LEGISLATIVE COUNCIL

Thursday, 11 May 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.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports, 2015-16—
South Australian Training Advocate
Training and Skills Commission

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

Regulations under the following Acts—
Motor Vehicle Act 1959—Conditional Registration

Ministerial Statement

CHEMOTHERAPY TREATMENT ERROR

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:20): I table a copy of a ministerial statement relating to chemotherapy underdosing made earlier today in another place by my colleague the Minister for Health.

Parliamentary Procedure

ANSWERS TABLED

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

Question Time

SA WATER RECONCILIATION ACTION PLAN

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:20): I understand that a question was asked of the Leader of the Government by the Hon. Kelly Vincent yesterday on the number of SA Water Aboriginal employees. As of today, I understand that 1.66 per cent of SA Water employees identify as being Aboriginal. I understand also that SA Water has three new Aboriginal employees set to commence, with contracts to be signed shortly. This will increase the number to 1.85 per cent of staff.

UNLEY WATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about TCE contamination.

Leave granted.

The Hon. D.W. RIDGWAY: On 1 May 2017, residents of 300 Unley properties were advised via a letter from the Environment Protection Authority that they should not use bore water due to the potential that this groundwater has been contaminated with trichloroethylene (TCE). TCE has been linked to a range of health risks, including cancer, and was behind the evacuation of homes in Clovelly Park back in 2015.

According to the EPA, they will now drill 22 temporary small bores to install a Waterloo test capsule for about 10 days in order to measure the amount of TCE vapour. My questions to the minister are:

1. If the Waterloo test capsules only take 10 days to register the amount of TCE vapour, why have the residents been told they will not know the results until July?

2. Are there any other sites in Adelaide where residents will soon be advised of a groundwater contamination issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:22): I thank the honourable Leader of the Opposition for his very important questions. The Environment Protection Authority has commenced environment assessment work in the form of soil vapour sampling in the area bounded by Charles Lane and Mary Street, Unley, I am advised. The assessment work is aimed at understanding the impacts of historical industrial practices that are known to affect groundwater and whether additional assessment work is required to understand the extent of any contamination that might exist.

Groundwater in this area is believed to have been impacted by past land uses, including refrigeration manufacturing, furniture manufacturing, cabinet-making, bootmaking and a drapery. The EPA holds a number of site contamination assessment reports for several sites between Charles Lane and Mary Street, Unley. However, the information is incomplete and the EPA has identified a number of data gaps in relation to the potential for soil vapour contamination.

The work will be undertaken on road verges and on public land, and the results will be used to inform a computer model that predicts indoor air concentrations. The EPA has written to all residents, I am advised, within the assessment area to advise them of the work. Residents were also reminded that bore water in the area should not be used for any purpose.

I am also advised that the EPA is holding a community information evening in Unley between the hours of 6pm and 9pm; I believe that is happening this evening at the Unley Community Centre for members of the community to drop in and speak with EPA staff. It is intended that data from the assessment work will be provided by the site contamination consultant to the EPA by July 2017. Following receipt, the EPA will again write to residents within the assessment area to advise them of the results.

UNLEY WATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): Supplementary: firstly, why is it taking until July for those results? We are in early May; that's six, seven or maybe eight weeks. Can the residents know any sooner?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): My understanding is that the work is being done by a contamination consultant. The contamination consultant will need to do the drilling work, put in place the recording devices, retrieve the recording devices, enter the data they receive into some sort of model database and then pass that advice to the EPA. The EPA, these days, routinely advises the public as soon as they get this information. So, the EPA passes on the advice as soon as they have it themselves.

UNLEY WATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): Further supplementary question: the minister didn't address my second question. Is he aware of any other sites in Adelaide where residents will soon be advised of a groundwater contamination issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:25): I thank the honourable member for reminding me of the second part of his question. I don't have the answer immediately off the top of my head, but members will well know that work has been underway for some time at several sites in relation to this potential groundwater contaminant. From a brief recollection, I have talked in this place previously about contamination in Glenelg around a former dry-cleaning site, contamination around Edwardstown, obviously, and also at the Holden site, which is an ongoing discussion the government is having with the owner of that land.

It's not unusual. TCE has been used for well over 50 years, probably longer, as a solvent, and particularly as a metal cleaner, wherever there have been these sorts of industrial practices that might have used this solvent, as I noted in the briefing today—even a drapery, for example. It is not unexpected that bad disposal practices would have happened at these facilities. Whether that in fact automatically means that groundwater is contaminated is not always the case.

It depends on the extent and the period of time that this chemical solvent would have been incorrectly disposed of—directly to soil, for example—where there is a deep or shallow aquifer anywhere close to the site of the contamination and whether that contaminated site is close to any residential dwellings or whether it is part of a larger industrial landscape. All of these variables are well known and well debated and they are all up on the EPA website, as far as I understand it. All the sites that have a recording next to them about potential TCE are available on the EPA website. The honourable member can have a look at that for himself or ask his staff to do so.

UNLEY WATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): Further supplementary: the minister gave a number of sites then, but he didn't mention that the EPA, according to my understanding, is investigating an issue in Thebarton at the moment. Is that up on the website or is it just that he has failed to mention that it's on the website or that he failed to mention it totally?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:27): Again, I haven't perused the website in recent times, personally. The honourable member can do that work himself. I think there was an announcement about Thebarton in recent days, but, as I say, the EPA publishes all of these things on the website. The honourable member can do his own research, and if he finds an omission, he can raise that with me, but I think he will be entirely satisfied that the information he seeks is up there.

SA WATER INFRASTRUCTURE

The Hon. J.M.A. LENSINK (14:28): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation about SA Water assets.

Leave granted.

The Hon. J.M.A. LENSINK: Following the September storms last year, I asked the minister about contingencies for power failures affecting its assets, including pump stations, water treatment plants and gates. The minister subsequently provided a list of assets and locations that rely on electricity to do pumping, as they don't have electricity backups. I understand SA Water has to physically go there to do the pumping to keep the pits emptied. My questions to the minister are:

1. Can the minister explain whether these pits are at risk of overflowing into waterways when the power goes out and whether this has ever happened?

2. Can the minister outline what mitigation strategies have been put in place to prevent further overflows in these locations, including information on the time frames for staff to get there with generators?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:29): I thank the honourable member for her very sensible follow-up questions to information I have provided to her. I don't have that information presently before me. I need to take her question on notice and bring back a further response.

FORENSIC SERVICES REVIEW

The Hon. S.G. WADE (14:29): My questions are to the Minister for Correctional Services:

1. Has the minister discussed with the Minister for Mental Health and Substance Abuse the findings of the independent review of forensic services which was undertaken during the 2014-15 financial year and which the Principal Community Visitor has recommended should be released to the public and tabled in parliament?

2. Has the Minister for Health provided the minister or any of his staff with a copy of the report of the independent review of forensic services?

3. Has the minister read the report?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:30): I thank the honourable member for his questions. Naturally, I have been in regular conversation with the Minister for Mental Health and Substance Abuse on a range of different issues. More recently, that has been associated with our work on the ice task force. I have been the chair of the ice task force, with the Minister for Mental Health and Substance Abuse being the co-cabinet minister working on that particular exercise.

There are also a range of interactions that occur between myself and the Minister for Mental Health. We have regularly had conversations on matters pertaining to those people who find themselves in custody who may or may not have a mental health issue and also the interchange of prisoners who stay within correctional services facilities and who may be subject to a mental health issue and also issues around James Nash House.

Regarding the specific questions that the honourable member refers to, I will take on notice questions that pertain to specific references to the specific report the honourable member refers to.

