is the reality. The reality is that no argument has been made for the requirement for this particular reform. The existing processes are by and large sufficient to resolve most of the differences between the houses. Clearly, if only 1 per cent of bills over 20 years—

**The Hon. S.G. Wade:** 1.1 per cent.

**The Hon. R.I. LUCAS:** 1.1 per cent—have been defeated or laid aside, then approximately 99 per cent of bills have been resolved in one way or another to the satisfaction—that might be too strong a word, but resolved in one way or another between the two houses, that is between the government and opposition and minor parties. In the end, the government of the day, Liberal or Labor, might not have been overly happy with the final nature of amendments that have been moved and passed by the Legislative Council, but have not been so offended as to say, 'We are not prepared to allow the bill to pass in any way or form with the amendments that the Legislative Council has moved.'

The second point I would make—and this was referred to, I think, by my colleague the Hon. Stephen Wade in his contribution on the appropriation and supply bills—is that we have an existing mechanism in terms of what is referred to as the conference of managers between the houses. In my experience in this chamber, Labor governments of an earlier generation and certainly the former Liberal government, were prepared to utilise the processes and procedures of this parliament in a way which this current Labor government for some strange reason has been unwilling to do. The former Labor government of the 1980s and the Liberal government of the 1990s used the conference of managers as a mechanism to seek to resolve differences of opinion between the houses.

The conventions in the early days of my career here were that when you went into a conference of managers, you did so and it was given a priority. Essentially, the conference of managers sought to resolve the issue almost immediately, that is within a day or so. Sometimes it went over a number of days. I have to say, in recent years that convention has been modified.

We have had one example where a conference of managers was deferred, I think, for many months over a parliamentary break and was revisited on a number of occasions before it actually ever reported back to parliament. That was never the intention. It is not prevented by the standing orders, but it was never the intention of the original drafters of our standing orders and our constitutional powers in terms of how we resolve differences. In and of itself, I do not think it is necessarily a deal-breaker. Governments can approach the management of the conference of managers in a number of different ways.

Certainly the original intentions were that only members of parliament were at the conference of managers. These days we see ministerial advisers, other experts, lawyers of all shapes and sizes, for example, sitting in or advising and seeking to, on occasion, broker a compromise through the conference of managers. Again, I do not necessarily see that as being a deal-breaker. Our conference of managers ought to be flexible enough to, within reason, adapt to those sorts of evolutionary changes.

As I said, with the brief exception of the last month or so where there has been this outbreak of, I think, two conferences of managers, which I must say is welcome, prior to this recent outbreak there was perhaps a recognition that these bills were not going to be going anywhere. I am not sure whether that is really the reason, but certainly over the 14 years of this particular government, and particularly the last six or seven years, there has been a noticeable reluctance of government ministers and the government to engage in conferences of managers.

It has essentially been: go out to the public arena, belt hell out of the opposition and the minor parties, try to browbeat a compromise, and on occasion sit down and negotiate with an individual minor party or Independent member or the opposition to broker a compromise over a longer

period of time. There is a structure for that to occur, which is the conference of managers. Certainly it is the process envisaged to try to resolve differences between the houses.

I hope this is a change under the current Labor government, but my expectation should there be a Liberal government after 2018 is that the tried and true processes and conventions of resolving differences between the houses would be revisited. That is, that the tried and true processes of conferences of managers properly run and conducted, with perhaps evolutionary changes as might be required, is a mechanism which should be supported by the Legislative Council and the House of Assembly, by government and by opposition, and by minor parties and Independents as a mechanism to try to resolve differences of opinion between the houses. Certainly that is the preferred mechanism.

For those reasons, the Liberal members in this chamber strongly oppose this legislation and its companion bill the Referendum (Deadlocks) Bill as well. For those reasons, we will be voting against the second reading of this bill.

Debate adjourned on motion of Hon. D.G.E. Hood.

## SUMMARY OFFENCES (FILMING AND SEXTING OFFENCES) AMENDMENT BILL

*Final Stages*

The House of Assembly agreed to amendments Nos 1 and 3 to 7 made by the Legislative Council without any amendment and disagreed to amendment No 2.

## CONSTITUTION (DEMISE OF THE CROWN) AMENDMENT BILL

*Introduction and First Reading*

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

## LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

*Introduction and First Reading*

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

## SUMMARY OFFENCES (DECLARED PUBLIC PRECINCTS) AMENDMENT BILL

*Introduction and First Reading*

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

## INTERVENTION ORDERS (PREVENTION OF ABUSE) (RECOGNITION OF NATIONAL DOMESTIC VIOLENCE ORDERS) AMENDMENT BILL

*Introduction and First Reading*

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

*Parliamentary Committees*

## LEGISLATIVE REVIEW COMMITTEE

The House of Assembly appointed Ms Cook to the committee in place of Ms Digance.

*Bills*

## DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

*Conference*

The House of Assembly agreed to the time and place appointed by the Legislative Council for holding the conference.

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (17:36):** I move:

That a message be sent to the House of Assembly agreeing to the time and place appointed by that house for the holding of the conference.

Motion carried.

## MENTAL HEALTH (REVIEW) AMENDMENT BILL

*Final Stages*

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

## CONSTITUTION (DEADLOCKS) AMENDMENT BILL

*Second Reading*

Adjourned debate on second reading (resumed on motion).

