

LEGISLATIVE COUNCIL**Thursday, 16 February 2017**

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 community. We pay our respects to them and their cultures, and to the elders both past and present.

*Bills***STATUTES AMENDMENT (NATIONAL ELECTRICITY AND GAS LAWS - INFORMATION COLLECTION AND PUBLICATION) BILL***Assent*

His Excellency the Governor assented to the bill.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (AUSTRALIAN ENERGY REGULATOR - WHOLESALE MARKET MONITORING) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (BUDGET 2016) BILL*Assent*

His Excellency the Governor assented to the bill.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (SACAT) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

POLICE COMPLAINTS AND DISCIPLINE BILL*Assent*

His Excellency the Governor assented to the bill.

PUBLIC SECTOR (DATA SHARING) BILL*Assent*

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (COURTS AND JUSTICE MEASURES) BILL*Assent*

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL) BILL*Assent*

His Excellency the Governor assented to the bill.

ADOPTION (REVIEW) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (GENDER IDENTITY) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

BIOLOGICAL CONTROL (MISCELLANEOUS) AMENDMENT BILL*Assent*

His Excellency the Governor assented to the bill.

RELATIONSHIPS REGISTER (NO 1) BILL*Assent*

His Excellency the Governor assented to the bill.

*Parliamentary Procedure***PAPERS**

The following papers were laid on the table:

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

Gene Technology Activities—Report, 2012-13

Gene Technology Activities—Report, 2014-15

Vinehealth Australia—Report, 2015-16

Lifetime Support Code of Conduct dated 2016

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

Economic and Finance Committee—Inquiry into the Labour Hire Industry—response from South Australian Government dated February 2017

*Ministerial Statement***AUSTRALIAN ENERGY MARKET OPERATOR REPORT**

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) (14:24): I table a ministerial statement made in another place by the Treasurer on the AEMO report into the 8 February load shedding.

*Parliamentary Procedure***ANSWERS TABLED**

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

*Question Time***PRISONER NUMBERS**

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I seek leave to make a brief explanation before asking the Minister for Police and Correctional Services a question about the prison lockdown.

Leave granted.

The Hon. D.W. RIDGWAY: The latest figures compiled by the Attorney-General's Department say that overcrowding of prisoners is costing the taxpayers of South Australia an extra \$51 million a year. This has all been going on under the minister's nose as he continues to seat shop and orchestrate backroom factional deals for his mates and for his plan to move to the lower house, where he will eventually knife the Premier and attempt to take his job.

The Hon. K.J. Maher: He's got the guts to move to the lower house.

The Hon. D.W. RIDGWAY: I'm what they call a team player; he is not. My question is: when will the minister stop his backroom deals, stop trying to undermine the Premier, and actually focus on his responsibility as minister and clean up the mess in South Australia's prisons?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:27): I'm going to completely ignore the stupidity of components of the Hon. Mr David Wickham Ridgway's question. Instead, I think it would be far more appropriate, and far more in the interests of South Australian taxpayers, if we focused on the issue at hand.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: I am happy to advise the chamber that yesterday evening, industrial disputation commenced between the Public Service Association and the department of corrections regarding an issue that originated from the Mobilong corrections facility. I am even more pleased to explain to the council that, as of this morning, that industrial action was lifted and, as a result, the men and women within Correctional Services at Mobilong Prison returned to work.

At the centre of this dispute is Mobilong Prison and the 104 beds that the South Australian government has invested in, at a cost of \$7.4 million, to expand our prison population. Throughout the course of this financial year, 270 new beds are coming online to the corrections system—270 new beds. That comes at an approximate cost of \$125 million of South Australian taxpayers' dollars.

My job, as the minister for corrections, is to try to implement as quickly as possible the productive use of those beds, which is why I was incredibly relieved this morning to learn that the PSA and the department of corrections had ended industrial action, and now more productive conciliatory negotiations are underway regarding some operational matters that are entirely within the remit of the department and I believe they have them under control.

We have never sought to make a secret of the challenge that exists within our Correctional Services system. It's one that I quickly identified upon taking up the responsibility of the minister for corrections. I was very quick to denounce the rack 'em, pack 'em rhetoric that was used by a former Labor minister. I don't think that rhetoric is consistent with Labor values, and I don't think it is consistent with the South Australian taxpayers' interests.

We have embarked on a new course in recent times to make sure that we have a short-term as well as a long-term strategy to deal with the challenge we are facing within the correctional system. Maybe I'll just take a moment to inform the honourable members opposite, who have failed to listen up to this point, about what that strategy is. We have put in place a bold strategy to reduce the rate of reoffending. We have put in place a target to reduce the rate of reoffending by 10 per cent by the year 2020. That is a significant undertaking and it won't necessarily be easily achieved.

We appointed a strategic policy panel, chaired by none other than Mr Warren Mundine, which has since handed me a report with comprehensive recommendations that the government is now in the process of responding to, including in this budget process. It is an important process, it is one that we want to get right because we want to realise that target. If we are able to realise that target, we will have saved the South Australian taxpayer money. More importantly, we will have kept more South Australians safe by reducing the rate of recidivism. We have a plan, and I have to say it stands in stark contrast—

The Hon. D.W. Ridgway: But you are the government, you should have a plan for 15 years, not in the last five minutes to midnight.

The Hon. P. MALINAUSKAS: —to those opposite who want to be in government. You are a complete policy vacuum. You stand up here today and you throw around innuendo about backroom factional plays and so forth, when you don't realise that the hallmark of success of this government has been a stable government getting on with the job of developing competent public policy that gets implemented. That is what we are going to continue to do. At the next state election, when it comes to the area of community safety—

Members interjecting:

The PRESIDENT: Order! It is totally inappropriate for the minister, while giving an answer, to have to field a barrage of interjections from the opposition bench. So, desist and allow the minister to complete his answer. Minister.

The Hon. P. MALINAUSKAS: Mr President, the opposition's interjections speak only to the fact that they don't have any policy. I haven't heard one interjection that represents a policy change. I have cogently argued what the government strategy is, both in the long term and the short term. When you read the opposition's '2036' document, it is full of nothing but motherhood statements. Motherhood statements like, 'Dangerous offenders need to serve jail time'. Well, there's a policy. 'We understand how important it is to work with our legal professionals'. Well, there's a policy. 'South Australians deserve a corrections system that is effective in reducing criminal behaviour'. Well, there's a policy. I think not.

These are simply motherhood statements. We're here to get on with the job. I applaud the department of corrections and the PSA for settling and ending the industrial action so they can get back to work and keep South Australians safe.

PRISONER NUMBERS

The Hon. S.G. WADE (14:33): I have a supplementary question. I ask the minister: in relation to the 270 new beds that are coming into the prison system in the coming year, can he tell us whether that will meet the projected demand in the coming year, in other words, whether there will be a net decrease in overcrowding as a result?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:33): My advice is that the government's strategy for the new beds that are set to come online both this year and also over the forward estimates will keep the forecasted prison population below the number of beds coming into the system.

PRISONER NUMBERS

The Hon. S.G. WADE (14:33): I seek leave to make a brief explanation before asking the Minister for Correctional Services questions in relation to prisons.

Leave granted.

The Hon. S.G. WADE: The 2015-16 annual report of the Department for Correctional Services shows that the average daily population of six of the prisons in the system was at or above the approved capacity. In relation to the Adelaide Women's Prison, it was as high as 16 per cent over capacity. My questions to the minister are:

1. What assurances can the minister provide that the situation at Mobilong won't occur at other prisons, leading to a state lockdown of the prison system?
2. How soon are beds to come online to resolve the lack of capacity, given that the system has been over capacity since November 2011?
3. When will approved capacity be above projected prison population?
4. What action has the minister taken, as minister, to resolve the problems at the Mobilong Prison?
5. Has the PSA raised any concerns with the minister in relation to overcrowding at any other South Australian prison?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:34): My advice is that this dispute that was initiated yesterday does not have anything to do with overcrowding within the prison system, but rather goes to an operational security concern. I am really glad that the PSA and the department for corrections have worked busily over the course of a really finite period to end the industrial action that commenced yesterday.

I outlined to the chamber yesterday that the Industrial Relations Commission has quickly dealt with the industrial action at hand. Within a 24-hour period the industrial action is concluded. I think that speaks to the professionalism of the department, the industrial relations system generally, and also to the PSA, to getting down and putting an end to the issues and differences and having a conciliatory approach towards the process going forward.

The Hon. Mr Wade has asked a number of questions with regard to the prison population, capacity and the like. My advice is that the current prison population is below capacity. I have articulated on more than one occasion, and this has been on the public record, that there is an approved prison population and also surge beds.

It is common and frequent for the surge bed capacity to be used, but as the state government continues to roll out its investment in new beds across the prison system, the need and reliance on that surge bedding is forecast to diminish. Just spending more amounts of money on the prison system does not constitute the entirety of our government's plan. We also have a plan of reducing the rate of reoffending.

As I stated earlier, the opposition has a whole bunch of motherhood statements in its policy. In fact, you want to be the government but you wouldn't believe that you want to be the government if you actually read what you guys bowl up. In your document here I cannot see a single statistic—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: I can't see a single statistic, there is not a budgeted or costed policy anywhere in here. I am just looking at a bunch of words, Mr President. We have a plan. I will give you some statistics. I will give you a leg up and I will give you a few statistics.

The Hon. J.S.L. DAWKINS: Point of order, sir.

The PRESIDENT: Point of order.

The Hon. J.S.L. DAWKINS: The minister needs to place his remarks through you, sir, and not continue to refer to 'you' all the time.

The PRESIDENT: I think more importantly the opposition ought to not interject and allow the minister to get on with his answer. Minister.

The Hon. P. MALINAUSKAS: Thank you, Mr President. Through you, Mr President, allow me to give the opposition a leg up and give them a few basic statistics. The first thing is that approximately 46 per cent of the South Australian prison population returns to custody within two years. In excess of 70 per cent of the South Australian prison population has been in gaol at least once before. I think we would collectively agree that those statistics are not good enough and can be improved upon. That is the heart of our policy. That is what we are investing in.