SCIENCE ALIVE

The Hon. J.M. GAZZOLA (14:31): My question is to the Minister for Science and Information Economy. Can the minister update the chamber on how government is encouraging young South Australians to be more involved in science?

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) (14:31): I thank the honourable member for his question and his keen interest in all things scientific. As a government we want everyone in the community, particularly young people, to be curious and engaged in the sciences. It is important that school-age children in particular can grow their interest in science, technology, engineering and maths to set them up for the consideration of careers in some of the most promising future industries—jobs in industries like defence, food and beverage technology, medical devices and software development, to name a few.

We are implementing a wide range of initiatives and programs to ensure South Australia is the best place for creative entrepreneurs and researchers to innovate and to commercialise their activities to reach global markets. We know that the foundations for these careers begin at school, and investing in these STEM subjects and STEM education of our young people will be crucial.

In the last state budget there was a commitment made to build and upgrade STEM labs at 139 public schools across metropolitan regional South Australia. We want to ensure that every primary school in South Australia will have a minimum of one teacher with a STEM specialisation by 2019. Five hundred teachers will receive additional training to become professionals with specialist STEM skills as part of the STEM strategy. These investments are aimed to deliver contemporary STEM programs, giving children the skills and knowledge they need to succeed in the industries of the future. STEM occupations are fast becoming one of the biggest areas of growth in the world, and we are keen to ensure that South Australia builds, attracts and keeps businesses that prosper in Australia but are connected to the global economy.

It was for these reasons that I was incredibly pleased to officially launch Science Alive at Tonsley. Seeing Science Alive and our state's premier innovation, Tonsley, coming together was

indeed a very good thing, and I am pleased to say that the South Australian government has provided $20,000 to Science Alive to support their programs. It was a fantastic day. The main assembly building area at Tonsley was bumper to bumper with students, parents and families getting excited by science. Shooting smoke cannons, digging for fossils and making slime were among the activities that people got involved in.

Science Alive also held their most recent event at the Playford Civic Centre on 7 May, which again had all sorts of interesting stuff for young children, including Daleks, which are always a crowd favourite. I am informed that almost 10,000 people attended both of those events—the Science Alive in the north and the Science Alive in the south. Science Alive have upcoming events at Whyalla, Mount Gambier and Port Augusta, and of course there is the big yearly Science Alive at the Adelaide Showground.

It is a great opportunity for young people to have fun with science and to see what kind of careers are possible. Last year, Science Alive at the showground attracted more than 26,000 people, and it continues to grow, particularly with events like the recent ones at Tonsley and Elizabeth. Science and innovation are key priorities for the government, and Science Alive supports these priorities by inspiring and engaging young people in areas of STEM.

On a finishing note, I thank some of the organisations who help make Science Alive happen: Flinders University, University SA, Saab, ZEN Energy, SciWorld, Questacon, the Adelaide Showground, Renewal SA, BAE and the City of Playford are but a few of those that make these events what they are.

DISABLED DRIVERS

The Hon. K.L. VINCENT (14:35): I seek leave to make a brief explanation before asking questions of the Minister for Police about advice his office is providing constituents.

Leave granted.

The Hon. K.L. VINCENT: This morning, my office received a phone call from a constituent. The constituent is the mother of an adult son with disabilities who has been pulled over (that is, the son) by police multiple times while driving. It appears that the driver is not being stopped due to any traffic or other infringements, but because of his appearance.

It seems that, because this person is of short stature, SAPOL may be interpreting that the driver is underage because of his height, despite the fact that he is a licensed and experienced driver who drives to his work. The mother called my office this morning to inquire as to what she might do about this matter after being referred to me by the office of the Minister for Police, the Hon. Peter Malinauskas of course.

Instead of his office seeking to resolve the constituent's query, I understand that the ministerial liaison officer suggested that the mother, as an alternative, 'call Kelly Vincent's office'. My questions to the minister are:

1. Has the minister directed that calls to his office that include disability issues be directed to my office?

2. Is the minister aware of a cabinet directive where queries including the word 'disability' to the minister's office are instead directed to mine?

3. If he has not directed this to occur, is the minister aware that staff in his office are directing disability-related inquiries to our office?

4. Will the minister confirm, as the Minister for Police, that he is in fact in charge of all police matters, even if they include disability-related issues?

5. Will the minister please advise whether processes could be put in place for this constituent, so that he is not subjected to further interrogation by police while driving lawfully?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:37): As there are five different components to the question, I will endeavour to deal with each of them. With regard to the

components that deal with the consistent subject of a potential instruction from me to my staff around referring people to you, no, I have never given an instruction to my staff to refer matters to the office of Kelly Vincent. I am not aware of people from my office referring people to the office of Kelly Vincent, but I am more than happy to make inquiries to ensure that that has not occurred.

Members interjecting:

The Hon. P. MALINAUSKAS: Sorry, what was the—

Members interjecting:

The PRESIDENT: It is a little bit rude referring to someone of the other house as 'smart alec'. If you want to mention anyone in the lower house, mention them by their proper title.

The Hon. D.W. Ridgway: Even when they interject, Mr President?

The PRESIDENT: Even when you interject. Minister.

The Hon. K.L. Vincent: Did the minister want me to repeat the final question?

The Hon. P. MALINAUSKAS: Yes, please.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.L. VINCENT: Could a process be put in place so that the police are aware—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Vincent is trying to ask a question: please allow her to do it in silence.

The Hon. K.L. VINCENT: Could the minister please advise whether a process could be put in place for my constituent so that he is not subject to further police investigation, or interrogation I suppose, while he is driving lawfully, that is, that police are aware that his appearance is different due to his disability and that therefore they do not need to stop him.

The Hon. P. MALINAUSKAS: I thank the Hon. Ms Vincent for accommodating the repeat of the last part of the question. Not having the detail of your particular constituent's inquiry regarding reasons why the police have regularly pulled him over, it is difficult for me to comment with authority, other than to say that it is of course the government's expectation that people are pulled over in accordance with the law and meet the relevant criteria for police to pull someone over in the first place.

On the basis of the information, albeit in the brief context that the Hon. Ms Vincent has referred to, of course it would be concerning if police were pulling someone over simply because they were disabled or had an appearance of being disabled. I suspect there would be more to it than that, of course. There is a range of reasons why it would be reasonable for police to pull someone over on the basis of their appearance, under certain circumstances, but of course there would be other circumstances where that would not be appropriate.

If the Hon. Ms Vincent is comfortable to pass on those details of the particular constituent's concern to my office—apparently they have already been in contact with my office so I'm more than happy to chase that up personally and seek a briefing on it and make sure that the constituent receives an appropriate response.

The PRESIDENT: I would just like to acknowledge a very special birthday of the Hon. Mr Darley this week, well done.

An honourable member: It's next week.

The PRESIDENT: It's next week. Well, we always like to give a bit of notice!

APY LANDS, TRAINEESHIPS

The Hon. T.J. STEPHENS (14:40): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question about traineeships in the APY lands.

Leave granted.

The Hon. T.J. STEPHENS: It has been reported recently that traineeships in South Australia's Anangu Pitjantjatjara Yankunytjatjara lands, designed to upskill young workers in that area, incurring the region's high unemployment rate, are not providing young people with any long-term employment. Given this, my question to the minister is: what measures are the government planning to take to increase employment in the APY lands, specifically in regard to long-term employment beyond school-based training programs?

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) (14:41): I thank the honourable member for his question and his interest in this area. I know that he is a regular visitor to the APY lands and knows firsthand some of the challenges that are experienced. The Trade Training Centre has done a remarkable job providing training. I do not have the figures with me but I saw them recently and it is well over 1,000 both accredited and non-accredited courses that have been attended by people in the APY lands.