**The Hon. D.G.E. HOOD (17:37):** I rise to speak on the Constitution (Deadlocks) Amendment Bill and indicate, as it will come as no surprise to members, I am sure, that Family First will not be supporting this bill. We will be voting against it in the second reading, in fact, sir.

*An honourable member interjecting:*

**The Hon. D.G.E. HOOD:** Well, it is hilarious. Nor will we be supporting the related bills, namely the Constitution (Appropriation and Supply) Amendment Bill, the Referendum (Appropriation and Supply) Bill and the Referendum (Deadlocks) Bill, and I understand that the Constitution (Appropriation and Supply) Amendment Bill was just voted down at the second reading.

Turning to the Constitution (Deadlocks) Amendment Bill, which of course is the bill on which we are now speaking, the government proposes to amend the Constitution Act 1934, replacing the existing deadlock provisions under section 41 with a new system that is modelled on the federal deadlock system. The bill intends to introduce double dissolution elections and joint sittings to resolve persistent disagreements between the two houses.

We have a number of objections, but, first of all, our main criticism and the biggest flaw of this bill is that the proposed deadlock mechanism fundamentally weakens the scrutinising function performed by this Legislative Council. This is also true for the Constitution (Appropriation and Supply) Amendment Bill, which also erodes the council's function and relevance.

The government's justification for this bill, which claims that the current deadlock mechanism is not effective enough or not working in the way they deem appropriate, is not convincing to Family First, and certainly it does not warrant the eroding of the council's important role as a house of review. Similarly, the justification put forward for the Constitution (Appropriation and Supply) Amendment Bill is equally not convincing and will not have our support, as I indicated at the outset.

The Legislative Council is a reflection of South Australia's diversity, as shown with the equally diverse crossbench, with diverse representation from right across the board: Dignity for Disability, the Hon. John Darley from the Nick Xenophon Team, the Greens, of course, and obviously Family First as well. Although each party may have different values, policies and views of the world and, at times, certainly disagree with one another on certain issues, they certainly agree as well, and that is the nature of our representative system and exactly as it should be in my view.

We view that this function is working well, as it should work, and as the people of South Australia would expect it to work. It provides a good level of scrutiny and appropriate debate for matters that appear before this chamber. As demonstrated time and time again, the Legislative Council, and indeed the crossbench, as well as the opposition and obviously the government, play a significant role in the review of important legislation and keep the government in check. It provides an opportunity for members of this place to put forward the views of the South Australian people, as elected by the people.

One might argue that the views in this chamber are more representative of the South Australian public because of the proportional representation electoral system that operates in this chamber. A prime example of this is the recent planning, development and infrastructure legislation that recently passed after much debate and several weeks of going through this chamber.

Members would recall late last year that the planning minister threatened to extend parliamentary sitting days up to Christmas if the Legislative Council did not pass the planning bill

before the end of the optional sitting week. Of course, he has no power to do this. As it so happened, that did not occur, and instead of giving into the minister's demands, the council persisted and performed its indispensable function, thoroughly scrutinising this very important piece of legislation and considering hundreds of filed amendments from government members, the crossbench and the opposition in the process.

I agree with the views expressed by Liberal members in this place and the other place who contend that, if passed, this bill will serve to intimidate and coerce members of the Legislative Council to pass legislation as a result of the constant threat of a double dissolution election and the prospect of losing their respective seats in this place. Furthermore, the Hon. Robert Lucas has put on record very interesting statistics which revealed that approximately 1.1 per cent of government bills have either been negatived or laid aside in the Legislative Council over the past 20 years—in other words, one bill on average per year for the last 20 years.

The main question, if that is the case, is: why are this bill and the other associated bills needed at all? The answer, of course, is that they are not. Overall, from my perspective, this is a very simple response. I will not go into great detail about the merits of the Legislative Council. I simply seek to make it clear to the chamber that we will not be supporting this bill or the related legislation because they fundamentally seek to provide more powers to the government at the expense of the Legislative Council. This bill proposes to shift the council's paramount role as the house of review toward being nothing more than a house that provides a rubber stamp. This is not acceptable, and Family First will not support this bill nor the other related bills which accompany it.

**The Hon. M.C. PARNELL (17:42):** Given all the angst and aggression that we have had over the last several weeks with the federal election campaign, I have decided today to be as agreeable as I can. I am going to agree with the Hon. Rob Lucas, I am going to agree with the Hon. Kelly Vincent, the Hon. Dennis Hood, and I am also going to agree with the Hon. Stephen Wade. I thank him for his comprehensive defence of bicameral parliament and his defence of the South Australian Legislative Council. I thank him for walking us through the history so that we have some understanding of why we have the system we have and what we would lose if we were to depart from it.

The Greens will be opposing this bill at the second reading, along with other members. I note the comments of the Hon. Rob Lucas. We do not often go to the same barbecues, but it sounds like we might have similar conversations. Like the honourable member, in my brief 10 years in this place I have never had a constituent who has come to me and said, 'You know what, Mark? The problem with our state is the deadlock provisions that apply between the houses.' It is not something that occupies the minds of anyone other than those diehards in the Labor Party who are determined to get rid of the upper house. If they cannot get rid of it, then they want to reform it to a position of irrelevancy. This is not a pressing issue for the public.