The Hon. R.L. Brokenshire interjecting:

The Hon. P. MALINAUSKAS: The Hon. Mr Brokenshire interjects and asks about rehab programs. In the last state budget, this state government committed an extra \$9.6 million to new criminogenic programs that are aimed at specifically achieving that objective of reducing the rate of reoffending. Through this year's budget process we are considering the comprehensive recommendations of the panel that this government convened, chaired by Warren Mundine, to look at other things we can do in the short, medium and long term to reduce the rate of reoffending.

None of this is simple policy area. None of it is going to change overnight, but we are committed to doing it. When the opposition is committed to nothing more than political point scoring,

that's their business. The Hon. Mr Ridgway has made one true statement throughout the course of this debate thus far and that is that we are the government. We are the government and we accept the responsibility of getting on with policymaking and that's exactly what we are doing.

PRISONER REHABILITATION

The Hon. T.J. STEPHENS (14:39): By way of supplementary question, would the minister outline, given his comments regarding rehabilitation, how many prisoners in South Australia are actually in meaningful work at the moment?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:40): I thank the Hon. Mr Stephens for a productive and thought through question, and one that speaks to an important component of getting prisoners rehabilitated. I am more than happy to take that question on notice with some specific numbers, but I would say that we have a nation leading (as I recall) number of people within work.

In terms of a specific percentage, I am more than happy to get that. The prison industry section within Correctional Services is one that we are proud of. Giving prisoners a structured day where they earn that right is an appropriate and necessary form of reintegrating the prison population back into the community. We have also been innovative when it comes to programs for prisoners on day release who imminently are to be released so that they are integrated back into the community. These are the sorts of areas that we look at.

I note the fact that the opposition has initiated a parliamentary inquiry into corrections. Unusually, that is something I have welcomed. I have welcomed an inquiry in the hope that the opposition, along with other members in the chamber, are genuinely committed to productive policymaking through that exercise.

To the extent that opposition members want to familiarise themselves with the challenges and the policy difficulties in this area, that is a good thing. If they have good ideas, if they have productive ideas, I will be the first to listen to them, but if the opposition's attempts through this parliamentary inquiry are to score political points, then we will check them for that and hold them to account, as their policy up to this point has been absolutely nothing but motherhood statements.

HOME DETENTION

The Hon. T.J. STEPHENS (14:42): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question regarding home detention.

Leave granted.

The Hon. T.J. STEPHENS: The opposition has received information that a 23-year-old male was given leave recently in relation to his home detention provisions. That leave was then used to attend the recent fight, *Mundine v Green*, at Adelaide Oval on 3 February, and the said prisoner did not return to his home. My questions to the minister are:

1. Is this instance and circumstance true?
2. Does the minister find it acceptable that a home detention detainee would not return to their home after authorised leave and attend a fight?
3. Is the minister aware of any other recent instances where detainees have failed to return to their homes following authorised leave?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:42): I thank the Hon. Mr Stephens for his question. First things first: this government is appreciative of the bipartisan support that consistently has been provided by the opposition for the home detention legislation currently in place. Of course the home detention legislation that governs the mechanism by which home detention operates in South Australia did enjoy bipartisan support, and I acknowledge the contribution of the opposition in that context.

Regarding home detention generally, of course there are strict regimes in place in and around home detention. Home detention is not a right for prisoners: it is a privilege, it has to be

earned. Where prisoners are afforded the opportunity to have home detention, whether by a court or otherwise, then it is important that they treat that as a privilege and comply with the appropriate conditions.

Where conditions are breached, it is certainly our expectation that, where those breaches occur, that prisoner be held to account accordingly. If the circumstances to which the Hon. Mr Stephens has referred did occur, I have no doubt that that prisoner will be punished accordingly.

ABORIGINAL RECONCILIATION

The Hon. J.M. GAZZOLA (14:44): My question is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister update the chamber about steps the government has taken recently towards reconciliation with the South Australian Aboriginal community?

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) (14:44): I thank the honourable member for his important question, his interest in this area and his previous long service to bodies like the Aboriginal Lands Parliamentary Standing Committee. Since colonisation, many governments of all stripes have, in many ways, failed Aboriginal people and Aboriginal communities. In the past, there has been a failure to respect, a failure to consult, a failure to include and often a failure to recognise and acknowledge these failures themselves. Policies enshrined in the laws of governments of this nation and its states have all too often ingrained this disadvantage instead of easing it.

Governments in the past have excluded Aboriginal people from participation and decision-making in the development of policies, policies that directly affect lives and the lives of the next generations. In some cases, that was the specific and deliberate motivation of government actions: to break apart legacies and to disrupt and tear apart culture. The harms perpetrated against Aboriginal people and the legacy of hardship and disadvantage that is still strongly endured today, two centuries on, is in my view without a doubt the greatest blight on us as a nation.

We ought to be proud to share this land with the oldest living culture on the planet, yet far too often that is not the case. Only in recent decades, in terms of laws and policies, have governments finally begun to take steps in the direction of respect, recognition and justice for Aboriginal people. In a lot of ways in South Australia, we recognised this earlier than other parts of the nation. We enacted the first Aboriginal land rights legislation in the country. The Aboriginal Lands Trust, which turned 50 last year, now holds more than half a million hectares for the benefit of Aboriginal South Australians.

This was followed by other land rights legislation, like the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act and the Maralinga Tjarutja Land Rights Act. Nationally, it is not even a quarter of a century since at last we saw the removal of the legal fiction of terra nullius, the concept that denied tens of thousands of years of Aboriginal occupation and custodianship of this land. Since that Mabo decision we have finally, as we always should have, recognised the legal right of Aboriginal Australians to the land, the waterways and to country. Native title has recognised what Aboriginal people have always known: that this country has been, and always will be, Aboriginal land.

I note that South Australia leads the way in native title recognition. I learned only in the last few weeks that now more than 50 per cent of the state's land mass is recognised through native title determinations. I am also proud that South Australia, in recent times, has led the way on the long road to reconciliation in other areas, to start to recognise and address past wrongs. Last year, we opened our Stolen Generations Reparations Scheme that acknowledges and begins to address the immense suffering caused by the forced removal of Aboriginal children and babies from their families and communities over many decades.

In 2013, this parliament formally recognised Aboriginal people in the state's constitution, fixing a glaring omission in the state's founding document, a humiliation that still exists in Australia's constitution. Nearly a year ago, South Australia became a formal partner to the national RECOGNISE campaign to recognise Aboriginal people as our country's first people in the nation's founding

document. In South Australia we have put in place an Aboriginal Regional Authority Policy that has enabled greater self-determination and independent governance, and we can be proud of the steps we have taken in the direction of healing, fairness and justice.

There is an important next step. Australia is the only nation, of those that we compare ourselves to, without a treaty with our first people. In December, I was proud to announce that the state government was to begin the process of putting in place what Aboriginal South Australians have deserved since the very beginning of colonisation: a treaty. It is a crucial step on the long journey towards reconciliation in this state.

If there is one thing that has been proven beyond doubt it is that unless Aboriginal people are fundamentally involved in crafting the decisions that affect their lives, they will not be nearly as effective. That is why, in discussions on the scope and applicability of a treaty in South Australia, Aboriginal people and Aboriginal nations will be involved in the consultations. We have committed, in the Mid-Year Budget Review, \$4.4 million to help these consultations and negotiations.

There have been many ideas over the years put forward by Aboriginal people, organisations and nations about what a treaty might look like in South Australia, and indeed what a treaty might look like in terms of a state process and a federal process. Common suggestions have included the need for treaties with individual nations, the desire to be more involved in the design of policies and programs, and being able to use whatever levers the state government has available to promote economic development and independence, but we know that the best results come from Aboriginal people and Aboriginal communities being involved at the early stages.

There are many reasons why South Australia needs to go down the process of treaty as our next step. It is a way of formally acknowledging and recognising the cultural authority of Aboriginal nations. It is a way to formally consider and address some of the consequences of colonisation for Aboriginal South Australians. It is another step towards justice for those who have been subject to dispossession and denigration under the laws of our society and its institutions.

We know that there is nothing that any government is capable of doing that can truly right all of the wrongs of the past. Treaty is the next logical and necessary step, and it is a step that is very long overdue. Treaty will enshrine the important responsibilities we have as a state towards Aboriginal South Australians and the way Aboriginal South Australians relate and interact with the state government.

Treaty sends a message to all South Australians that we acknowledge these important responsibilities and we acknowledge the failure to uphold them throughout our history. Treaty will give an important chance to do better by Aboriginal people, communities and nations. I look forward to updating the members of this chamber on this process as it unfolds during the course of this year.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:50): Supplementary question arising out of the minister's answer: how many separate treaties is the Weatherill Labor government contemplating, or is prepared to consider, with separate Aboriginal nations in South Australia?

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) (14:50): I thank the honourable member for his question, and it is a good question. As I just said in my answer, we don't have a predetermined view of exactly how this might look. I have spoken to my Victorian counterpart, the Victorian Minister for Aboriginal Affairs, a number of times over the last couple of months. They are embarking on a similar treaty process of their own, looking at some sort of treaty or agreement with Aboriginal Victoria as a whole.

We are now starting the consultations to see what is the most applicable model for South Australia. Some have suggested treaties with individual nations, as I think I outlined in the answer. Certainly, in Victoria, the consensus they are moving down to—

The Hon. R.I. Lucas: How many are there?

The Hon. K.J. MAHER: It would be a very brave Aboriginal affairs minister to say exactly how many nations there are in South Australia. There are—

The Hon. D.W. Ridgway: Give us a ballpark figure.

The Hon. K.J. MAHER: A ballpark figure would be a few dozen nations in total in South Australia—

The Hon. R.I. Lucas: Twenty-seven?

The Hon. K.J. MAHER: Around 30, in the figure of two to four dozen nations in South Australia. But, as I have said, we will start consultations now with Aboriginal South Australians about the best model that we go down in South Australia, and exactly how that might work.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:52): Supplementary question arising out of the answer: hasn't the minister already gone on record saying that he hoped to have finalised the first of the treaties with one of the Aboriginal nations before the end of the year? If that's the case, doesn't that presuppose that he has determined the model, and that is separate treaties with separate Aboriginal nations?