There have been some hundreds—I think into the thousands now—nights of accommodation provided at the Trade Training Centre accommodation suites. I know when cabinet was up in the APY lands in the last couple of weeks, the Trade Training Centre accommodation hosted many of the people who were up there as well as providing meals. It was fantastic to see some of the young people from nearby communities such as Pukatja and Kenmore Park undergoing certificate I to II in things like hospitality that were there helping with the service.

I have heard that some who have done some kitchen work and hospitality have gone on to work at places like the resort at Uluru. I also know that with, for example, the just over $100 million road project that has the road coming off the highway through to Pukatja, that there was an employment target of, I think, 30 per cent that has been well and truly exceeded. Things like the Trade Trading Centre are important in providing options for those sorts of contracts that are increasingly having minimum employment targets set of Anangu employment which, together with the Trade Training Centre, will lead to long and ongoing, sustainable careers.

BURRA AND MOONTA MINES

The Hon. G.E. GAGO (14:43): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about the recent announcement of the national heritage listing of the Burra and Moonta mines?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:43): I thank the honourable member for her most excellent question. In 2006, the Cornwall and West Devon mining landscape in the United Kingdom was inscribed on the World Heritage List.

Following an approach from the proponents of this inscription, the South Australian Heritage Council nominated the Burra and Moonta mines state heritage areas for consideration by the Australian government for national heritage listing in February 2009. I am pleased to advise the council that on Monday 8 May the federal government announced the Cornish mines at Burra and Moonta would be entered onto the National Heritage List. This is fantastic news and it was well received by the local community at Burra on Monday.

The Cornish mining heritage at Burra and Moonta mines tells an important story about the technology and traditions of the Australian base metal mining industry. Cornish Australians helped to shape social institutions such as Australian Methodism and Freemasonry and fostered a distinctly Australian ethos in politics and industrial relations.

In the mid-1800s, thousands of Cornish miners flocked to Burra in the state's Mid North and Moonta on the Yorke Peninsula to mine two of the largest copper deposits in the world at that time. The world heritage listed sites in Cornwall only tell part of the story of Cornish mining history. There is a global story to be told, which includes South Australia, Spain, South Africa and Mexico. Cornwall was the centre of mining skill and innovation and was incredibly advanced at the time. In particular, the Cornish miners were experts in hard-rock mining and had an advanced method of extraction.

As the mining boom slowed in the UK, thousands of Cornish migrants left England, brought their skills to South Australia and Burra, Moonta and Wallaroo became centres of Cornish mining expertise and knowledge. The copper mines and the Cornish mining expertise led to an economic explosion and established Australia's reputation as a significant site for mining and minerals. In many ways, these sites are the birthplace of the industrial revolution in our country.

Prior to copper mining, Australia was largely an agricultural economy, but the industrial technology brought by the Cornish migrants and the discovery of copper changed all that. Burra was also the site of the first industrial strike in South Australia, making it an important place in the history of industrial relations, the birth of the labour movement and, particularly in Yorke Peninsula's case, the birth of the Australian Labor Party.

Heritage chairs and officials from other Australian states and New Zealand had their annual meeting this year in Adelaide. As part of their program they have selected Burra as their choice of heritage place to visit. I joined them on Monday and participated in a community morning tea at the Burra Railway Station to celebrate the national heritage listing, which was announced by Dr David Kemp on that morning. This event was also an opportunity for the chairs and officials to meet the local people who have proactively conserved and promoted the significance of these two places, in particular the local branches of the National Trust, the Burra History Group and the Goyder and Copper Coast councils.

National heritage listing can be incredibly beneficial for the local and state economy, for job creation in tourism, as well as contributing to the social fabric and identity of the community in which the property is located. In addition to the national heritage recognition and the sense of community pride engendered, it is hoped the national heritage listing will greatly increase tourist visitation from within the country and overseas. This provides hospitality and heritage management related employment opportunities and income for these local communities.

The Department of Environment, Water and Natural Resources will work with local stakeholders to activate the heritage tourism opportunities for operators. In addition to tourism benefits, now that the sites are nationally listed, the community, owners and local councils are eligible to apply for financial assistance from the Australian government to conserve the Cornish mining heritage.

The great esteem in which a national heritage place is held by the local, national and international population can also bring about a higher level of protection for the property. The inclusion of South Australia's Cornish mining heritage sites at Burra and Moonta mines on the National Heritage List is a great achievement, opening up, potentially, a world heritage nomination for Cornwall and its history.

The sites now join only a handful of other national heritage listed sites in South Australia, including the Naracoorte Caves, the Ediacara Fossil Site at Nilpena, the Adelaide Parklands, the city layout, Witjira-Dalhousie Springs, the building we are standing in right now and also Old Parliament House.

The South Australia part of the Cornish mining heritage is now a nationally recognised example of the spread of Cornish hard-rock mining technology and a culture from Cornwall and West Devon to other countries around the world. I would like to congratulate all those involved in the nine-year process to have these sites nationally heritage listed. I look forward to seeing the tourism heritage developments in Burra and Moonta as a result of this recognition.

HAYDON, MR M.R.

The Hon. D.G.E. HOOD (14:49): I seek leave to make a brief explanation before asking the minister representing the Attorney-General a question relating to dangerous offenders in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: In 2004, Mark Ray Haydon, a man convicted for assisting in the so-called Snowtown murders, was sentenced to 25 years' imprisonment. Mr Haydon, however, becomes eligible for parole on the 21st of this month. Indeed, earlier this week, Mr Haydon made an

application for parole, which has raised significant concern within the community, especially for family members of the victims. My questions for the minister representing the Attorney-General are:

1. What, if anything, is the government doing to prevent the release of Mr Haydon?

2. Is the Attorney able to exercise his powers in accordance with the dangerous offenders provisions under the Criminal Law (Sentencing) Act 1988?

3. If the Attorney is not able to intervene in Mr Haydon's application for parole based on a legal technicality, as has been reported, what legislative changes, if any, will the government introduce to protect the community from dangerous offenders such as Mark Ray Haydon?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:50): I thank the honourable member for his questions and his ongoing interest and commitment to community safety, generally. The news of the potential release of Mr Haydon into the community is something that is alarming for all South Australians. Mr Haydon, of course, is associated with some of the most serious criminal acts that we have seen in this state, indeed in the nation's history, and the prospect of anyone linked to the Snowtown murders I think is a legitimate source of concern for us all. It is something this government is following very closely.

In respect of the technical questions that the Hon. Mr Hood has asked, of course I will take them on notice and make sure that he gets a response from the Attorney-General, but if I can speak generally, I have been advised that the police commissioner is paying close attention to the parole proceedings. There is a substantial process that the gentleman concerned, Mr Haydon, has to go through before he can be released into the community.

We think that the process associated with parole in this state is robust and it serves as great comfort to me and the government that SAPOL will be informing themselves regarding this matter and making a submission to the parole process. We have every confidence that the Parole Board will take the submissions of SAPOL into consideration, substantially, when they make their respective deliberations.

The government reserves its right to consider all legislative options if that is what is required to ensure that South Australians remain safe. In respect of the technical questions regarding the particular case or the particular legislation the honourable member refers to, I am more than happy to seek advice from the Attorney-General and bring back an answer accordingly.

INNOVATION VOUCHER PROGRAM

The Hon. A.L. McLACHLAN (14:52): I seek leave to make a brief explanation before asking the Minister for Automotive Transformation a question.

Leave granted.