When I talk to people in the community, and probably the most recent conversations I have had with people who I do not know have in been doorknocking for the election, and one of the most common themes that comes out, and a number of members have raised this, is that most Australians, even if they are not fully apprised of how our system works, understand that you have checks and balances. They understand the importance of having an upper house of parliament that can provide some scrutiny for the lower house, and that is why, as other members have said, we have seen people voting differently in the different houses.

I am yet to have anyone come to me and say that the secret of a prosperous society is an effective dictatorship. Whilst I am not on personal terms with John Howard (former prime minister), I think that in a quiet reflective moment he might even be encouraged to agree that, in that period when he controlled both houses of parliament, probably were the seeds of his downfall. I may be doing him an injustice but certainly the commentators have reflected on that, that once you have that control, and you do not have the checks and balances, then things can go awry.

The other observation I would make is that one of the things we do in the Legislative Council is that we often save the government from itself. I can remember a number of bills where members have found unintended consequences that have resulted, we have found mistakes and errors, and we have used our authority here to correct those. I think that we have made a lot of legislation better

as a result of the scrutiny that we have given it. Of course, sometimes people might say that we have made it worse as well, but on the whole I think the upper house has made legislation better.

I am going to conclude with three bits of advice to the government. If the object of the exercise is better legislation then here are three simple ways in which the government could achieve that. The first thing is that the government could consult better before introducing legislation. It is not just a question of consulting with members of parliament, but it is also stakeholders. I have used the word 'consult' because, as most of us would know, we do not receive invitations to consult with the government on legislation, we receive briefings about what the government has already decided to do. So, that is the first step: you want better legislation, consult better with stakeholders and members of parliament.

The second thing I think the government should do, and I know the opposition have put their minds to this but I think the government should as well, and that is to reform the parliamentary committee system. I think we could do well with a scrutiny of bills committee, a committee that has rotating membership, depending on the subject matter of the bill, and we, as members of parliament, should have the ability to directly interrogate experts and stakeholders as part of the legislative process.

I think that degree of scrutiny would be far preferable to the situation we have here where a small number of ministers represent ministers in another place. The ministers here are not familiar with the portfolios, they do their best, I guess, but that is why they have to have advisors sitting next to them whispering in their ear. It would be a far better a system if we could, in this chamber, interact directly with the ministers, maybe through a scrutiny of bills committee process. That is the second suggestion.

The third suggestion, and this has been raised by other speakers, is we do have a dispute resolution mechanism. It has not been used very often. I do note that in the last couple of days we have seen some so-called deadlock conferences or conferences of managers. That is a process that I think, whilst it is a little unwieldy in some ways, could be reformed and could be then used more. I think in my 10 years I have been part of one conference of managers. Then attorney-general, Michael Atkinson, did not have his heart in it, and basically I think we had one meeting for a few minutes and then the process was abandoned and it went nowhere. I think we should be using processes like that more. The government might be surprised, they might find that, with genuine debate and dialogue, sometimes these deadlocks can be broken.

So, with those words the Greens are certainly interested in reforms that improve the quality of legislation but we are not interested in reforms that gut the democracy of the South Australian parliament, and we are not interested in reforms that make the upper house of parliament an irrelevant rubber stamp without the ability to change legislation, so we will be joining, in an agreeable way, our colleagues on the crossbenches and in the opposition to howl this bill down at the second reading stage.

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (17:49):** I would like to thank honourable members—

*The Hon. T.J. Stephens interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order!

**The Hon. K.J. MAHER:** —for their valuable, if however—

*The Hon. S.G. Wade interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order!

**The Hon. K.J. MAHER:** —misguided contributions to this very important piece of legislation.

*The Hon. S.G. Wade interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order!

**The Hon. K.J. MAHER:** I thank you for your protection. You see what I put up with in question time, Mr Acting President. I look forward to seeing how the second reading vote goes on this one.

Second reading negatived.

## NOTARIES PUBLIC BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 9 June 2016.)

**The Hon. A.L. McLACHLAN (17:51):** I rise to speak to the Notaries Public Bill 2016. The Liberal Party will be supporting the second reading of the bill, and I speak on behalf of Liberal members in the chamber. This bill reforms and codifies the laws that govern the administration and qualification of notaries, regulates their practice and makes related consequential amendments to the Legal Practitioners Act 1981. It may be of interest to the honourable members of the chamber that South Australia remains the only state without legislation that regulates the appointment and duties of notaries public.

A notary public is a lawyer who holds a unique public office of trust and fidelity and has recognised power and authority to perform certain functions. In South Australia, notaries are appointed by the Supreme Court. While the functions of a notary are currently not defined by statute or instrument, the foundation of their duties developed over time as a result of English case law and custom. An apt description appeared in an article in the Law Society *Bulletin*, titled 'An ancient office: why the role of the notary public should be reviewed', by Roy Hasda, a notary public from the firm Belperio Clark. He writes:

> Historically, Notaries were the recorders of facts, often the only persons able to read or write and making them responsible for recording births, marriages, deaths and business activities.

He goes on to say:

> Notaries throughout the world vary slightly. In Europe they deal with all things non-litigious with formality, gravitas and a charging structure reflecting that. In the USA a Notary is in most shopping malls and pays an annual license to be able to operate. In the UK and Australia a Notary is qualified for life and provides services somewhere between the two.