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) (14:52): I thank the honourable member for his question. I think there was a question put to me in an interview in December on: if we were going down a model of treaties with individual nations, how quickly would we like to move? My response is: I would like to move as quickly as we possibly can, involving Aboriginal people in those decision-making processes. If it was treaties with individual nations, it would be good to complete one this year.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:52): Supplementary question arising out of the answer: did cabinet this morning appoint a commissioner for treaty, and if so, is the minister prepared to indicate the name of that person?

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) (14:52): Cabinet didn't meet this morning.

The Hon. R.I. Lucas: Executive Council?

The Hon. K.J. MAHER: I wasn't involved in the Executive Council meeting this morning. As soon as there is something I can publicly say, Mr President, I am happy to bring it back to the chamber.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:53): Supplementary question. Let me rephrase the question: has the government appointed a commissioner for treaty? As we stand at the moment, has there been an appointment of a commissioner for treaty?

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) (14:53): I am happy to double-check, but my understanding is there hasn't been a formal appointment made. Certainly, it's something that is being discussed, but I'm happy to go away and check.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:53): Supplementary question arising out of the minister's answer: given that my advice is that the government has decided to appoint a commissioner for treaty—and in fact has, but put that separate question to the side—what would be the role of the commissioner

for treaty, in particular in relation to the already appointed two part-time Commissioners for Aboriginal Engagement? What would be the demarcation line between a commissioner for treaty, as the government is going to appoint (or, in my view, has appointed), and the two part-time Commissioners for Aboriginal Engagement?

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) (14:54): I thank the honourable member for his question. Something we made very clear in the Mid-Year Budget Review was our intention to appoint a commissioner for treaty. The role, as we see it, for the commissioner for treaty would be as a liaison between the government and Aboriginal South Australia—to act as someone who can bring the views of Aboriginal South Australia to the government and also, as we go down this process, act as an intermediary between the South Australian government and Aboriginal South Australia.

Certainly, the part-time Commissioners for Aboriginal Engagement play an important role that is much, much broader than that, and spans a whole range of policy areas and advice to government.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. R.I. LUCAS (14:54): Supplementary question arising from the minister's answer: has the minister appointed, or is the minister going to appoint, a member of his staff in his ministerial staff office to the position of commissioner for treaty?

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) (14:55): No.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. K.L. VINCENT (14:55): Supplementary: how do people register their interest in being involved in the consultation on the treaty? How will information about that process be disseminated, and will it involve information in Aboriginal languages, if necessary?

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) (14:55): I thank the honourable member for her very important question. The department of Aboriginal affairs has a very good record of being able to develop consultation processes with the Aboriginal community, and I am absolutely certain that there is, as there often is when statewide consultations are taking place, material that is translated into appropriate languages.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. S.G. WADE (14:55): Could the minister clarify whether the \$4.4 million is merely for consultation or will it involve any, shall we say, implementation of any provisions of such treaties?

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) (14:56): The \$4.4 million is for consultation and negotiation and, as I think we previously outlined, that may include things in terms of helping implement treaties, particularly in terms of internal governance for Aboriginal communities and Aboriginal organisations.

ABORIGINAL CONSTITUTIONAL RECOGNITION

The Hon. A.L. McLACHLAN (14:56): Minister, will the treaties require legislative underpinning?

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) (14:56): I thank the honourable member for his question. Certainly, that is something that is being looked at now, in terms of how

treaties are working in different jurisdictions around the world, most notably the ones most comparable to us, being New Zealand, Canada and the US in terms of treaties with first nations people. And there are different ways that different countries have done this.

Obviously, it is a different model we are looking at in Australia. We are a couple of hundred years too late compared to most of the other countries that we compare ourselves with, but certainly various countries do it in different ways. That will be something that's looked at, as to what is most appropriate for South Australia.

PORT AUGUSTA FLY ASH

The Hon. R.L. BROKENSHIRE (14:57): I seek leave to make a brief explanation before asking the Minister for Manufacturing, in his capacity as the now lead minister appointed by the Premier to fix the fly ash problem in Port Augusta, a question regarding fly ash affecting residents at Port Augusta since the closure of the base load power station.

Leave granted.

The Hon. R.L. BROKENSHIRE: As the minister would be aware, residents in Port Augusta have been overwhelmed by the presence of toxic ash since the closure of its Northern power station last May, and I am sure many members, including our party, have had representation and concern.

In early January this year, Senator Nick Xenophon appeared in the media at Port Augusta with representatives from Australian-based company Nu-Rock, who claimed they could use the ash commercially to make bricks, blocks and pavers. In the media interview, Senator Xenophon made the claim that any government that didn't back this proposal was as 'thick as a brick'.

I have done some further research into these claims and have been advised that the project would take an investment of at least \$20 million and that the material stockpiled by Flinders Operations has been compromised and, I am advised, may not be suitable for such an application, never mind being an economically viable solution. My questions to the minister therefore are:

1. Does the minister agree with Senator Xenophon that they are (that is, your government) as thick as bricks for not supporting this proposal?
2. Has the minister been advised that this proposal is viable and the material suitable, or, alternatively, has the minister been advised that this proposal may not be viable and the material may not be suitable?
3. What is the government doing to ensure Alinta works harder to rehabilitate the area, as I would understand is ultimately their responsibility, and fix this problem as a matter of urgency?

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) (14:59): I thank the honourable member for his number of questions on this matter. On his first question as to people being as thick as bricks: I think there is a danger in overspruiking things that aren't properly thought through or viable. With this particular proposal I think there is a danger that it is overspruiked to the people of Port Augusta that there is this possible saviour when in fact it might not be.

I do agree with the honourable member that things ought to be thought through a bit more before people go out saying that this may be the saviour and the great thing that might provide hundreds of jobs and millions and millions of dollars in revenue without the evidence to back it up. I think that's dangerous. I agree with the honourable member. In terms of whether or not I have been advised if it is viable or if the bottom ash in the ash dam is suitable, no, I haven't been advised that that is the case.

As I said in an answer to a question yesterday, the initial proposal was put up on a pro forma form to the unsolicited bids team and it didn't progress. It didn't meet the criteria that they need to look at to be a proposal to go to the next stage. In terms of the suitability of the bottom ash, I am not aware of any independent testing that has been done on that bottom ash to see if it's suitable or not so, no, I am not aware that there has been any testing as to its suitability.

In terms of Alinta and the ash dam itself, I can't remember the exact date when I last visited. I spent most of the day with the Mayor of Port Augusta. It was some time in January and Flinders Power, as they now are, were reapplying the gel temporary sealant to the ash dam, and I am informed that that temporary sealing was finalised later on the day that I was up there in January.

At the same time, Flinders Power are getting on with the longer term solution to sealing the ash dam, which is covering it with soil and vegetating that soil. Certainly, when I saw it with the Mayor of Port Augusta in January, they had made significant progress, putting big, very wide mounds of soil right out into the ash dam, and from there they will spread it and they will continue to do that. I don't have an exact date, but my latest update was last week from Flinders Power and they expected, I think it is about April, that they would have the ash dam sealed with soil and start the vegetation process to try to ensure that vegetation is growing over the winter months.

PORT AUGUSTA FLY ASH

The Hon. R.L. BROKENSHERE (15:02): Supplementary question: will the minister check with the offices to establish and then advise the house whether there are concerns with the composition of the fly ash and that it may well not be suitable for standards required to use in bricks?

The Hon. I.K. Hunter: It's not fly ash.

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) (15:02): I'm happy to check and, as the Hon. Minister Hunter interjects, it's not fly ash, that's what comes out the top of the power station, this is bottom ash which is from the bottom of the power station, but taking that into account, the bottom ash in ash dam. I will check if there has been any independent testing of it, but it's usually not the government's or the company's or Flinders Power's or Alinta's role to test ash to see if it is suitable for a commercial application. It is generally the case that if there is a company who wishes to use that resource, they get it independently tested. I'm not aware that they've done that, but I will check to see if they or anyone else has.

PORT AUGUSTA FLY ASH

The Hon. J.A. DARLEY (15:03): Supplementary: is the minister aware of the fact that Nu-Rock Technology is being engaged by an American state to provide exactly the same service that they submitted to the South Australian government?

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) (15:03): I thank the honourable member for his question. I understand that Nu-Rock, when they went up to Port Augusta to provide a PowerPoint display, represented that they do things in the US. I am not aware of the exact nature, if they do that. The initial inquiries about some of their operations in New South Wales indicated that they are in the pre-commercial phase of their testing of their products in New South Wales. That is what I was advised, but I will double-check that.

BIRD LAKE

The Hon. J.M.A. LENSINK (15:04): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation regarding Bird Lake at Port Augusta.

Leave granted.

The Hon. J.M.A. LENSINK: Further to the problems that have been experienced via the Port Augusta community in relation to the ash dam that was uncovered due to storm damage, there is an issue with a site known as Bird Lake, which is owned by the local council and is currently emitting a strong stench due to the breakdown of algal and other organic material as the lake dries out. Remediation of the lake is a very serious issue for the community and the local council, I understand, does not have the funds to deal with the work itself. My questions to the minister are:

1. Who does it believe has liability for the remediation of Bird Lake?

2. Is the government aware as to when the report into remediation of Bird Lake will be released?

3. Has the government committed any funding to cover the cost of remediating Bird Lake?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:05): My answers to the questions are: council, no and no. Having said that, the government is working closely with the council which owns Bird Lake. There is a long history of council's association with that area and how it is related to the former operators of the power station.

It is clearly land that is owned and under the care of the local council but as I understand it the potential for that area to dry out and cause odour problems for the local community, as well as nuisance problems in terms of insects, is quite apparent. I have offered personally and I know my leader Mr Maher has also offered for the government to consider what assistance we might be able to provide to council in fulfilling its obligations to its community of managing that area known as Bird Lake properly.

I am advised that the cessation of the water flow from the power station and subsequent drying out is likely to impact on the environment and the amenity and cause nuisance to the local community without the appropriate management. As the Hon. Michelle Lensink said in her explanation, it is unlikely, given the magnitude of the problem, that council will be able to afford, under its existing operating conditions, to take the sort of action that will be required. I understand that provision has been made by Flinders Power in terms of odour suppressant and that has been supplied to council and has been, as far as I understand it at least, applied to some effect. However, the council, of course, is leading this process to identify a long-term solution.