The Hon. A.L. McLACHLAN: I have previously asked the minister some questions regarding the Frost and Sullivan review of the government's grants program. Yesterday, the minister indicated that the review conducted was at an early stage and that the government was continuing to assess how the grants programs were performing. I ask the minister to advise the chamber who is conducting these current assessments? Is it independent or within the department? What is the methodology of the review or assessments, including the key performance indicators used to make the assessment of the business's performance, having received a grant?

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 thank the honourable member for his questions. They are excellent questions and he again demonstrates why he is on a fast track to be leader of the Liberals in this chamber. They are remarkably incisive and well put questions, in complete contrast to the soft serve that we have been dished up from the current Leader of the Opposition, whose lead question yesterday was, 'What have you seen on TV lately?' and 'Do you have a phone at home?' That was the lead question yesterday. This is why the Hon. Andrew McLachlan is fast becoming so very respected.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: His questions aren't about, 'What did you see on TV last night?' They are exceptionally good and well thought out questions. I know the honourable member referred to page 14 of the Frost and Sullivan report. He was very specific and I thank him for giving such detail in his questions that enable me to take them away and formulate a sensible answer to a sensible question. As I said to his question yesterday in terms of ongoing reviews of all government programs, I am happy to take the question away and bring back an answer. I know we always look to make sure our programs are as effective as possible and that we are using taxpayers' money as well as we can in supporting industry in South Australia.

In terms of the review of things like the Business Transformation Vouchers and other things that the Frost and Sullivan report pointed out had been so successful in their early stage, I am happy to take the question on notice about any KPIs that are being used to look at any current reviews on such programs. Good question.

NATIONAL ROAD SAFETY WEEK

The Hon. J.E. HANSON (14:54): My question is to the Minister for Road Safety. Can the minister update the council about National Road Safety Week and the fourth UN Global Road Safety Week?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:55): I thank the honourable member for his question. I know he is a member who has travelled the state extensively in various roles, including his previous one. His commitment to road safety, I think, should be acknowledged. This week is Road Safety Week in Australia. It is an opportunity to use the yellow ribbon to acknowledge Road Safety Week, and I note that, during the course of the week, there have been some members of the house who have worn a ribbon.

It is a week to remember those who have been killed or seriously injured on our roads while raising awareness and encouraging safe driving behaviours. In South Australia, we have made great progress over recent years regarding reductions in the number of serious injury and also fatality crashes. In 2016, last calendar year, South Australia recorded its lowest ever road toll with 86 fatalities; that was 16 fewer fatalities than in the year prior. I think the statistic is particularly worth noting in light of the fact that we still do see an increasing number of cars on the road, so to be able to achieve a reduction in the road toll to the extent that we have is no mean feat.

Our fatality rate was below the national average last year with 5.1 deaths per 100,000 of population, which is below the national average and, again, is significant considering the volume of roads and movements that many South Australians have to travel in the context of our rather dispersed population and vast distances across the state. We are on track this year to have a similar result. We have seen 29 fatalities on our roads so far this year compared to 30 at the same time last year.

However, while these statistics are encouraging, no fatality on our road must ever be seen as acceptable or inevitable. There is always more work to be done. Nationally, unfortunately, we have seen quite the opposite trend, with the national road toll over the past two years increasing. In 2016, 1,300 Australians were killed and over 35,000 were seriously injured on Australian roads. These figures are simply too high.

National Road Safety Week is an initiative of Safer Australian Roads and Highways (the SARAH foundation), a not-for-profit association formed as a result of the Hume Highway crash of 15 February 2012 that tragically took the life of Ms Sarah Frazer. This year, it coincides with the fourth UN Global Road Safety Week. The theme is speed management, with the Save Lives #SlowDown campaign being used by road safety authorities around the world to increase the understanding of the dangers of speed and generate action on measures to address speed. Each of us has a role to play in making our roads safer. If each of us take our time, watch our speed and drive responsibly, this will go a long way to ensuring that no more lives are destroyed as a result of road trauma.

Yesterday, the federal government announced that they will be undertaking new research into drug testing and mobile distraction, with the aim of improving understanding of the impact of these two factors on road safety. At a national meeting of road safety ministers that I attended in Perth towards the end of last year, it was widely acknowledged that both mobile distraction and drug driving are significant problems for every state and territory.

I understand, as part of this research, the federal government will be looking at opportunities to make drug testing regimes more effective and efficient. While I look forward to seeing the outcomes of this research, in South Australia we are moving forward with new laws to significantly strengthen drug driving penalties. I identified this as a serious problem last year and, since that time, our government has been working on new laws to crack down on those who choose to partake in this abhorrent behaviour. We will have more news on that as it comes to hand and, of course, we are moving the bill in due course.

I would like to acknowledge in that respect the ongoing support of the Hon. Dennis Hood, who I also know has been a strong advocate in doing more in regard to the issue of drug driving. I would like to acknowledge the work of SARAH and its president, Mr Peter Frazer, in raising awareness of road safety and improving behaviours on our roads. As a state government, we are proud to throw our support behind this important cause once again. If you are out and about enjoying the beautiful Adelaide Oval or Riverbank footbridge one night this week, you will notice that it is lit yellow in support of Yellow Ribbon National Road Safety Week.

STURT GORGE RECREATION PARK

The Hon. M.C. PARNELL (15:00): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, and Water, a question about Sturt Gorge Recreation Park.

Leave granted.

The Hon. M.C. PARNELL: Over the last year or so, a good deal of work has been done building new walking and mountain bike trails in the Sturt Gorge Recreation Park. However, there is one remaining missing link, and that is a pedestrian crossing over the Sturt River at the site of the massive flood control dam. If members are not familiar with this, it is one of the largest structures in Adelaide that most people have never seen. It is difficult to gauge its height but it must be 50 or more metres in height. Made in 1965, it is a monumental structure.

The public have access to both sides of the dam; in fact, there is a public footpath accessible to the public that goes to the spillway in the centre, but what is missing is a pedestrian crossing of the last 20 or 30 metres. At this section of the Sturt River, there is no road crossing between Blacks Road in Coromandel Valley and down near Flinders University at South Road, which is eight, maybe even 10 kilometres. There is no way of crossing it. There is a 20-metre gap.

I note that the advantage of filling that gap would be that the two halves, if you like, of Sturt Gorge Recreation Park would be joined. The suburbs of Flagstaff Hill and Bellevue Heights would be joined. It would be a superb sea-to-summit route because it is popular. I know the minister is fond of bushwalking, but you can actually walk from the gulf to the top of Mount Lofty through bushland and recreation parks most of the way, if not for this missing link.

The final bit of information is that I note that the management plan for the Sturt Gorge Recreation Park includes as one of its strategies continued negotiations with SA Water, who own the dam, for public access across the dam wall. My question to the minister is: what consideration has been given to this important project which has been called for not only in the government's own management plan for the park but also by the Friends of Sturt Gorge Recreation Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:02): What an excellent question from an excellent local member! He is getting in touch with his bushwalking skills, and I hope to see him one day do the gulf to Mount Lofty walk in one go. That would be something to watch.

The Hon. M.C. Parnell: I've done it in a day. It's 30 kilometres.

The Hon. I.K. HUNTER: You've done it in a day. Excellent work!

An honourable member interjecting:

The Hon. I.K. HUNTER: Other way around—gulf to Mount Lofty, I said, not Mount Lofty to the gulf. I thank the honourable member again for raising the topic. It is something that members of the local community and the Friends group have sought for some time, but for reasons of public safety, SA Water have to this date, as far as I know anyway, withheld their position on this matter.

I have not discussed this with SA Water for some time, I must confess, so I will undertake to take this question back to them and see what their current thinking is. But I know, from speaking previously to people involved in this discussion, that it has been an issue of public safety that has been the major concern. I will see if there has been any progress for the honourable member and bring back a response.