His article also says:

> Traditionally, documents certified by notaries are sealed with the Notary's seal and recorded in a register called a 'protocol'. These documents are known as 'notarial acts' and significant weight is given by Courts of Law and authorities internationally to [these] notarial acts. There is a very heavy onus of care cast upon a notary to be satisfied that any notarial act is in order.

The common functions performed by notaries in South Australia include:

- authenticating official government and personal documents and information for use in a foreign country;
- establishing and verifying the identity of a person seeking notarial services by a photo identification document such as a passport;
- the drawing up of shipping protests and other formal papers relating to the voyage of ships, their navigation and the carriage of cargo; and
- certifying true copies of documents for use in foreign countries.

It has been argued that the modern-day role of the notary has become more important with the increase in international trade and the global movement of people. The government asserts that the bill has been drafted to accommodate this to ensure a high standard of practice for notaries public is maintained.

The bill introduces various rules and regulations to govern the accepted practice for notaries. For example, the bill requires that only legal practitioners who hold a current practising certificate and have been admitted for at least five years can become a notary public. It ensures that, if a notary

public ceases to hold a current practising certificate, they will no longer be able to practise as a notary, and provides the Supreme Court with power to suspend someone from practising as a notary public. I note the bill contains transitional provisions which will permit those people already admitted as a notary public to remain on the roll.

The government submits that, because the bill will ensure that all notaries are suitably qualified, properly insured and subject to regulated standards of professional practice, it will ensure consumers receive a high quality of professional service. I have been advised that the Notaries' Society of South Australia supports the bill. Likewise, I understand the Law Society has seen a draft version of the bill and is supportive.

I just have a couple of questions which I will put to the minister and ask that the responses to the questions be incorporated into his summing up of the second reading debate. Has the government been made aware of instances where the currently practising notaries public did not maintain an acceptable level of professional practice? Have any concerns been raised with the government or regulatory authority (currently the Supreme Court) with standards of applicants in the past?

An application to become a notary public will be made to the Supreme Court and will be very expensive at well over $2,000 whereas, for a general legal practitioner, it is substantially less. What is the justification for this expensive application fee and the rationale for such a difference in the fee for a notary public as compared to an ordinary legal practitioner? With those comments, I conclude my remarks and commend the second reading of the bill.

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

## JUSTICES OF THE PEACE (MISCELLANEOUS) AMENDMENT BILL

*Second Reading*

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (17:57):** I move:

That this bill be now read a second time.

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

Leave granted.

The Justices of the Peace (Miscellaneous) Amendment Bill 2016 amends the *Justices of the Peace Act 2005* to provide a more efficient mechanism for the appointment, suspension and removal of a Justice or Special Justice of the peace (JP) from office.

Justices of the Peace perform an important community service by volunteering their services to the community, sacrificing their time to witness thousands of official and legal documents each year. At the Grenfell Street office alone, JPs witnessed 90,000 documents for over 20,000 clients last financial year. The South Australian community is fortunate to be served by 7,200 JPs, with some dedicated individuals having provided faithful service for over 60 years.

With up to 300 appointments every year, together with managing applications, voluntary and disciplinary suspensions and the removal of JPs from office, this Bill aims to reduce red tape by streamlining the administrative processes and ensuring the timely and efficient management of JP matters.

The Bill amends section 4 of the *Justices of the Peace Act 2005* to allow the Attorney-General to appoint a JP to office following a rigorous process to support the appointment. The Act currently requires the Governor to make such appointments and upon consultation with His Excellency and the Royal Association of Justices of South Australia, it was agreed that refining the process would improve efficiency whilst also maintaining the integrity of appointments.

A further amendment to section 4 will remove the requirement that all information supplied in support of an application must be verified by statutory declaration. This amendment will allow the online submission of applications and will also maintain the veracity of the information through the insertion of a new section regarding false and misleading statements later in the Act.

The Bill amends section 5 of the Act to allow the Attorney-General to appoint a Member of Parliament or the principal member of a council to be a JP, rather than involve the Governor, as with appointments of members of the public.

In reviewing the operation of the Act, it was identified that as there was no specified timeframe in which JPs must take the requisite oaths in accordance with the *Oaths Act 1936*, some appointed JPs were not taking their oaths in the time prescribed by their conditions of appointment and therefore could not perform their duties. This failure to take their oaths triggered a laborious administrative process. The Bill amends section 6 to include the obligation of the appointed JP to take their oath within three months of their appointment, or risk being suspended or removed from office.

The Bill further amends section 6 to exempt reappointed JPs from repeating their oaths, further reducing red tape and ensuring the seamless provision of service.

A JP may apply to have their office suspended for a period of up to two years. Typically this is requested to allow the JP to travel, to accompany their spouse on an out-of-state posting or for personal or health reasons. The Bill amends section 10 to allow the Attorney-General, rather than the Governor, to suspend the JP's office for the nominated time and compels the JP to notify the Attorney-General of their intention to return to the State when the suspension period ends. This amendment will reduce the administrative burden on Justice of the Peace Services staff, who must conduct extensive searches to determine if a JP has returned to the State following a period of voluntary suspension.