I have asked the EPA to work with council, and I understand that Mr Maher, as leader of the state government taskforce working with them, has asked them as well. Council has engaged, as far as I understand it, an independent consultant to provide a report on management options for the lake which will be given to council. My understanding is that they should receive that by the end of this month. As I said, the EPA has offered to assist with consultation and engagement with the community on the future management options for Bird Lake.

As I said earlier, the government is very concerned to help council find a solution to this problem for the local community. It is land that is owned and under the care and control of council but, having said that, we understand it may be something that they do not have the sufficient expertise to manage and perhaps do not have the appropriate funding required to address such a problem over such a large expansive area.

DOB IN A LITTERER APP

The Hon. G.E. GAGO (15:08): My question is to the Minister for Environment, Sustainability and Conservation. Will the minister inform the chamber about the new Dob in a Litterer app and how the government is protecting our environment?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:08): I thank the honourable member for her very important and interesting question. South Australia has a very proud legacy of leading the nation on recycling initiatives. Earlier this year, we celebrated the 40th anniversary of our nation leading container deposit scheme. I think it is the only piece of legislation, certainly from this state and perhaps nationally, that has received a heritage award. That scheme was introduced by the Labor government of Don Dunstan, of blessed memory, back in the seventies, with the strong support of KESAB at the time, as a market-based solution to encourage people to recycle their beverage containers.

Fast forward to 2017 and we are still leading the nation with almost 80 per cent of our waste diverted away from landfill because of market-based interventions led by Labor governments. Importantly, the consumer-led actions of reducing and reusing and recycling help to maintain our state's reputation as a clean and green environment. That is why we are recognised around the world, not just for our remarkable natural landscape but the fantastic condition that we as a

community keep it in. It is in the same clean and green spirit that the brand new Dob in a Litterer app was launched. The app, designed by the Environment and Protection Authority, has been developed to give community members a full range of tools to help combat littering, particularly litter that has been dropped by motorists.

Unfortunately, too many people these days feel it's okay to discard cigarette butts or lit cigarettes, which is particularly worrying, even from their vehicles, but also fast-food packaging and other waste. General rubbish, of course, is bad enough, but in a place like South Australia, so prone to bushfires in so much of our state, we are all too familiar with what can happen when a stray cigarette butt lands in grassland when it's still lit.

I am advised that there is research at the national level from the University of Wollongong that identified that almost 47 per cent of bushfires ignited between 1997 and 2009 were due to these sorts of accidental disposals of things like lit cigarette butts being dropped from cars, so this app is very important. It's very important for reducing littering in the environment and it's also very important in educating people about the danger of tossing lit cigarettes or butts out of car windows. We can help reduce the risk of bushfires by educating the public further, whilst also maintaining our clean and green reputation, which is incredibly desirable.

The app, I am advised, is compatible with Apple and Android phones and tablets, whatever they might be, and online reporting can also be made through the Dob in a Litterer website at www.dobinalitterer.sa.gov.au. I am told it will feature a variety of tools, such as the ability to take a photograph of the offending vehicle, with a very easy to use interface, which I am sure is a good thing. The app and website will guide people through the details required for a successful report, which include the following:

- alleged offender's vehicle details, including licence plate number, make/model and colour;
- whether the alleged offender was the driver or passenger;
- the location of the offence; and
- the time and date of the offence.

Once a report is made, it is automatically submitted to the EPA. It will then be reviewed and compared with registered ownership details for South Australian vehicles. If the registration details are matched and verified, an expiation notice may be issued to the vehicle owner. The expiation fee will vary, depending on the class of the material littered. For example, small amounts of general litter may attract a fine of \$210 plus a victim of crime levy, whereas for class B hazardous litter (in this we include live cigarettes, used syringes and glass) the fine can be as much as \$1,000 plus the victims of crime levy.

However, as part of the establishment of the app, a three-month grace period will apply where warning letters will be issued in lieu of fines under the program. This will help to increase awareness in the community prior to fines being issued. I would add that my expectation would be that, once someone has received one warning letter, that would be the end of their period of grace.

As at the end of last week, I am told, less than two weeks into the program, there have been more than 800 downloads of the app and more than 100 registrations made on the website. Mr President, I encourage you, honourable members of this chamber and any interested parties to download the app and see if you can make it work—I am told it has a very easy user interface—and see if you can find someone littering from a car and report it and we will educate them.

But I do make this very important statement. It is very important that if you are the driver and you are driving, please make sure that you do not use your phone, even if it has a dashcam on it, without it being safe to do so. Pull over to do any reports. Certainly, do not take photographs while you are driving if you have a passenger. That is the way it should be done. We do not want to increase any chance of unsafe behaviour in this regard. It is very important that people use this app in a very responsible way.

I would like to quickly close by thanking Green Industries SA and the EPA for their work on this initiative and their ongoing efforts to protect our natural environment. I am very pleased to see the uptake has been so swift and I look forward to more people accessing this new technology.

DOB IN A LITTERER APP

The Hon. A.L. McLACHLAN (15:13): Supplementary: how will the EPA access motor vehicle registration details?

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 his important supplementary question.

The Hon. K.J. Maher interjecting:

The Hon. I.K. HUNTER: I will endeavour to ignore the helpful advice from my leader on how to respond to that question. I imagine the EPA has a relationship with DPTI and will be utilising the same sort of approach that we do in terms of expiation fines for drivers who are caught by red-light cameras and no right turn cameras.

DOB IN A LITTERER APP

The Hon. A.L. McLACHLAN (15:14): Supplementary: is it conceivable or is it possible that, when a person takes a photograph and it is contested, they will have to give evidence in support of the expiation notice?

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 think I covered this on the wireless a little while ago. Just as a citizen making any report to an authority charged with the prosecution of an offence, there is always the chance that that evidence may be required to be used in court if it is contested. In exactly the same way, if you were making a report to the EPA about something else that is a violation of statute, then you would also—even if you wrote a letter or rang up to make that report—be expected, should it go to a challenge through the courts, to provide the evidence to support that report and the prosecution. So, in that case, it is absolutely no different.

DOB IN A LITTERER APP

The Hon. A.L. McLACHLAN (15:15): Supplementary: are those who are using the app alerted to that possibility? Is there a warning in the app that you may have to give evidence in support of your photograph?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:15): I thank the honourable member for his further supplementary. I will have to check that to be absolutely certain, but I believe I have seen in my briefing notes words exactly to that effect. I will check and come back on that for you.

DOB IN A LITTERER APP

The Hon. M.C. PARNELL (15:16): Further supplementary: with the indulgence of the council, I have downloaded the app while the minister was speaking and it includes the phrase, 'By submitting a report you acknowledge that you may be requested to attend court and act as a witness to any contested matter.' My supplementary question is: if 800 people have downloaded the app, have any of them actually used it? Have any of those uses resulted in expiations, and have any users been requested to attend court or to provide evidence in support of their dobbing-in of a litterer?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:16): I am indebted. I thank the Hon. Mr Parnell for his help in this instance. He is an avid tech user, we all know that, and in fact he is very adept at it. I am very grateful for his assistance in that regard. I hope, the Hon. Mr McLachlan, that that will be sufficient answer for you and that I won't need to come back to this place with further certainty. We will just assume that's the case, Mr President, and I withdraw my promise to come back to him, given that it has been answered by the Hon. Mr Mark Parnell.

As I said, I think this app has been used for two weeks, so I would think it very unlikely that some of the eventualities the Hon. Mr Parnell mentioned have eventuated just yet. He will recall, from my original response to the question from the Hon. Gail Gago, that our first response to people who may be reported for committing, potentially, an offence will be to write to them and advise them of the report that we have had and attempt to educate them about why that sort of behaviour is not to be encouraged. However, that will be the first and only notice, and subsequent reports of the same individual or the same registered individual will mean that they will need to be expiated.

AIR QUALITY STANDARDS

The Hon. M.C. PARNELL (15:17): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about air quality standards.

Leave granted.

The Hon. M.C. PARNELL: In December 2015, a new standard for annual average concentration of PM10 (which stands for particulate matter of a size 10 microns or less) of 25 micrograms per cubic metre of air was agreed to by the states. A detailed consultation process earlier in 2015 modelled three levels of PM10 particles per cubic metre of air, namely, 12, 16 and 20. The lower the level, the safer the air is to breathe, so it was disappointing that we actually ended up with a level of 25 after New South Wales, backed by Queensland and some other states, refused to support even the top of the model range of 20.

South Australia indicated at the time that it may be prepared to accept the standard suggested by the World Health Organisation and other health experts, that is, an immediate adoption of 20 micrograms rather than 25. My question to the minister is: have you made a decision yet, and will you adopt the World Health Organisation standard of 20 micrograms for PM10?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:19): I thank the honourable member for his most important question. I am advised that the Greater Adelaide region experiences very good air quality, certainly when compared to standards in the National Environment Protection (Ambient Air Quality) Measure, or NEPM.

In South Australia, ambient air quality monitoring, evaluation and reporting in accordance with the ambient air quality is undertaken by the EPA. The EPA also regulates industries that emit air pollution, using a range of tools, including licence conditions that may require long-term monitoring of emissions from stacks, and in some cases ambient monitoring around major facilities.

At a national level, the EPA has been actively participating in an initiative to implement a National Clean Air Agreement made by the meeting of environment ministers that the honourable member refers to. The National Clean Air Agreement provides a consistent framework for cost-effective management of air quality within all Australian states and territories over the coming decades. Following finalisation of tightened particle standards by environment ministers in December 2015, the focus of the AAQ NEPM review shifted to standards on other criteria pollutants, that being ozone, nitrogen dioxide and sulphur dioxide.

The EPA is participating in a national project to investigate the health risks of these pollutants on Australian communities and develop options for future national standards. The review is considering whether existing values of these standards should be retained or whether they should be tightened to reflect current health knowledge. In addition, the project group is considering introduction of population exposure reduction methodology for Australia, the subject of a further milestone agreement from the 2015 ministerial meeting.

The EPA, in collaboration with other government agencies, is also developing a South Australian air quality framework to promote the inclusion of air quality principles into planning processes. The framework will provide overarching principles to guide long-term management of air quality in South Australia. It is noted there are broad contributors to air pollution, such as motor vehicles and domestic and industrial sources. However, the framework will also recognise that individual local communities have particular concerns in relation to air quality and that they require unique solutions. This applies both within metropolitan and regional areas.