ROAD SAFETY PETITION

The Hon. J.S. LEE (15:04): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about a road safety petition.

Leave granted.

The Hon. J.S. LEE: Since it is a national safety week, my question will be of interest to the minister. As recent media reports have indicated, Ridgehaven Primary School has raised concerns about the safety of its school crossing. Ridgehaven organisers collected nearly 200 signatures in their campaign for a safer crossing and better signage at Milne Road. Ridgehaven petition organisers said that they have been seeking support from the state government over the last few years to upgrade the crossing, but without success. My question to the minister is: can the minister confirm whether the government is now willing to upgrade the school crossing at Ridgehaven Primary School, as sought by the local community?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:05): I thank the honourable member for her question. Yes, I have familiarised myself with this issue, in part due to the hardworking advocacy of the member for Newland in the other place. The member for Newland has been a passionate advocate on issues regarding road safety for many years, particularly within his electorate. The member for Newland has always been a strong advocate. He has, of course, held the portfolio of road safety previously and is a committed representative of people in and around Ridgehaven.

He has drawn my attention to this particular issue. I am happy to inform that, as a consequence of that, my office has been in touch with the Department for Planning, Transport and Infrastructure. I have spoken to the CEO of the department, who himself will be meeting with the principal of the school to discuss what it is that the state government can do to ensure that road safety is in place in and around the school area. More importantly, if there is more that the state government can reasonably do to accommodate the safety of students and their families in and around that school, then of course that is something that we will consider in due course. I expect to hear back from the CEO of the department soon. Once that is done, that will inform the judgements that the government makes in and around the issue.

ROSSI BOOTS

The Hon. T.T. NGO (15:06): My question is to the Minister for Manufacturing and Innovation. Could the minister tell the chamber how the government is supporting Rossi Boots to take advantage of emerging market opportunities?

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) (15:07): I thank the honourable member for his question and for his interest in manufacturing and jobs in this state. It is a question about footwear, appropriately, as the honourable member is often regarded as the best dressed person in this chamber. I recently had the opportunity to visit Rossi Boots in Hilton, to talk with Rossi

and to be able to announce that the government is co-investing with Rossi in a grant to support the boot manufacturer to continue manufacturing boots in South Australia.

Rossi Boots is owned by the Rossiter family and has been manufacturing boots in South Australia now for 107 years. The company currently employs up to 80 people at their facility in Hilton.

The Hon. D.W. Ridgway: Do you own a pair?

The Hon. K.J. MAHER: We have an interjection from the Hon. David Ridgway, asking if I own a pair. I reckon that I have owned probably a dozen pairs over the last decade or so. They are fantastic boots for out in the yard and gardening. I think I would have two or three pairs in rotation at home, so I thank the honourable member for his very good question. I don't think the Hon. David Ridgway is indicating whether he has ever owned a pair of these South Australian boots or not.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: Before you were born, I was wearing Rossi boots.

The Hon. K.J. MAHER: I thank the Hon. David Ridgway for reminding everyone just how old he is and how much it is time for him to move on and make way for younger people with better hairstyles, like the Hon. Andrew McLachlan. It is always a dangerous thing to remind people how old you are and how long you have been here, because it sets in people's mind time for renewal and change, as the Hon. Robert Ivan Lucas smirks right behind the Hon. David Ridgway.

I do apologise for allowing myself to be distracted by these out of order interjections. The company Rossi Boots produces a range of elastic-sided and lace-up boots using various advanced manufacturing technologies and processes, including the digitisation of the hides for optimum use in terms of the layout to cut the leather, waterjet precision cutting of the leather, computerised stitching, lasting and injection moulding.

Following the review of the business, Rossi had identified sales growth opportunity for their elastic-sided boots, particularly in North America, China and the United Kingdom. Rossi has developed a new business model that requires a new IT platform and an upgrade to their website for entry into these markets, as well as a 24/7 customer service centre in Adelaide to service online businesses and wholesale customers.

The recent review undertaken of the business found that with further investment Rossi Boots could continue to manufacture their renowned elastic-sided boots in Adelaide, making it viable for local manufacture and sale to both domestic and the increasing export markets. The government assistance of $250,000 will help the company to take advantage of these new opportunities, securing ongoing manufacturing in South Australia. In particular, the grant will assist with the implementation of the new website, the IT platform, the call centre and warehouse software, and will assist with the purchase and installation of new equipment, including a sole trimmer and stitching machine.

The investment is expected to create 10 to 15 manufacturing jobs in South Australia. The funding was provided to Rossi Boots in line with the state government's economic priorities, particularly promoting growth through innovation and thus small business access to capital and global markets. This announcement follows on, I am pleased to say, from the recent announcement made by our colleague in here, the Hon. Mr Malinauskas, that the MFS had selected Rossi as the provider of new station boots for firefighters, representing an estimated investment of $150,000 over three years. This stands in stark contrast to the federal Liberal government's decision not to award Rossi a defence contract.

This government is committed to assisting Australian businesses, in particular South Australian businesses, to thrive locally and on the global stage. I particularly want to congratulate Myron Mann, CEO of Rossi Boots, for his vision and persistence. The company's investment in advanced manufacturing and their technological systems will enable them to continue to manufacture their world-class product, as they have done for 107 years in South Australia.

ROSSI BOOTS

The Hon. A.L. McLACHLAN (15:11): Supplementary arising out of the minister's answer: the minister used two words, 'invest' and 'grant'. Is there any obligation to repay the moneys?

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) (15:12): It is a fantastic question, and the Hon. Andrew McLachlan keeps this government on its toes. He is always hard-hitting and thorough with his questioning, and in particular his supplementary questions. I know it makes all ministers worried, when they answer questions, about what little loophole this clever lawyer is going to find to try to catch us out. This is a grant to Rossi Boots; it's not a repayable loan.

CRIME STATISTICS

The Hon. T.A. FRANKS (15:12): I seek leave to make a brief explanation before addressing a question to the Minister for Police on the topic of statistics of crime.

Leave granted.

The Hon. T.A. FRANKS: Yesterday, in this council, the police minister regaled us with some wonderful news that there has been a 30.5 per cent reduction in crime in our state. I wondered at the time what the definition of crime was, but was unable to ask a supplementary at that time, given that the clock had run down. I note in the South Australia Police Annual Report 2015-16 that the minister was, I think, referring to total offences against person and properties as crime. I also note that the minister talked about the rise in levels of domestic violence. My questions to the minister are:

1. Does the minister accept that in the last three calendar years total offences against person and property have risen each calendar year since the 2013-14 year?

2. Does the minister also define domestic violence within his definition used yesterday of this 30.5 per cent drop in crime?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:14): I thank the honourable member for her questions. Yes, I can confirm that the Hon. Tammy Franks is right in her interpretation that over the 10-year period from 2006-07 to 2015-16 there was a reduction in recorded crime, resulting in a decrease of 30.5 per cent, which equates, according to my records, to 47,075 offences—an extraordinary number—for total offences against person and property. That's my advice.

Yes, I think it has been well documented in a number of different forums that incidents of domestic violence within our community has been on the rise. It is fair to say that there is a general consensus amongst those people working within the field that this is not the product of more acts of domestic violence necessarily being committed as much as a willingness of people within the community to actually report an act of domestic violence, which, tragically, years ago would have otherwise gone unreported or unnoticed.

Nevertheless, there has been a substantial increase in the level of domestic violence, which is of grave concern to the community. In terms of whether or not those statistics are incorporated within the number, my advice or understanding is that that is the case. The Hon. Ms Franks is also right to refer to the fact that on some key measures in the last couple of years numbers have gone up, but generally speaking over a sustained period of time you will always see movements in various statistics.