The Bill also amends section 11 of the Act, which is concerned with disciplinary action, suspension and removal of a Justice from office. Again, the Bill relinquishes the power of the Governor to take disciplinary action and transfers it to the Attorney-General, allowing action to be taken against a JP if the justice breaches or fails to comply with either the Act, a condition of appointment or the Code of Conduct, except in the case of a special justice, where this power will remain with the Governor.

The Bill again removes reference to the Governor, in respect to taking disciplinary action against a person who improperly uses the title 'JP (Retired)', and instead gives the Attorney-General power to take the appropriate action.

Section 16 is similarly amended by the Bill to remove reference to the Governor by substituting his title with the Attorney-General, in this instance to restrict the use of the title 'JP (Retired)'.

Section 16A will create a punishable offence for knowingly making a false or misleading statement when providing information required under the Act, with a maximum penalty of $10,000 or two years imprisonment. If the false statement is made unknowingly or in any other case, the maximum penalty is $5,000. This section provides protection from the removal of the statutory declaration requirement, as applicants will commit a relatively serious offence should any information submitted by them, whether by inclusion or omission, prove to be false or misleading.

Section 16B is inserted to confer power upon the Attorney-General to delegate any powers or functions under the Act to the Commissioner for Consumer Affairs either absolutely or with the imposition of certain conditions. This will ensure the streamlined administration of matters relating to Justices of the Peace.

This Bill seeks to balance the valuable contribution made by members of the public who volunteer their time as Justices of the Peace with the crucial need to maintain the integrity of the role they perform. In addition, the amendments streamline the administrative process to ensure that red tape is minimised and the provision of service is maximised.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Justices of the Peace Act 2005*

4—Amendment of section 4—Appointment of suitable persons as justices

This clause amends section 4 so that it is the Attorney-General, rather than the Governor, who is empowered to appoint justices of the peace. It also amends the section to remove the mandatory requirement that information provided in or with an application for appointment must be verified by statutory declaration. Instead, it substitutes a provision that empowers the Attorney-General to require such information to be verified by statutory declaration.

5—Amendment of section 5—Appointment of persons occupying certain offices as justices

This clause amends section 5 so that it is the Attorney-General, rather than the Governor, who will appoint a Member of Parliament, or the principal member of a council, to be a justice of the peace.

6—Amendment of section 6—Justices must take oath before exercising official powers

This clause amends section 6 so that the oath required to be taken by a justice of the peace before exercising official powers must be taken within 3 months after the appointment of the justice.

7—Amendment of section 10—Justice may apply for suspension of official duties for personal reasons

This clause amends section 10 so that it is the Attorney-General, rather than the Governor, who may suspend a justice from office on application by the justice. It also amends the section to require a justice whose office has been suspended by reason of a prolonged absence from South Australia to notify the Attorney-General whether he or she intends to return to the State when the suspension expires.

8—Amendment of section 11—Disciplinary action, suspension and removal of justices from office

This clause amends section 11 to include, as proper cause for taking disciplinary action against a justice, a breach of the Act, or a failure to comply with the Act, by the justice. It also amends the section so that the Attorney-General is able to take disciplinary action to remove a justice of the peace from office. However, the power to remove a special justice from office will continue to be vested in the Governor.

9—Amendment of section 12—Disciplinary action—retired justices

This clause amends section 12 so that the Attorney-General, rather than the Governor, may take disciplinary action against a retired justice.

10—Amendment of section 16—Offence to hold out etc

This clause amends section 16 to replace a reference to the Governor with a reference to the Attorney-General, so as empower the Attorney-General to prohibit retired justices from using certain titles or descriptions.

11—Insertion of sections 16A and 16B 16A—False statements

Proposed section 16A makes it an offence to make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under the Act. The maximum penalty is to be $10,000 or imprisonment for 2 years if the person made the statement knowing it to be false or misleading, or $5,000 in any other case.

16B—Delegation

Proposed section 16B empowers the Attorney-General to delegate powers and functions under the Act.

Debate adjourned on motion of Hon. D.W. Ridgway.

## SUMMARY PROCEDURE (ABOLITION OF COMPLAINTS) AMENDMENT BILL

*Second Reading*

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (17:58):** I move:

That this bill be now read a second time.

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

Leave granted.

The *Summary Procedure (Abolition of Complaints) Amendment Bill 2016* will amend the *Summary Procedure Act 1921* (the Act) to provide for a common information format to be used to initiate charges notwithstanding the seriousness of the alleged offence, rather than separate complaint forms for summary offences and information forms for indictable offences. The Bill will also amend the Act to require affidavit evidence at the preliminary examination of an indictable offence instead of a written statement of evidence verified by declaration. The Bill contains other consequential and transitional provisions.

The intention of the Bill is to achieve efficiencies in criminal justice procedure by avoiding the need to refile charges and evidence in different documentary formats when charges are upgraded or downgraded.

Criminal offences in this State are classified depending on their seriousness as either:

- summary offences, which are generally punishable by fines or relatively short periods of imprisonment; or
- major or minor indictable offences.

Section 49 of the Act requires a charge of a summary offence to be commenced in the Magistrates Court by the making and filing of a complaint. The practice of the Magistrates Court is that charges of summary offences are generally supported by evidence in affidavit form.