When finalised, the EPA will implement a communications plan to ensure all stakeholders are aware of the South Australian air quality framework. Whilst I would love to give the honourable member a jump on the announcement, I have to say, 'Watch this space.'

SOUTH PARA RESERVOIR PUBLIC ACCESS

The Hon. J.S.L. DAWKINS (15:21): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions regarding public access to the South Para Reservoir.

Leave granted.

The Hon. J.S.L. DAWKINS: Like many people from the northern metropolitan Gawler, Barossa and Adelaide Plains communities, I remember family visits in my younger days to the spectacular spillway site and picnic areas at the South Para Reservoir. Indeed, there once were traffic lights operating to regulate the flow of traffic in the public areas of the reservoir reserve. In recent years, SA Water has closed the reservoir to public access. As a result, the areas previously visited by people from all over South Australia and beyond have become overgrown with weeds.

Next year will be the 60th anniversary of the opening of the reservoir in 1958, after a 10-year construction period. Family members of construction workers from that period have contacted me regarding the potential for cleaning up and restoring the sites of the former accommodation areas for married and single employees adjacent to the construction area. My questions are:

1. What plans, if any, does SA Water have to mark the 60th anniversary of the reservoir, at that time the largest water storage facility in South Australia?
2. If so, do the plans incorporate relevant recognition of the many migrants who performed much of the construction work?
3. Is consideration being given by SA Water to reopening the relevant sections of the South Para Reservoir Reserve to acknowledge the cultural and historical elements of the construction phase?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:23): I thank the honourable member for his most important questions. Again, I need to hold up the Hon. John Dawkins as a paramount example to the opposition about how to ask questions in this place. I have to say, the front bench usually comes up with questions that we prepared answers for about six months ago (or, in the Hon. Mr Ridgway's situation, seven to 15 years ago) and we have them waiting and waiting. The Hon. Mr Dawkins comes into this place—

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: Here we go again, Mr Ridgway leading with his chin, when his own Prime Minister has made a habit and a pattern of exploring scientific expert advice, and he comes in here complaining about an article from 2003. His own Prime Minister (from the Liberal Party at a national level) is the chap who is a leading example for the Liberals about ignoring expert advice, and the Hon. Mr Ridgway raises the issue again. He has no understanding of his own lack of ability in this area.

But, the Hon. John Dawkins behind him shows how you should ask questions. They are considered questions, they are thoughtful questions, they contain in them incredibly useful hints for government. And I have to say, I don't have an answer for him. That has not happened in this place from the front bench. Besides commending the Hon. John Dawkins for his incredibly prescient questions, his thoughtful questions and the useful comments he has made in asking those questions, I will take that on notice and ask SA Water to give me some comments that I can bring back for the honourable member in this chamber.

WOMEN'S SPORT

The Hon. K.L. VINCENT (15:25): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Recreation and Sport regarding supporting women in sport.

Leave granted.

The Hon. K.L. VINCENT: Less than a fortnight ago the first ever AFL women's league launched in Australia. Here at Thebarton Oval the Adelaide Crows women's team launched their campaign by beating the GWS Giants by 36 points. The Adelaide Crows women's team currently sit at the top of the table after the first two rounds.

Given the extraordinary success of the women's AFL thus far, a recent step backwards regarding women in sport in South Australia is quite puzzling. My office has learned that the Wendy Ey scholarship grant has recently been discontinued by the Office of Recreation and Sport. It previously asked aspiring female coaches and officials wanting to further develop their skills and abilities to apply for an annual grant of up to \$2,500 towards their professional development in their role in sport. My questions to the minister are:

1. Why has the minister discontinued the Wendy Ey Memorial Scholarship Program?
2. Does the minister acknowledge that women continue to be under-represented as coaches and officials at all levels of sport and recreation in South Australia?
3. What specific programs and scholarships does the minister have in place to specifically address this imbalance and promote the inclusion and involvement of women in sport?
4. Are there any specific requirements or targets that clubs across all levels of sport in South Australia must meet in terms of gender balance before being eligible for Office of Recreation and Sport grants?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:27): I thank the Hon. Kelly Vincent for a really important question on women's sports issues. Of course, she has directed it to the right minister, the Minister for Recreation and Sport, the Hon. Leon Bignell, in the other place, who absolutely has been a champion for female sport in this state. He has driven reforms in this area to which no other minister has even come close—Labor or Liberal. His absolute commitment to raising the profile of women's sports is unparalleled.

Members interjecting:

The PRESIDENT: Order! Will the honourable Leader of the Government pull himself into line and allow the minister to finish his question?

The Hon. I.K. HUNTER: He is recognised right across the nation as a leading reforming sports minister in this area.

The Hon. R.L. Brokenshire: He flies around the world every week!

The Hon. I.K. HUNTER: And he is a fantastic ambassador for this state. This is a man who does not stop in terms of promoting South Australia interstate and overseas, attracting international air service carriers into South Australia, bringing tourists and increasing our share of overseas international students into South Australia.

The Hon. K.J. Maher interjecting:

The Hon. I.K. HUNTER: And, at the same time—my leader again is trying to lead me astray into some tangential issues about how he defeated a lame duck Liberal member in the seat of Mawson, took him on and cleared him out of that seat. This is a man who will hold onto the seat of Mawson for a long time into the future.

The Hon. P. Malinauskas: He's a good local member.

The Hon. I.K. HUNTER: He's a fantastic local member, he's a strong campaigner for women in sport. He championed this government's commitment to putting money into supplying female changing rooms for sporting—

The Hon. J.S.L. Dawkins interjecting:

The Hon. I.K. HUNTER: Well, the Hon. Mr John Dawkins laughs, but sporting communities came to us and said, 'This is a big lack in our area. We need changing rooms for women in sports,'

and the Hon. Leon Bignell led the charge to get that funding. The Hon. John Dawkins can laugh at it, but Leon Bignell delivered. He delivered for women in sport, he delivers for his community and he will continue to do so.

We only have to recall what he did on the Tour Down Under by getting rid of that old archaic practice of having young women come up and kiss—

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: The jersey girls, I am reminded by the Hon. Gail Gago—kiss the winners of that leg on the cheek. He changed that by getting young up and coming sports people, young players, to present the jersey, and that was a fantastic outcome. That was led by Leon Bignell, the member for Mawson—Leon Bignell, the member for Mawson, who killed Robert Brokenshire in that seat when he was a lame duck Liberal minister looking for re-election; Leon Bignell, who stands up for women in sport and will continue to do so. I will take those very important questions the Hon. Kelly Vincent asked me to direct to him, and I will attempt to get a response and bring it back for her.

Bills

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Committee Stage

In committee.

Clause 1.

The Hon. P. MALINAUSKAS: I would like to thank the honourable members who have contributed to the second reading debate on this bill. On behalf of the government, I would like to respond to some of the various questions that were asked during the debate. I now take this opportunity to address some of the concerns raised by honourable members.

The Hon. Mr McLachlan raised concerns about the administrative detention provisions and in particular asked for examples of what evidence will be required for a determination to be made and how this is established. The provisions will only be utilised if the licensee has contravened, or is about to contravene, a licence condition or is a danger to themselves or others. This might include failing to report as directed, failing to take their prescribed medication or producing positive urine tests for illicit drugs, just to name a few.

In addressing the honourable member's concerns about the administrative detention provisions, I also take this opportunity to advise the council that it is the government's intention, as the legislation states, that the clinical director of forensic mental health will have the powers to order the administrative detention of a licence. The government agrees with the Hon. Mr Hood that this discretion should only be exercised under circumstances where legitimate risks to community safety exist.

I take this opportunity to remind members that the provisions are not new powers and that prior to a decision of the Supreme Court in 2008, the clinical director of forensic mental health had the power to detain a licensee at James Nash House for up to 14 days without court interference. When this power was previously in operation, there was never any argument made that this power was ever exercised arbitrarily or oppressively or in any way inappropriately.

The Hon. Mr McLachlan has sought clarification about whether licensees detained under an administrative decision order will be detained at an appropriate mental health facility. The government would expect that given this provision is about stabilising a licensee's mental condition, all efforts would be made for the person to be detained at an appropriate mental health facility. However, standard provisions have been incorporated into the legislation, which provide that if there is no practical alternative, the minister may direct that the licensee is detained in custody in a prison.

Both the Hon. Mr McLachlan and the Hon. Ms Vincent sought clarification from the government as to why the government has not followed the advice of the Sentencing Advisory Council in relation to the intoxication provision. As advised when this bill was introduced in this place, the bill implements the government's policy, reflected in an election commitment, to stop offenders

whose mental impairment was caused by self-induced intoxication from utilising the defence of mental incompetence.

This issue was explored by the Sentencing Advisory Council, and indeed the council in both their discussion paper and final recommendation report proposed four possible options for reform. It is clear from the recommendation report that this issue was very significant and that not all council members shared the same view. The government understands the concerns raised; however, the government has formed the view that if a defendant is found mentally incompetent to commit an offence, and if a trial judge is satisfied on the balance of probabilities that the impairment was caused either wholly or in part by self-induced intoxication, whether at the time of the conduct or at any other time before the conduct, then the defendant may not be dealt with under part 8A.

This is a policy decision, and as the Hon. Mr Hood pointed out, this policy emphasises the need for people to take responsibility for their own actions. The government also takes this opportunity to address concerns raised by some honourable members and the Law Society that the amendments of the intoxication provisions are contrary to the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5). The proposed amendments to section 269C will mean that it is now irrelevant whether the mental illness or the self-induced intoxication occurs first.

It is now irrelevant whether a person's self-induced intoxication results in a drug-induced psychosis or whether a person's mental illness is exacerbated due to the recreational use of drugs or alcohol. It is also irrelevant whether intoxication results from the combined effects of the therapeutic consumption of a drug and the recreational use of the same or another drug. In each case, the fact is that people will no longer be able to use their own self-induced intoxication as a defence—as an excuse—for their criminal behaviour. I thank members for their interest in this bill and their support of this bill, for their questions and for their contributions to this debate.