What we want to look at are records of trend, and we think that the last decade demonstrates a clear trend: there has been a substantial reduction in crime, and we don't think that is an accident. We believe that, while movements in crime statistics can be attributed to a number of different variables, when you look at a trend as substantial as this one over such a sustained period it is the firm view of this government that it can be attributed to a large number of policies.

Yes, of course reductions in crime principally can be put at the feet of the incredibly hardworking men and women in uniform serving our state, but there have been a number of policies

that this government has implemented that help the men and women in uniform, or SAPOL officers, to be able to get out there and do the work.

Chief among them is the very substantial increase in the number of sworn police officers that this government has provided for during its time in office, and that commitment continues. We are seeing an increase in excess of 300 new sworn police officers come into the force by mid next year. That is already on top of the fact that we have the largest number of sworn police officers per capita of any mainland state in the country.

It is a phenomenal statistic, a record of which we are incredibly proud, but we are not just giving SAPOL more sworn officers, we are also giving them new technologies, things like facial recognition technology, mobile rugged tablets and, more recently, body-worn video. There are a range of different technologies that we want to provide to our increasing number of police officers to get out and do the work, and undoubtedly that has contributed to the large reduction in some statistics on crime to which the Hon. Ms Franks refers.

CRIME STATISTICS

The Hon. T.A. FRANKS (15:17): Supplementary: why does the minister include domestic violence in these statistics when offences against good order, as reported on page 14 of the SAPOL annual report, are not included in the category of offences against person and property, and indeed are noted specifically in the report as rising quite substantially?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:18): I am happy to seek some technical advice regarding how different statistics are classified within the specific page of the annual report. I am happy to seek advice on that. In terms of offences against the good order, a number of different offences can fall under that category. Offences that relate to technical breaches can fall under that category, as distinct from what might necessarily be a violent act. I am more than happy to seek advice regarding that particular page of the annual report to which Ms Franks refers.

WORKERS COMPENSATION

The Hon. R.I. LUCAS (15:18): My question is directed to the Minister for Police. Has the minister been advised of any concern by the Department for Correctional Services at the government's decision to transfer the management of all workers compensation claims after 1 July 2017 to ReturnToWorkSA and, if so, what were the department's concerns? In particular, has the minister been advised by the department that the cost to the department's budget may well be increased as a result of the government's decision?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:19): I am more than happy to, again, take that on notice for the sake of certainty. I can say wholeheartedly that I am not aware of any advice I have received from the Department for Correctional Services regarding potential additional costs of the outsourcing of case management of any workers compensation. Certainly, there hasn't been a conversation between the chief executive of the department and myself regarding this particular matter.

WASTE AND RESOURCE RECOVERY SECTOR

The Hon. J.M. GAZZOLA (15:19): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber as to how South Australia is leading the nation when it comes to the waste and resource recovery industry?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:20): I thank the honourable member for his most important question. Not only is it International Road Safety Awareness Week but I'm advised that this week is also International Compost Awareness Week.

The Hon. J.M.A. Lensink: And volunteers week.

The Hon. I.K. HUNTER: And volunteers week. I don't believe the International Compost Awareness Week has a ribbon and I'm sure that's an oversight which will be rectified—

The Hon. R.I. Lucas interjecting:

The Hon. I.K. HUNTER: Well, if you want to take us there, Rob, we can take you there. I had the pleasure this morning of speaking to the 2017 Australian Organics Recycling Association National Conference in Adelaide. The conference being held in Adelaide represents a recognition of this state's leadership in terms of organic recycling, waste management and resource recovery.

We have always thought of waste in this state (this state government at least) as an economic opportunity—if only we knew how to recycle more effectively. However, our sustained efforts over a number of years now has helped to create what is now a $1 billion industry that I am told employs about 5,000 South Australians. We are not finished yet. Our ambition is to continue working with the waste and resource recovery sector to help them grow and, of course, employ many more South Australians. We want to lift our recycling rate, which currently is Australia's best, beyond the 80 per cent or thereabouts that it is at the moment in terms of reduction of waste to landfill and to drive it to even higher levels.

Reducing organic waste going to landfill is an important part of this challenge, and for many reasons. I am very pleased that the government has been able to support local councils across the state to continue their food waste recycling program through $745,000 in grant funding from Green Industries SA. This funding builds on $2.8 million, I am advised, in funding announced earlier this year that is helping to deliver waste infrastructure and has or will create 67 jobs—funding that also contributed to over $10 million of additional investments in the sector.

In fact, through Green Industries South Australia the government has a four-year, $12 million infrastructure program that will increase the capacity of recycling systems and reprocessing infrastructure in the state. Investing in new and improved infrastructure gets to the heart of what we are attempting to achieve and that is to stimulate economic growth and support the goals of South Australia's Waste Strategy 2015-2020.

It was very interesting to hear some of the speakers today. One speaker in particular was talking about the impoverished soils in China and how recycling waste materials and putting organics back into the soil has driven soil productivity up to very high levels. This is an area where South Australia in particular can export its technical knowledge and capabilities to countries that really do need to grasp this and are struggling with some of the issues that we have struggled with in the past as well, but need to struggle with issues of soil and making it much more productive.

In delivering this next set of reforms, reforms that were called for by the industry, the government is building on our past achievements and those of the Dunstan Labor government that helped deliver our iconic container deposit scheme, which is now sweeping the nation, a scheme that, 40 years later, is being copied by the Northern Territory, will be copied by Queensland and New South Wales and the ACT, and even WA has indicated an interest in becoming involved as well.

This Labor government's reforms to ban lightweight, checkout-style plastic bags was a campaign led by the Hon. Gail Gago, as leader of this house, and which will be a tribute to her and her stamina, driving through change—again, leading this country—which is now being picked up right around the country by other states. That is a fantastic achievement.

Our transformation of Zero Waste SA into GISA, recognising the broad potential this sector can deliver and working with industry, is an important part of this strategy because we are committed to work together with industry to drive these strategic goals. We know that as a state we pride ourselves on our clean and green image. It is an image that is yielding benefits for other sectors, such as premium food and wine and the export markets they seek to enter, and working to improve recycling and re-use while also growing jobs is very important for the state's green reputation. This government will continue to work on the fantastic achievements of the Dunstan Labor government and Gail Gago, and we hope to get even more outstanding results into the future.

Bills

STATUTES AMENDMENT (DRINK AND DRUG DRIVING) BILL

Introduction and First Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:25): Obtained leave and introduced a bill for an act to amend the Harbors and Navigation Act 1993, the Motor Vehicles Act 1959, the Rail Safety National Law (South Australia) Act 2012 and the Road Traffic Act 1961. Read a first time.

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:26): I move:

That this bill be now read a second time.

An average week on our roads sees 107 people detected by police for drug driving—just four fewer than those detected drink-driving. Both numbers are unacceptable. And the damage that impaired drivers do to themselves and others simply cannot be accepted by our community.

Unlike alcohol-related road fatalities, the number of drivers and riders killed in road crashes who are testing positive to drugs is not decreasing. Over the last five years an average of 24 per cent of drivers and riders killed on South Australian roads tested positive to cannabis, methylamphetamine or ecstasy or a combination of these drugs. These drugs can impair a driver's coordination, reaction time, vision and the ability to judge distance, speed and time. Drivers are also inclined to take greater risks on our roads, putting the safety of all road users at risk.