A person is charged with an indictable offence by the laying and filing of an information in the Magistrates Court under section 101 of the Act. The Magistrates Court will conduct a preliminary examination of the charges to determine whether the evidence is sufficient for the person charged with the indictable offence to be committed for trial in the District or Supreme Court (although some minor indictable offences can be tried in the Magistrates Court if the defendant does not elect to be tried in a superior Court).

In relation to the preliminary examination, section 104 of the Act requires the prosecutor to file the prosecution's witness statements in the Court in the form of written statements verified by declaration. Section 104(6) creates an offence for the making of a false or misleading statement filed in Court. The maximum penalty is 2 years imprisonment.

The preparation and filing of complaint and information forms and their accompanying affidavits and declarations is primarily the responsibility of the South Australia Police (SAPOL), in conjunction with advice received from staff of the Office of the Director of Public Prosecutions (ODPP). During the course of criminal proceedings, the offences as initially charged may be changed from indictable to summary or from summary to indictable. This can occur as a result of plea negotiations and discovery of new evidence or advice from ODPP staff as to the chances of conviction. Such a change in charges currently requires SAPOL to prepare and re-file charges and supporting evidence on a different Court format, i.e. a complaint form instead of an information form or vice versa. It also requires victims and witnesses to restate their evidence in a different format, i.e. an affidavit instead of a declaration or vice versa. The need for this double-handling creates an additional workload for SAPOL prosecution staff, unnecessary expense (including in printing costs) and delays in the criminal justice system.

The draft Bill would change all instances in the Act of the words 'complaint', 'complainant' and the 'making' of a complaint to, respectively, an 'information', 'informant' and the 'laying' of an information. Because the 'complaint' language is used in many dozens of other Acts in the State, and so as not to directly amend those dozens of Acts, an amendment is also proposed to s44 of the *Acts Interpretation Act 1915* so that the words 'complaint' and 'complainant' and the 'making' of a complaint in other legislation are to be taken to reflect the changes to language made to the Act by this Bill. Together, these amendments will avoid SAPOL having to refile charges in different formats when charges are upgraded or downgraded.

The forms currently prescribed by the Magistrates Court Rules for complaints and informations are virtually identical. They contain the names and addresses of the defendant and of the complainant or informant, together with information as to the alleged offence charged against the defendant. The two forms can be readily consolidated into a common information form.

The use of a common information format avoids the additional workload, expense and delay that results from changing charges from a summary offence to an indictable offence or vice versa. The proposal primarily benefits SAPOL but the reduction of delay and double-handling also benefits victims and witnesses and the criminal justice sector broadly.

The intention of the amendments is only to avoid the inefficiencies arising from the prosecutor having to file different forms when offences are upgraded or downgraded.

The draft Bill would also amend section 104(3) of the Act so that a statement filed in the Court in relation to a preliminary examination of an indictable offence must, as with summary offences, be in the form of an affidavit. This common evidentiary format will avoid the need for witnesses and victims to state their evidence in a different documentary format should charges be upgraded from summary to indictable or vice versa. A transitional provision will be inserted in the Act to ensure that SAPOL can still file in Court statements verified by declaration that were signed before the amendments come into operation. Some police investigations are protracted and declarations may have been signed a considerable time prior to the commencement of the amendments. A transitional provision will mean that it will not be necessary to require victims and witnesses to be contacted again to swear affidavits in place of those declarations and reflects the policy intent of the Bill that victims and witnesses should not be put to unnecessary inconvenience and stress.

An affidavit is the written equivalent of evidence given orally under oath in the court room. Affidavits can only be sworn before authorised persons, such as solicitors and Justices of the Peace. Under the *Evidence (Affidavits) Act 1928,* an affidavit can also be sworn before a member of the police force proclaimed under Part 5 of the *Oaths Act 1936* (a 'Proclaimed Police Officer'). SAPOL proposes to require all police officers to undertake relevant training and to seek their appointment by the Governor as Proclaimed Police Officers under the *Oaths Act 1936*. This will eventually enable all police officers to administer oaths and ought to improve the quality of sworn affidavits filed by SAPOL.

It is likely that there will need to be minor business process changes in Government and the community to implement the affidavit changes, particularly identifying persons who are authorised to administer oaths. This should not pose any significant difficulty given that solicitors, Justices of the Peace and Proclaimed Police Officers, amongst others, can administer an oath. Those persons who must swear an affidavit interstate or overseas should have ample recourse to persons before whom such affidavits can be sworn (as permitted by section 66 of the *Evidence Act 1929*).

Using affidavits rather than declarations at preliminary examinations also provides a greater deterrent against the giving of false evidence. Perjury in an affidavit attracts a larger penalty than the penalty under section 104(6) of the Act for false evidence given in a declaration. The giving of false evidence in an affidavit sworn before a Proclaimed Police Officer and other authorised persons would constitute the criminal offence of perjury, which is punishable by

imprisonment of up to seven years. Section 104(6) of the Act would be repealed by the Bill to ensure that there is no doubt that a false statement in an affidavit would constitute the offence of perjury. Also, an offence under section 104(6) occurs only when the declaration is filed in Court. SAPOL has suggested that this had led to some witnesses providing false alibi evidence in a declaration which, if discovered prior to filing in the Court, could only be prosecuted as an attempt to pervert the course of justice or other similar offences which are generally difficult to prove.