The Hon. S.G. WADE: I am interested in the minister's answer to the question posed by the Hon. Mr McLachlan. I just want to understand the impact of the legislation. I understand, from what the minister just explained, that if a person has a mental illness and has consumed an intoxicating substance, then the trial judge will be asked whether the impairment is due in whole or in part—they cannot rely on the defence of mental impairment if their impairment is due in whole or in part to intoxication.

My understanding is that intoxicating substances have an effect from the first glass. Fundamentally, you could be a person suffering from a serious psychiatric condition, but if you have consumed one glass, at least part of your impairment relates to the alcohol. So, where is the causation?

The Hon. P. MALINAUSKAS: I have been advised that your analysis is correct. If a person who is mentally impaired consumes drugs or alcohol, then at that point they assume the responsibility for their actions in consuming drugs or alcohol.

The Hon. S.G. WADE: With all due respect, minister, they do not assume responsibility for their impairment; their impairment may be one glass which may have no impact on their behaviour. If they did not have a psychiatric condition, it may well not have, in any way, influenced their conduct. What I would ask the council to consider is whether in fact the effect of this would be to put a ban on anybody with a psychiatric condition from consuming any level of drugs and alcohol, because the impact would be that they would lose any legal rights they might otherwise have in relation to their psychiatric condition.

The Hon. P. MALINAUSKAS: My advice is that if the court finds that the impairment is caused by drugs or alcohol, then they will be held accountable accordingly. If, however, the court finds that their impairment was not affected by drugs or alcohol, then they are in a different boat. Maybe if I just read the sentence again. I understand the line of questioning from the Hon. Mr Wade. I might just read the particular sentence I refer to again, which will hopefully provide more clarity:

The government understands the concerns raised, however the government has formed the view that if a defendant is found mentally incompetent to commit an offence, and if a trial judge is satisfied, on the balance of probabilities, that the impairment was caused (either wholly or in part) by self-induced intoxication (whether at the time of the conduct or at any time before the conduct), then the defendant may not be dealt with under Part 8A.

The Hon. S.G. WADE: I understand the government's point and I look forward to considering it further. I wonder about the impact of this on people who might have alcohol-induced brain injury. My reading of that clause is whether the intoxication occurred at that time or any other time. I might have behaved very badly in my youth and had alcohol-induced brain injury. My reading of that clause would be that that intoxication, in the past, has contributed to that behaviour. Do I lose the right to have my mental impairment considered?

The Hon. P. MALINAUSKAS: We appreciate the Hon. Mr Wade's question, and we are happy to seek further advice in the coming days regarding that specific question.

The Hon. K.L. VINCENT: Members would be aware by now that the Dignity Party does have some amendments seeking to address the particular concern the Hon. Mr Wade raised in terms of 'wholly or in part' caused by self-induced intoxication. We do not intend to proceed with those amendments today because there is ongoing discussion happening, so we thank the committee for its indulgence in that regard. I think it is really important that we draw down on this issue and maybe slightly rephrase the Hon. Mr Wade's previous question about the 'in part'. I think it is the 'in part' caused by self-induced intoxication that is concerning, because I think one could quite easily argue that that is very arbitrary.

So, if I have a pre-existing mental health condition that might be exacerbated or manifesting in a particular way that might mean that I am more likely to commit a particular offence because of what I am experiencing mentally at that time but I have consumed one glass or even half a glass of wine or perhaps one joint, which might not otherwise have a severe impact on me, that is in part, is it not, influencing my decisions at that point, even though the impact of that drug might not be so severe as to cause that; it is actually majority caused by the mental health state that I find myself in at that point. I guess the question we face is: is 'in part' not overly arbitrary?

The Hon. P. MALINAUSKAS: I think the tenor of the Hon. Miss Vincent's question is consistent with that of the Hon. Mr Wade's. The government understands the question. What we would say is that the government's position is consistent with our election promise, which is that if you consume drugs or alcohol that will not be, and should not be, a defence for criminal behaviour.

The Hon. M.C. PARNELL: At the risk of flogging a dead horse, because I think the minister has said he will go away and have a think about some of these aspects, I still think it is useful if, before we come back, the minister considers that he probably has fairly universal acceptance for the idea that in the absence of any other mental illness people who go and get themselves drunk or affected by drugs should not be able to benefit from that as a defence, so that they say, 'Look, I'm not guilty. I didn't know what I was doing. I was so drunk.'

I do not think there is a great deal of argument on that, from what I have heard so far. What we are hearing from the Royal Australian and New Zealand College of Psychiatrists and others is that, where you get that interplay between people whose overwhelming condition is one of mental illness but, as the Hon. Stephen Wade and the Hon. Kelly Vincent have said, may have had a small quantity of drugs or alcohol, their conduct may have been, in part, the consequence of that self-induced intoxication.

The Royal Australian and New Zealand College of Psychiatrists' letter to us from several months ago suggests the replacement of 'wholly or in part' with the word 'primarily' or 'predominantly', so that it makes it clear that, in cases where mental illness is involved, people do still have the advantage of some sort of defence, unless the alcohol was primarily the cause of their conduct.

I do not know whether the minister will take from the different comments that have been made and the numbers of votes in this place represented by those comments, but it is something that the minister has to take away and deal with. My fear would be that, if he comes back maintaining the same sort of hard line, the bill might not survive in its current form. I put on the record that the Greens are interested in what the Royal Australian and New Zealand College of Psychiatrists have said.

The minister said he will take away with him the question regarding the new issue the Hon. Steven Wade has raised that the intoxication does not have to be current intoxication. It may well be that the conduct today is influenced or informed by the intoxication of some period ago and

the minister will come back with that. I would urge the minister to consider again whether we can actually achieve the vast bulk of what we want, which is for those cases where people hide behind their intoxication and drunkenness. If the minister could consider the mental health issues as, perhaps, a special case, I think we might see this bill passing through.

The Hon. S.G. WADE: Just as a footnote to my earlier question, I also assume that the reference to 'self-induced' refers to the person who is the subject of the charge? The minister can read the *Hansard* later, but the question will be there anyway. I assume, therefore, that people suffering the effects of foetal alcohol syndrome will not be affected because of the reference to 'self-induced intoxication'? I just want reassurance on that point.

The Hon. P. MALINAUSKAS: I thank the Hon. Mr Wade for his question, it is a good one. I think it falls into a similar category as your earlier question and I am more than happy to come back on that. Regarding the Hon. Mr Parnell's comments, we appreciate and understand exactly where he is coming from. I think the appropriate course of action, in light of the representations made, is for them to be considered in due course and they can be addressed when we come back.

That being said, the government remains committed and unwavering in its desire to honour its election commitment in this particular area. Notwithstanding that, there are a few points there that should be taken on notice and a discussion had with the responsible minister, being the Attorney-General, and we will come back in due course.

The Hon. K.L. VINCENT: I do not want to labour the point too much as the Hon. Mr Parnell has put it quite well, but no-one is seeking to say that anyone should holus-bolus be able to say, 'I was intoxicated, therefore it's not my fault.' We are aiming to capture those people. I want to add to the Hon. Mr Wade's comments about people with foetal alcohol syndrome because I did have the same question myself. Without wanting to labour the point too much but, because I think it is very important that we are very clear, could I also ask that the minister seek advice as to whether this would or would not cover people who might have had their drink spiked, for example, or otherwise have drugs administered to their system that they did not voluntarily ingest.

The Hon. P. MALINAUSKAS: My advice is that it has to be self-induced and therefore, clearly, drink spiking does not fit into that category.

Clause passed.

Clause 2.

The Hon. A.L. McLACHLAN: I flag that I will move to report progress unless any member wants to revisit some of those issues with the minister. I thank the minister for his responses to my questions at the second reading. There was no opportunity at the close of parliament to articulate those in the summing up of the second reading debate. So, unless any member wants to tease out any points for consideration next week, I will move that motion.

Progress reported; committee to sit again.

GENE TECHNOLOGY (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 15 February 2017.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:53): I rise to close the debate at the second reading. I believe all those who wished to make a contribution have done so. Just to recap: as South Australia is a signatory to the National Gene Technology Agreement, the Gene Technology (Miscellaneous) Amendment Bill 2016 was brought to this place to reflect changes made to the commonwealth Gene Technology Act 2000.

The agreement sets out overarching principles to ensure the commonwealth, state and territory governments establish a nationally consistent regulatory scheme. This agreement aims to ensure national fulfilment of the objectives of the gene technology legislation, and that is to protect the health and safety of people and to protect the environment.

The passing of this bill will now mean that the South Australian Gene Technology Act 2001 remains aligned with the national scheme but will have minimal operational impacts on gene technology activities within South Australia, I am advised. Through the agreement, Australia has developed an international reputation for best practice regulation and risk assessment in this area.

I would like to extend my thanks to Ms Fay Jenkins, Ms Joanne Cammans and Ms Kate Turner from the Food and Controlled Drugs Branch, Public Health Services, for their hard work and help in the passage of this bill. I commend the second reading to the chamber.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (JUDICIAL REGISTRARS) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 November 2016.)

The Hon. A.L. McLACHLAN (15:59): I rise to speak to the Statutes Amendment (Judicial Registrars) Bill. I speak on behalf of my Liberal colleagues who grace this chamber. I inform the chamber that the Liberal Party will be supporting the second reading of this bill. The bill amends various acts in order to create a new judicial office with the grand title of judicial registrar in the Supreme Court, the District Court, the Magistrates Court and the Youth Court.

The stated purpose of this initiative is to produce efficiencies in the courts. A significant foundation stone of the initiative is that the judicial registrars will be judicial officers, but with limits on their judicial discretion. As the great poet wrote in his reportedly last play, 'Heaven is above all yet; there sits a judge that no king can corrupt.'

The Liberal opposition's misgivings about this legislation are birthed from a desire to ensure judicial officers remain independent and are seen to be so by the people of this state. The government's focus is on making the administration of justice more efficient. We do not resist this pursuit by the Attorney-General in the other place, but any such objective must not come at the expense of the rule of law and degrade the independence of the judiciary.

I acknowledge it is not always easy to balance the cost of funding a justice system when there are so many competing financial calls upon the government against the expectations that, living in a functioning democracy, there will be the appropriate structures in place to ensure the rule of law.