The Statutes Amendment (Drink and Drug Driving) Bill 2017 amends the Road Traffic Act 1961, Motor Vehicles Act 1959, Harbors and Navigation Act 1993 and Rail Safety National Law (South Australia) Act 2012 to strengthen drug-driving penalties, require dependency assessments if children are in a motor vehicle at the time of the offence, and streamline the drug testing process and the approval of instruments and personnel.

The initiatives in the bill are intended to reduce the incidence of drug driving and improve road safety for all road users. The bill introduces a three-month licence disqualification for a first drug-driving offence that is expiated. This is likely to be a strong deterrent against drug driving. Penalties for traffic offences typically include fines and demerit points, and these will remain. For more serious offences, however, a licence disqualification is appropriate. It will bring South Australia into line with Victoria, which has a three-month licence suspension for a first expiated drug-driving offence. Several other states also have a licence disqualification for a first offence that goes to court, including New South Wales, Queensland, the Australian Capital Territory and Tasmania.

The court-imposed disqualification period will also be increased for a first offence. The minimum licence disqualification for drivers who elect to be prosecuted will be increased from three to six months and will not be able to be reduced or mitigated in any way. A higher court penalty is appropriate to deter those who would take chances in court if the penalties were the same. The bill increases the court-imposed licence disqualification period for repeat drug-driving offences. The minimum court-imposed licence disqualification periods for repeat drug-driving offences are currently too low. For example, a person can commit a third drug-driving offence with a disqualification of only 12 months, and, even then, it can be reduced further if the court has another penalty in mind.

Consequently, the disqualification period will be doubled in most cases. Again, the bill will also ensure that the disqualification cannot be reduced or mitigated in any way or substituted by any other penalty or sentence. This replicates the sentencing parameters in the drink-driving provisions of the Road Traffic Act. The disqualification penalties for refusal or failure to undertake a drug screening test, oral fluid collection or blood test will also be increased so they remain sufficient in deterring people for not complying with legitimate directions from the police.

The bill introduces a new offence of drink and drug driving with a child under 16 in the vehicle. Driving children around with alcohol or drugs present in a driver's system puts these vulnerable passengers at greater risk of being involved in a crash, and that, of course, is completely

unacceptable. They deserve to arrive at school safely. The new offence will apply where the driver's blood alcohol content is 0.08 or higher (that is a category 2 offence or higher) and to all drug driving offences.

A conviction for, or expiation of, this new offence will trigger the requirement for a drug or alcohol dependency assessment and the offender will not regain their licence until they have been assessed as non-dependent by a clinician. The penalties (that is the fine, disqualification periods and demerit points) for the new offence of drug or drink-driving with a child present in the vehicle will be the same as for the respective drug or drink-driving offence.

Information identifying offenders will also be provided to the Department for Child Protection for the purposes of their investigations into a child's safety. This information can also be used for child-related employment screening by the Department for Communities and Social Inclusion. The bill increases the penalty for driving unlicensed at the end of a disqualification period if the driver has not completed the required dependency assessment or has been assessed as dependent on alcohol or drugs.

Any motorist caught driving unlicensed following a drink or drug-driving offence, where they did not undertake the required dependency assessment or drove after being found to be dependent, will face an increased maximum penalty of $5,000 or imprisonment for one year and disqualification from holding or obtaining a licence for not less than three years. This is consistent with the approach taken for motorists caught driving unlicensed following disqualification for a serious drink-driving offence and not having entered the mandatory alcohol interlock scheme.

The bill removes the second stage drug testing procedure conducted at the scene. South Australia Police will no longer conduct the second stage of the drug testing procedure at the scene, known as the oral fluid analysis. This will free up officers' time at the roadside. The first drug screening test will be administered to determine, at a preliminary level, the presence of a prescribed drug in a driver, vessel or crew member, or rail safety worker.

If a prescribed drug is detected, SAPOL officers will collect an oral fluid sample for forwarding to Forensic Science SA for laboratory analysis and confirmation of the presence of drugs in a driver's oral fluid before an offence is confirmed, as per existing practice. Under the current procedure, approximately 710 people per year are exonerated at the second stage analysis conducted by SAPOL at the scene; however, analysis has shown that over half of these drivers (around 420 per year) will test positive under laboratory conditions. This is due to the lower level of illicit drug able to be detected in a laboratory compared to the current second-stage screening test at the roadside.

The bill dispenses with the requirement to authorise SAPOL officers to conduct drug screening tests. There are currently 687 SAPOL officers authorised to conduct drug screening tests and 362 authorised to conduct oral fluid analysis. Dispensing with the requirement to authorise them will reduce red tape and allow for all sworn officers, up to 5,000 members, to be trained and available to conduct drug tests across the state.

The bill requires all drug and alcohol testing apparatus to be approved by way of regulation. Seven types of alcohol and drug testing apparatus are currently used by SAPOL. They are published in the *Government Gazette*, but they are sometimes challenged in legal proceedings. Under these amendments, they would be listed in regulations instead, which aids transparency for legal practitioners and the public.

Some prosecutions have failed due to the details of the drug and alcohol testing apparatus being challenged. Listing them in the regulations will aid transparency and avoid difficulties encountered during prosecutions regarding apparatus make, model or description. It is anticipated that the regulations listing the apparatus will need to be amended every three to five years to account for changes in instrumentation.

At the heart of the bill is the object of keeping all South Australian road users safe. No road user should be subjected to their safety being compromised or put at risk by the actions of someone undertaking drug driving. We have seen too many road deaths that are a result of people driving while under the influence of drugs or alcohol.

As a community, we have substantially changed attitudes towards drink-driving. People's behaviours have improved regarding drink-driving. Our challenge is to now repeat that effort for drug driving. During Road Safety Week, it is appropriate that this parliament consider moves to toughen our stance regarding drug driving.

We should have a zero tolerance approach to those people caught drug driving, which is why the automatic licence disqualification for a first-time drug offence is absolutely necessary, along with other measures within the bill, particularly the measures that are aimed at protecting our children. No child being dropped off at school should be subject to being in a car with a parent or anybody else who is under the influence of drugs or alcohol. The bill seeks to send a very clear message to the community: this behaviour will not be tolerated. We commend the bill to the house. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Harbors and Navigation Act 1993*

4—Amendment of section 4—Interpretation

This clause amends section 4 by redefining the term *oral fluid analysis* to mean the analysis of a person's oral fluid to determine whether a prescribed drug is present in the oral fluid. This change is necessary because oral fluid analyses are to be conducted by, or under the supervision, of an analyst in a laboratory, rather than by an authorised person by means of apparatus approved by the Governor.

5—Amendment of section 72—Authorised person may require drug screening test, oral fluid analysis and blood test

This clause amends section 72 so that any police officer can conduct a drug screening test (instead of only those specially authorised by the Commissioner of Police).

6—Amendment of section 73—Evidence

This clause amends section 73 to make a number of consequential amendments to the evidentiary provisions. These changes are necessary because authorised persons will cease to conduct oral fluid analyses and will instead only take samples of oral fluid for analysis at a laboratory.

7—Amendment of Schedule 1A—Blood and oral fluid sample processes

This clause amends Schedule 1A to make a number of consequential amendments. These changes are necessary because authorised persons will cease to conduct oral fluid analyses and will instead only take samples of oral fluid for analysis at a laboratory.

Part 3—Amendment of *Motor Vehicles Act 1959*

8—Amendment of section 5—Interpretation

This clause amends section 5 by amending the definitions of *category 2 offence* and *category 3 offence*. These changes are consequential on the creation of new offences against section 47B of the *Road Traffic Act 1961* by Part 5 of this measure. The clause also inserts a definition of the term *prescribed drink driving offence* which is used in sections 74 and 79B of the Act.