The proposal for a common information form is consistent with the practice in New South Wales, Queensland and Western Australia. Also, most interstate jurisdictions do not differentiate between sworn and unsworn written evidence for different levels of offending and require only a single written format for evidence.

The benefits of the amendments apply whether the person filing the charge forms is a police officer, private citizen or a representative of Government or non-Government agencies that initiate criminal prosecutions.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Summary Procedure Act 1921*

4—Amendment of section 4—Interpretation

This clause makes a consequential amendment to section 4 of the principal Act to delete the definition of 'complaint', a term no longer used in the Act.

5—Amendment of section 5—Classification of offences

This clause makes consequential amendments to section 5 of the principal Act.

6—Amendment of section 20—Form of warrant

This clause makes consequential amendments to section 20 of the principal Act.

7—Amendment of section 22—Form of summons

This clause makes consequential amendments to section 22 of the principal Act.

8—Amendment of section 22A—Description of offence

This clause makes a consequential amendment to section 22A of the principal Act.

9—Amendment of section 27—Service

This clause makes a consequential amendment to section 27 of the principal Act.

10—Amendment of section 27A—Service of summons by post

This clause makes a consequential amendment to section 27A of the principal Act.

11—Amendment of section 27B—Hearing on a written plea of guilty

This clause makes a consequential amendment to section 27B of the principal Act.

12—Amendment of section 27C—Hearing where defendant fails to appear

This clause makes consequential amendments to section 27C of the principal Act.

13—Amendment of heading to Part 4 Division 2

This clause makes a consequential amendment to the heading to Part 4 Division 2 of the principal Act.

14—Amendment of section 49—Information

This clause amends section 49 of the principal to set out how an information can be laid.

This is the key clause in the measure, as it amends the provisions that require summary offences to be charged on complaint. Summary offences (and indictable offences) are, following commencement of the measure, all to be charged on information.

15—Amendment of section 51—Joinder and separation of charges

This clause makes consequential amendments to section 51 of the principal Act.

16—Amendment of section 54—Allegations and descriptions in informations and proceedings

This clause makes consequential amendments to section 54 of the principal Act.

17—Amendment of section 56—Exceptions or exemptions need not be specified or disproved by informant

This clause makes consequential amendments to section 56 of the principal Act.

18—Amendment of section 57—Issue of summons

This clause makes consequential amendments to section 57 of the principal Act.

19—Amendment of section 57A—Procedure enabling written plea of guilty

This clause makes consequential amendments to section 57Aof the principal Act.

20—Amendment of section 58—Issue of warrant

This clause makes a consequential amendment to section 58 of the principal Act.

21—Amendment of section 60—Forms of custody etc

This clause makes a consequential amendment to section 60 of the principal Act.

22—Amendment of section 62—Proceedings on non-appearance of defendant

This clause makes a consequential amendment to section 62 of the principal Act.

23—Amendment of section 62A—Power to proceed in absence of defendant

This clause makes consequential amendments to section 62A of the principal Act.

24—Amendment of section 62B—Powers of court on written plea of guilty

This clause makes consequential amendments to section 62B of the principal Act.

25—Amendment of section 62BA—Proceedings where defendant neither appears nor returns written plea of guilty

This clause makes consequential amendments to section 62BA of the principal Act.

26—Amendment of section 62C—Proceedings in absence of defendant

This clause makes a consequential amendment to section 62C of the principal Act.

27—Amendment of section 62D—Proof of previous convictions

This clause makes consequential amendments to section 62D of the principal Act.

28—Amendment of section 63—Non-appearance of informant

This clause makes consequential amendments to section 63 of the principal Act.

29—Amendment of section 64—If both parties appear, court to hear and determine the case

This clause makes a consequential amendment to section 64 of the principal Act.

30—Amendment of section 67—When defendant pleads guilty, court to convict or make an order

This clause makes a consequential amendment to section 67 of the principal Act.

31—Amendment of section 68—Procedure on plea of not guilty

This clause makes consequential amendments to section 68 of the principal Act.

32—Amendment of section 69—After hearing the parties court to convict or dismiss

This clause makes a consequential amendment to section 69 of the principal Act.

33—Amendment of section 69A—Examination of defendant

This clause makes a consequential amendment to section 69A of the principal Act.

34—Amendment of section 70A—Convictions where charges joined in information

This clause makes a consequential amendment to section 70A of the principal Act.

35—Amendment of section 70B—Conviction for attempt where full offence charged

This clause makes a consequential amendment to section 70B of the principal Act.

36—Amendment of section 71—Order and certificate of dismissal

This clause makes a consequential amendment to section 71 of the principal Act.

37—Amendment of section 78—Non-association and place-restriction orders

This clause makes consequential amendments to section 78 of the principal Act.

38—Amendment of section 80—Issue of non-association or place restriction order in absence of defendant

This clause makes consequential amendments to section 80 of the principal Act.

39—Amendment of section 99AA—Paedophile restraining orders

This clause makes consequential amendments to section 99AA of the principal Act.

40—Amendment of section 99AAC—Child protection restraining orders

This clause makes consequential amendments to section 99AAC of the principal Act.

41—Amendment of section 99C—Issue of restraining order in absence of defendant

This clause makes consequential amendments to section 99C of the principal Act.