Nevertheless, I cannot help but observe for the benefit of the honourable members that, in my three years as a member of the council, there has been too much legislation conceived by the socialist collegium that is the Labor executive, which has been designed to appeal to rank populism rather than from a purer motive of a deep and abiding respect for the principles underpinning the rule of law.

The Liberal opposition will move to amend the bill in committee to ensure the independence of the judicial registrars. The Liberal opposition has had regard to the submission of the Law Society when coming to this view. We are not orphans when it comes to our opinions on this bill.

It is anticipated by the government that the role of the judicial registrar will be to handle less complex legal matters. This will, in turn, improve the efficiency and effectiveness of the administration of justice in this state. The bill provides that judicial registrars will be judicial officers of the courts to which they are appointed, ranking between special justices and the relevant courts, magistrates,

masters or judges, as the case may be. They will exercise jurisdiction set out in the rules of the relevant court, except for the power to impose a sentence of imprisonment or detention.

Other restrictions on their powers will be prescribed in the regulations. We have not been provided with draft regulations. The bill requires that they must be a legal practitioner of at least five years' standing. Their appointment will be for a period of at least seven years. The bill also provides for the removal of a judicial registrar for neglect of duty or dishonourable conduct following recommendation of the Attorney-General and concurrence of the head of the court to which the registrar was appointed.

The government has indicated in its second reading speech that it is expected that judicial registrars will handle uncontested, high volume and less complex proceedings, as well as matters identified as likely to resolve. The government has reasoned that, without much science, this will allow the other judicial officers of the Magistrates, Youth, District and Supreme courts to devote more of their time to complex matters, as well as, by implication, to the criminal and civil case load of the courts. The Attorney-General in the other place indicated that this bill will enable some matters that are too complex to be dealt with by a special magistrate in the Magistrates Court to instead be dealt with by judicial registrar.

I note that the Attorney-General, in a letter dated 4 November 2016 and addressed to the member for Bragg in the other place, stated:

The appointment of judicial registrars would also offer the Youth Court greater flexibility in the use of its judicial resources. On the commencement of the Statutes Amendment (Youth Court) Act 2016 and this bill, matters in the Youth Court could be allocated to either the judge of the court, the magistrates of the court or a judicial registrar.

The pursuit of efficiencies cannot be worshipped exclusively at the expense of the rule of law. The government asserts that the bill provides a strong framework for the independence of the registrars from the executive branch. The Liberal opposition disagrees with this assertion. We believe that the registrars should either be appointed permanently or, in the alternative, not be empowered to hear contested matters. We have forged amendments accordingly.

Judicial appointment tenure and remuneration are critical to underpinning judicial independence from the executive. Judges should never feel that if they do not please the government their tenure may be at risk. As Lord Denning said, 'Justice must be rooted in confidence and confidence is destroyed when right-minded people go away thinking: "The judge was biased".' The people of South Australia are entitled to have their issues judged by someone who not only is, but also appears to be, independent and without bias.

The Liberal amendments seek to ensure judicial independence. There are two sets of amendments. The first requires that if judicial registrars are appointed for a fixed term they can only hear uncontested matters. The second set requires that if judicial registrars are appointed with no fixed tenure, then they have the power to hear contested matters. These amendments are targeted at ensuring the independence of the judiciary is maintained by providing either security of tenure or ensuring judicial registrars without the same are not determining contested matters. I ask the council to give kindly consideration to one of the two options.

In rising to speak on this bill, I do not seek to criticise the Attorney-General's pursuit of efficiencies in the justice system. I wish him well. But in doing so he cannot cut corners and weaken the immutable principles that underpin our democracy. If the Attorney-General seeks efficiencies, then I draw his attention to the submission of the Law Society that sets out a pathway for just what the Attorney-General is seeking. To us, on the opposition benches, this appears, on its face, a safer path to find than that which our Attorney-General seeks.

If the Attorney-General should listen, he may also hear the cries of the legal profession for greater commitment to the courts infrastructure. Mr Harris, the former president of the Bar Association, has written:

One must also ask the question of why the Government is prepared to spend money like a drunken sailor on the glittering new arts and entertainment precinct adjacent to Parliament House, the Festival Theatre and Adelaide Oval and yet consistently fail to support the administration of justice in this state.

Lack of funding is not at the heart of this issue but rather it is a lack of commitment to the third arm of government.

I call upon the Labor government to reinvigorate its commitment to the administration of justice. Efficiencies are not an end in themselves. A healthy democracy is the real prize. A healthy democracy demands judicial officers who are protected from the passions of the day and can, without reservation, stand up for what is right.

Debate adjourned on motion of Hon. T.T. Ngo.

ELECTORAL (LEGISLATIVE COUNCIL VOTING) (VOTER CHOICE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 6 December 2016.)

The Hon. R.I. LUCAS (16:07): I rise on behalf of Liberal members in this chamber to put the Liberal Party views on the record in relation to this particular bill. I note, and I will refer in my contribution to the very concise and pithy contributions made by other members, the Hon. Mr Darley, the Hon. Mr Parnell and the Hon. Mr Hood, who put their views clearly in relation to this particular piece of legislation. They are views, I might say, that the Liberal Party, by and large, shares.

Can I just trace briefly for members the recent history of this—the recent history, rather than the long-term history. I think there has been a shared view for some time in the South Australian parliament, in the national parliament, and I suspect in some other state jurisdictions as well, that there has been a need to stop what has been referred to as the excessive use of preference harvesting and the proliferation of what might be referred to as microparties in upper houses around the nation.

The Liberal Party's view has been that we do not support a position which, in essence, seeks to wipe out all minor or third party representation in the upper houses of parliament. I might say that there are some within the state parliament, I will not name the individuals, who do have that particular view, and various options at various times have been put to me, and to others, concerning voting systems which would effectively wipe out all minor party or third party representation if those particular models were to be adopted.

I can say that my view—and I am pleased to say the majority view in the Liberal Party—has been, on all occasions when those options have been raised, to reject any suggestion that we should seek to, in essence, construct a system in the state upper house which essentially only allows major party representation and does not allow any third party or minor party representation.

The brutal reality of electoral politics is that, since 1979 in South Australia, under Liberal and Labor governments, there has been a balance of power position in the Legislative Council. It has varied from, in the original days, a single or sole member who held the balance of power between Labor and Liberal, to its maximum, where I think there were eight members at one particular time.

It is fair to say that it has increased significantly in my time in the Legislative Council and in the parliament, but, nevertheless, whether it is one, eight, five or six, the reality is that neither party (or no government) has had the capacity to ram through legislation in both houses of parliament without the safety net or the safety valve of the Legislative Council in South Australia.

I think that if it was ever put to a referendum (and I do not think it ever will be) there would be passionate support for the continuation of the Legislative Council in the first instance, and I suspect passionate support from the South Australian community for the notion that the Legislative Council should remain a safety net or a safety valve against the excesses of government, whether it be Liberal or Labor, in the House of Assembly or in the parliament generally.

As I said, I do not expect that will need to be tested by way of referendum, but there have been suggestions over the years, as members would know, that perhaps there be changes that be tested by way of referenda in relation to either radically changing the powers of the Legislative Council or, in essence, its very existence, as to whether or not it should continue to exist.

In relation to the voting system, the reality is that there has been, for more than three decades now, a balance of power situation, and by and large good governments, and in particular premiers and ministers who are prepared to respect the views of minor parties and Independents, even though

they might not agree with them and even though there might be vigorous disagreement on occasion, but nevertheless are prepared to approach the situation with respect for the views of others and the views that those minor parties and third parties express on behalf of the constituencies that they represent. Governments by and large can get the majority or the bulk of their program through both houses of parliament.

There will be examples where it does not occur. There have been examples where, only through diligence, hard work and ultimately being able to convince members of an opposition party to cross the floor, that major issues, such as the establishment of the uranium mine at Roxby Downs, for example, or the repayment of state debt through the privatisation of our electricity assets, ultimately members (in this case members of the Labor Party) felt so strongly about a particular issue that they took decisions in the public interest, were expelled from their party, but nevertheless supported bills that the government of the day was pushing through the parliament.

I have put the figures on the public record on a number of occasions, and I will not do so again, but the percentage of bills that actually have been defeated over the last 20 years or so is a very small percentage—I think it was 1 or 2 per cent of bills defeated. Yes, a number are significantly amended. Yes, a number are amended to a lesser degree, but the reality is that governments, even in this chamber, often move to amend their own legislation because they have had the time to reflect and listen to the views that have been expressed and eventually accept the fact that their drafting has been imperfect and therefore require their own amendments. In many cases, they have been prepared to compromise and accept amendments.

I come back to the point that, if governments, ministers and premiers are prepared to treat members of this chamber, in particular minor party and third-party representatives, with respect, are prepared to listen and debate the particular issues, even if they disagree eventually vigorously, by and large they will be able to get the majority of their program through both houses of parliament.

As a result of this sort of pressure point, we have seen, since around about 2013, this rush of various ideas in terms of: how do we stop preference harvesting and how do we stop the microparties from proliferating in upper houses? We have had three broad versions of proposals. We have had the threshold proposal, which the Hon. Mr Hood referred to in his contribution. I think there might even still be a bill before the parliament, but there was certainly one prior to 2014.

We have had the bizarre concept that the Labor Party pushed for a period of time, the Sainte-Laguë method, which came from nowhere, completely foreign to our way of life, the political way of life in South Australia and indeed in Australia, but imported from the deepest channels of Europe. There was an attempt to transplant Sainte-Laguë into our system. There was very strong opposition from everyone other than government members to that particular proposal, and that remains the case now from minor parties, Independents and the Liberal Party in relation to Sainte-Laguë, but the government still continues, in the corridors, to try to prosecute and push the case that that is a model to go down.

It is completely foreign to what we do, but I think one of the most objectionable features of the Sainte-Laguë model is that it completely takes away the choice of voters to be able to vote for or against individual members of the Legislative Council. It would be a tragedy indeed for the many ministerial staffers of the Labor Party who proudly tweeted photos of putting Rob Lucas number 63 on the Legislative Council voting ticket at the last election. I would hate to have deprived Labor ministers' staff of the pleasure of being able to photograph their vote, where they were able to put Rob Lucas number 63 on the Legislative Council voting ticket.

As tongue in cheek as that particular comment was, it nevertheless makes the point that individuals should be able to put Rob Lucas number 63 if they so wish, and if the faction bosses and the leaders of the Labor Party decide to put the Hon. Russell Wortley or the Hon. Kyam Maher number 1 rather than the Hon. Tung Ngo, they should be able to express their view. They should be able to express their view that they would prefer 'Ngo 1', or the Hon. Tung Ngo at number 1, as opposed to the Hon. Mr Wortley.

The Hon. S.G. Wade: There were posters all over the city last time.

The Hon. R.I. LUCAS: Indeed, there were posters all over the city last time. We saw them up and down Unley Road and Port Road—everywhere—and a very handsome man he was too. That

is a right, and I think a fundamental right, that people should have, to be able to express a view about individuals and not just accept the wishes of faction bosses and leaders, whether they be in the Labor Party or the Liberal Party or, frankly, even in the Greens. If someone wants to express a view for—

An honourable member interjecting:

The Hon. R.I. LUCAS: Trust me, there are factions in the Greens. There is about to be an election at the moment for the next ticket. It is about to get willing, I suspect. Anyway, put that to the side. There are fundamental issues in relation to Sainte-Laguë and as I said, without going through all the detail, there was very strong opposition and there continues to be strong opposition to that.

In relation to optional preferential voting, we saw a couple of bills from the Hon. Mr Darley and the Hon. Mr Parnell prior to 2014. There are any number of variations of optional preferential voting that one can have a look at. What we can say about optional preferential is that every person in this chamber—Labor, Liberal, Nick Xenophon Team, Family First, Greens and Dignity Party—have all at some stage or another either voted for, supported or proposed support for optional preferential voting. As other members have already contributed, there would appear to be the grounds for a coming together of the mind.

The point that I have made, in particular to the Attorney-General, over nearly 12 months is—and I completely agree with the view of the Hon. Mr Parnell and the Hon. Mr Hood—let's not do as we did prior to 2014 and leave this to the last weeks of the year. In 2014, the Liberal Party position was that we were prepared to have a look at some version of optional preferential, but we needed time. The Electoral Commissioner said to us, 'We don't have time, as a commission, to actually implement a threshold model'—which was the Hon. Mr Hood's bill—'or some version of optional preferential.' The Liberal Party still wanted to work our way through the debates about optional preferential voting.

I have been saying to the Attorney-General for nearly three years, 'Let's not leave it.' I have been saying it for the last 12 months in particular, 'Let's not leave it.' We now have the latest version, to which I will address some comments, which is at least a version of optional preferential (but it is not really) in the Legislative Council. Privately, they are still romantically flirting with the idea of whether they can get the support for Sainte-Laguë.

This week, a majority of members in this chamber have indicated quite clearly, 'Look, let's get over the various models of the past and the one that you are currently proposing. There is a way forward if people are prepared to sit down and work together to see whether we can come to some form of agreement with some version of optional preferential voting. But, it is not the version which sits before us at the moment.'

As I think the Hon. Mr Parnell said, the title of the Electoral (Legislative Council Voting) (Voter Choice) Amendment Bill is a misnomer in and of itself. There is no voter choice. If there were 12 boxes above the line, you could fill in 1 to 12 with all the preferences you wanted to express—Greens 1, Family First 2, Labor 3, right through to number 12, if that is what you wanted to do—and that would be your clear preference. Under this proposed bill, the government would say, 'Well, stuff your preference. You have just voted for Greens No. 1, and if they happen to only have two people on their ticket, it exhausts at the end of 1 and 2.' Even though your second preferential was Family First, that would not matter.

The logic of that, other than through some misguided attempt to try to advantage the major parties at the disadvantage of minor parties, escapes me, and I am sure it will escape the majority of people in the community. The reality is that if we are talking about operational preferential, we are not saying, 'Okay, you can only vote for the two Greens candidates above the line, even if you wanted to express a preference for every other box above the line.' The message for the Attorney-General and the government is that we have had the Greens, Family First and the Nick Xenophon Team clearly indicate, 'Let's get on with it.' This bill is not going to pass the parliament or the Legislative Council because the Liberal Party's position is exactly the same.

The bill is not going to pass, but everyone has said—and I too join now and say officially, although I have said this privately to the Attorney-General on many occasions—that because everyone at some stage has indicated some support for optional preferential, there is the potential

for common ground in some version of optional preferential voting. I think everyone has accepted the removal of voter tickets. That appears to be a big tick in terms of progress to stop the preference harvesting and the microparties.

It is then the issue of above the line and below the line. The Hon. Mr Darley has tabled amendments which essentially say up to six boxes above the line. I have had a conversation with the Hon. Mr Darley and my understanding is that he is not going to die in a ditch in the end. If agreement can ultimately be reached, he is prepared to talk.

The Hon. Mr Parnell indicated that he was prepared, on behalf of the Greens, to talk further with all parties represented here. I think he has tabled or is tabling amendments in relation to below the line. I think the Hon. Mr Darley had, in essence, that you had to fill in all the voter blocks below the line. The Hon. Mr Parnell is moving further amendments which would, in essence, allow up to 12, I think?

The Hon. M.C. Parnell: Optional.

The Hon. R.I. LUCAS: Optional, okay. There are varying versions in relation to that. My personal view, which I have expressed to the Attorney and to other members in the discussions I have had, is that I think there is a powerful argument to try to have as great a consistency as we can with the Senate. The Senate is six above the line—not up to six, but six above the line—and 12 below the line, because you have to elect 12 senators. Our version of that would be six above the line and 11 below the line. However, the Hon. Mr Darley has raised the option of up to six. The Hon. Mr Parnell is looking at options, whether it is up to 11 or 11 or whatever the number might happen to be.

There are varying options along those lines that I think all parties in this chamber are prepared to have a sensible discussion about, but we need to sit down and have a sensible discussion. Saner heads within the caucus, I think, need to say to the Attorney-General, 'Let's get on with it. You've had an invitation from everyone in the upper house. Firstly, the invitation is that you are not going to get your plan A and your plan B; let's now talk about whether we can come up with something which gets rid of voter tickets, which provides optional preferential above and below the line, and let's work through some sort of reasonable compromise in relation to that, which the government, the opposition and the minor parties can support.'

As I said, something along those lines has been supported by every party in this chamber. Thresholds have not been supported by everyone. Sainte-Laguë certainly has not been supported by anyone other than the Labor Party. Various other models have not been, but some version of optional preferential above and below the line has been supported by everybody. It is now a question of whether we can come together to sort out a version that will be able to pass the Legislative Council and then ultimately the House of Assembly.

I urge the Attorney-General not to cut off his nose to spite his face. He has said to me privately on any number of occasions that he wants to achieve reform in this particular area. We are now getting to the end game, but do not leave it until September, October, November, December. We have a few weeks left in this particular session. Let's have the discussions.

I urge the Hon. Mr Ngo and others to speak to the Attorney-General and others and say, 'Okay, let's accept the reality. We know what you prefer, but that ain't going to happen. Let's now sit down and see whether we can actually sort through something sensible to reduce the chances of microparties proliferating within the state to an even greater degree. We recognise the reality, and that is that third parties and Independents have been, and will continue to be, a permanent presence in the state's upper house, in the Legislative Council, and governments, Labor and Liberal, are just going to have to accept that that is the reality of the world as we know it today.'

As soon as the Attorney-General and the other hardheads within the Labor Party can get themselves across that hurdle, we can then seriously sit down and work out various models of optional preferential above and below the line. As I said, my personal view is something closer to the Senate, but that is not a party view. Our party view is to strongly oppose the government's bill but to be prepared to negotiate with the minor parties and the government on some version that will work in terms of optional preferential above and below the line.

With that invitation, we indicate our willingness to support the second reading of the bill so that we can get into the committee stage, but we certainly will not be supporting the bill as it stands, and clearly the Legislative Council will not support the bill as it stands.

Debate adjourned on motion of Hon. T.T. Ngo.

At 16:30 the council adjourned until Tuesday 28 February 2017 at 14:15.

*Answers to Questions***RUSSELL, DR D.**

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (20 October 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 Dr Russell provided detailed information that responds to this question to the Legislative Council's Budget and Finance Committee on 24 October 2016.

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (3 November 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:

The length of the current lease for the Career and Workforce Development Centre at Warradale is two years. The total cost of the lease for the centre is \$135,450 per annum plus outgoings.

SA WATER

In reply to **the Hon. J.M.A. LENSINK** (15 November 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Water and the River Murray has received the following advice:

As presented in SA Water's audited financial statements, SA Water's electricity costs are:

2014-15	\$48.5m
2015-16	\$48.9m

In addition, electricity costs are also incurred through SA Water's alliance agreement with Allwater for its metropolitan operations as follows:

2014-15	\$12.1m
2015-16	\$11.2m.

ENVIRONMENT, WATER AND NATURAL RESOURCES DEPARTMENT CONTRACTORS

In reply to **the Hon. J.M.A. LENSINK** (15 November 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Sustainability, Environment and Conservation has received the following advice:

Contractors are generally used to assist with short-term workload pressures, to backfill long term leave vacancies (such as maternity leave or long service leave), or as project resources. In 2015-16, contractors were used as project resources for a range of initiatives such as:

- Adelaide Living Beaches, helping replenish and maintain Adelaide's metropolitan beaches;
- Coastal protection projects;
- The Nature Based Tourism Strategy which is estimated to inject \$350 million per annum into the state's economy and create 1,000 new jobs by 2020;
- National Partnership Agreement that is helping deliver environmental water, improve river operations and infrastructure management; and
- South Australian Riverland Floodplains Integrated Infrastructure Program (SARFIIP) helping improve vegetation, aquatic and marine habitats while also boost the Riverland Region's economy through increased employment opportunities, improved productivity benefits for Pike irrigators and new tourism opportunities.

No project-based positions have been converted to a permanent role.

PUBLIC SECTOR EMPLOYMENT

In reply to **the Hon. J.S. LEE** (17 November 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:

As at 17 November 2016, of the 36 unassigned employees, 33 are currently working in funded positions and 3 are currently working in unfunded positions, commensurate with their classification level and skill set.

These employees are working in various roles, including project officer and project management roles across the Department of State Development and other public sector agencies.