42—Amendment of section 99G—Notification of making etc of restraining orders

This clause makes a consequential amendment to section 99G of the principal Act.

43—Amendment of section 99J—Informations or applications by or on behalf of child

This clause makes consequential amendments to section 99J of the principal Act.

44—Amendment of section 102—Joinder and separation of charges

This clause makes a consequential amendment to section 102 of the principal Act.

45—Amendment of section 104—Preliminary examination of charges of indictable offences

This clause makes amends section 104 of the principal Act to require affidavits (rather than declarations) to be filed in court.

46—Amendment of section 107—Evaluation of evidence at preliminary examination

This clause makes a consequential amendment to section 107 of the principal Act.

47—Amendment of section 181—Charges

This clause makes a consequential amendment to section 181 of the principal Act.

48—Amendment of section 187A—Proof of convictions or orders

This clause makes a consequential amendment to section 187A of the principal Act.

49—Amendment of section 189C—Costs against informant in proceedings for restraining order

This clause makes consequential amendments to section 189C of the principal Act.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Acts Interpretation Act 1915*

1—Amendment of section 44—Interpretation of references to summary proceedings, complaints etc

This clause amends section 44 of the *Acts Interpretation Act 1915* to make amendments that are consequential to this measure, and to make provision saving references in other Acts and regulations to 'complaints' by providing that such references will be taken to be references to 'informations'.

Part 2—Transitional provision

2—Certain statements to have effect as affidavits

This clause makes a transitional provision allowing certain declarations made before the commencement of the clause to continue to be filed in court in lieu of the requirement for an affidavit.

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

At 17:59 the council adjourned until Wednesday 6 July 2016 at 14:15.

*Answers to Questions*

**APY LANDS, CHILD SAFETY**

In reply to **the Hon. S.G. WADE** (14 May 2015).

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy):**

I am advised that Ms Nerida Saunders, Executive Director, Aboriginal Affairs and Reconciliation, Department of State Development, co-chairs the APY Lands Steering Committee.

I am further advised that at the APY Lands Steering Committee meeting on 25 February 2016 it was decided that a Child Safety and Wellbeing Subcommittee would be formed. The Department for Education and Child Development is the responsible agency for this subcommittee. The subcommittee held its first meeting on 21 April 2016.

**ABORIGINAL HERITAGE ACT**

In reply to **the Hon. T.J. STEPHENS** (23 March 2016).

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy):**

I am advised that once section 6(2) of the *Aboriginal Heritage Act 1988* was repealed the mandamus order ceased to have effect and there are no further obligations relating to the section 6(2) determination.

**VTT CELLULOSE FIBRE CHAIN VALUE STUDY**

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (23 March 2016).

**The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy):**

The South Australian government commissioned the VTT Technical Research Centre of Finland (VTT) to work with the South-East's forestry industry to identify a sustainable roadmap and achievable market opportunities for higher value-added activity in the forestry sector. VTT is a world leader in translating cellulose fibre opportunity research into business opportunities and is globally connected to major international cellulose fibre players.

The South East Forestry Partnerships Program (SEFPP) is a $27 million initiative of the South Australian government to assist the forest and wood products industry in the South-East by encouraging further investment in new and existing businesses.

Since the release of the VTT Cellulose Fibre Value Chain Study (the Study) in September 2013, the government has required all SEFPP applications to demonstrate how their projects help deliver on the outcomes identified in the study, including the development of innovative products and technologies to increase sales volume and production rates, to benefit the entire forestry supply chain in the South-East.

Since the SEFPP commenced, the government has announced support for projects worth over $79 million, which are expected to contribute significantly to the forestry sector in the South-East.

Since 2015 the following projects have commenced with SEFPP support:

- McDonnell Industries—the installation of equipment at their Mount Gambier sawmill to enable processing of smaller logs which would otherwise be exported;
- Roundwood Solutions—the installation of a micromill to utilise larger diameter wood and a new combined gasifier and biochar plant to utilise wood residues from current operations such as sawdust, shavings and woodchips, to produce biochar and hot air. Hot air is used to generate steam to dry posts. Biochar is sold as a fertiliser extender in local forest and agricultural markets;
- South East Pine Sales Pty Ltd—a new softwood sawmill process with scanning and sawing optimisation capability;
- H & L Scheidl Pty Ltd—a new kiln drying facility and treatment plant to value-add existing products, expand Scheidl's market and increase utilisation of forest products. The kiln will be heated by solar energy and a bioplant run on mill residues. The post peeling line will enable more posts to be produced;
- 3RT Holding Pty Ltd—a new customised 3RT Strand Technology production unit in Mount Gambier. Low-value wood (first thinnings, damaged logs, mill offcuts) will be transformed into high-value timber products (compressed wood) with similar properties to mature hardwood;
- Timberlink Australia Pty Ltd—a new high-speed board sorter, scanner, stacker and grading system to enable processing of more small logs and for the current Tarpeena green mill to run at maximum capacity; and

- Association of Green Triangle Growers Incorporated—for feasibility studies of the opportunity to develop significant processing capacity in the Green Triangle region.

As per the study's objectives, these projects are helping transform the industry so it is globally competitive by modernising existing processes and developing innovative products, and represents a further significant investment in this key industry for the state and the Limestone Coast.