9—Amendment of section 74—Duty to hold licence or learner's permit

This clause amends section 74 to create two new offences.

New subsection (2ab) provides that a person is guilty of an offence if—

(a) the person drives a motor vehicle on a road; and

(b) the person has been disqualified from holding or obtaining a licence or learner's permit in this State, or in another State or Territory of the Commonwealth, as a consequence of a drink driving offence or an alleged drink driving offence (whether committed, or allegedly committed, in this State or in another State or Territory of the Commonwealth); and

(c) —

(i) the drink driving offence or alleged drink driving offence was an offence against section 47(1a), 47B(1a), 47E(3a) or 47I(7) of the *Road Traffic Act 1961*; or

(ii) if the offence was a prescribed drink driving offence—the person has—(A)been convicted of at least 1 other prescribed drink driving offence; or(B)been convicted of or expiated at least 2 other drink driving offences, committed or allegedly committed within the period of 5 years before the date of commission or alleged commission of the offence; or

(iii) in any other case—the person has been convicted of or expiated at least 2 other drink driving offences committed or allegedly committed within the period of 5 years before the date of commission or alleged commission of the offence; and

(d) the person has not, since the end of the period of the disqualification referred to in paragraph (b), been authorised, under this Act or the law of another State or Territory of the Commonwealth, to drive a motor vehicle.

New subsection (2ac) provides that a person is guilty of an offence if—

(a) the person drives a motor vehicle on a road; and

(b) the person has been disqualified from holding or obtaining a licence or learner's permit in this State, or in another State or Territory of the Commonwealth, as a consequence of a drug driving offence or an alleged drug driving offence (whether committed, or allegedly committed, in this State or in another State or Territory of the Commonwealth); and

(c) —

(i) the drug driving offence or alleged drug driving offence was an offence against section 47(1a), 47BA(1a), 47EAA(9a) or 47I(7) of the *Road Traffic Act 1961*; or

(ii) the person has been convicted of or expiated at least 1 other drug driving offence committed or allegedly committed within the period of 5 years before the date of commission or alleged commission of the offence; and

(d) the person has not, since the end of the period of the disqualification referred to in paragraph (b), been authorised, under this Act or the law of another State or Territory of the Commonwealth, to drive a motor vehicle.

In each case the maximum penalty fixed for the offence is $5,000 or imprisonment for 1 year.

10—Amendment of section 79B—Alcohol and drug dependency assessments and issue of licences

This clause amends section 79B to require the Registrar to give a person who applies for a licence following a period of disqualification for an offence against section 47(1a) (involving alcohol), 47B(1a), 47E(3a) or 47I(7) of the *Road Traffic Act 1961* a direction to attend an assessment clinic for the purpose of determining whether or not the person is dependent on alcohol. It also requires the Registrar to give a person who applies for a licence following a period of disqualification for an offence against section 47(1a) (involving drugs), 47BA(1a), 47EAA(9a) or 47I(7) of the *Road Traffic Act 1961* a direction to attend an assessment clinic for the purpose of determining whether or not the person is dependent on drugs.

11—Amendment of section 81D—Disqualification for certain drug driving offences

This clause amends section 81D so that it applies to all offences against section 47BA of the *Road Traffic Act 1961*. It also increases the mandatory periods of disqualification to which a person is liable for offences against that section as follows: 3 months for a first offence, 12 months for a second offence, 2 years for a third offence, and 3 years for a subsequent offence.

Part 4—Amendment of *Rail Safety National Law (South Australia) Act 2012*

12—Amendment of section 9—Interpretation

This clause amends section 9 by inserting a definition of *drug* and redefining the term *oral fluid analysis* to mean the analysis of a person's oral fluid to determine whether a drug is present in the oral fluid. This change is necessary because oral fluid analyses are to be conducted by, or under the supervision, of an analyst in a laboratory, rather than by an authorised person by means of apparatus approved by the Governor.

13—Substitution of section 11

11—Approval of apparatus and kits for breath analysis etc

Substituted section 11 empowers the Governor to make regulations to approve apparatus as breath analysing instruments, to approve apparatus for the purposes of conducting alcotests and drug screening tests, and to approve blood test kits. It also provides for such apparatus and kits approved under the *Road Traffic Act 1961* to be taken to be approved under this section.

14—Amendment of section 13—Conduct of drug screening tests, oral fluid analyses and blood tests

This clause amends section 13 so that any police officer can conduct a drug screening test (instead of only those specially authorised by the Commissioner of Police).

15—Amendment of section 18—Processes relating to oral fluid samples

This clause amends section 18 to make a number of consequential amendments. These changes are necessary because authorised persons will cease to conduct oral fluid analyses and will instead only take samples of oral fluid for analysis at a laboratory.

16—Amendment of section 20—Evidence

This clause amends section 20 to make a number of consequential amendments to the evidentiary provisions. These changes are necessary because authorised persons will cease to conduct oral fluid analyses and will instead only take samples of oral fluid for analysis at a laboratory.

Part 5—Amendment of *Road Traffic Act 1961*

17—Amendment of section 5—Interpretation

This clause amends section 5 by redefining the term *drink driving offence* to mean—

(a) an offence against section 47(1) or (1a) involving the driving of a motor vehicle, or attempting to put a motor vehicle in motion, while so much under the influence of intoxicating liquor as to be incapable of exercising effective control of the vehicle; or

(b) an offence against section 47B(1), 47B(1a), 47E(3), 47E(3a), 47I(7) or 47I(14).

Drink driving offence is redefined to mean—

(a) an offence against section 47(1) or (1a) involving the driving of a motor vehicle, or attempting to put a motor vehicle in motion, while so much under the influence of a drug as to be incapable of exercising effective control of the vehicle; or

(b) an offence against section 47BA(1), 47BA(1a), 47EAA(9), 47EAA(9a), 47I(7) or 47I(14).

18—Amendment of section 47—Driving under the influence

Section 47(1) makes it an offence for a person to drive a vehicle, or attempt to put a vehicle in motion, while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle.

This clause amends section 47 to create a new offence (in subsection (1a)) of engaging in conduct involving a motor vehicle that constitutes an offence against subsection (1) while a child under the age of 16 years is present in or on that motor vehicle. A person who commits the new offence against subsection (1a) will be liable to the same penalties as for an offence against subsection (1) and will be subject to the same mandatory periods of licence disqualification if convicted by a court. If a person is charged with an offence against subsection (1a) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (1) if the court is satisfied that an offence against subsection (1) has been so established.

19—Amendment of section 47A—Interpretation

This clause amends section 47A by altering the definitions of *approved blood test kit*, *category 2 offence*, *category 3 offence* and *oral fluid analysis*. The amendments are consequential on other amendments made by this measure.

20—Amendment of section 47B—Driving while having prescribed concentration of alcohol in blood

Section 47B(1) makes it an offence for a person to drive a vehicle, or attempt to put a vehicle in motion, while there is present in his or her blood the prescribed concentration of alcohol as defined in section 47A.

This clause amends section 47B to create a new offence (subsection (1a)) of engaging in conduct involving a motor vehicle that constitutes an offence against subsection (1) while a child under the age of 16 years is present in or on that motor vehicle. However, the new offence does not apply to conduct that constitutes a category 1 offence against subsection (1). A person who commits the new offence against subsection (1a) will be liable to the same penalties as for an offence against subsection (1) and will be subject to the same mandatory periods of licence disqualification if convicted by a court. If a person is charged with an offence against subsection (1a) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (1) if the court is satisfied that an offence against subsection (1) has been so established.

21—Amendment of section 47BA—Driving with prescribed drug in oral fluid or blood

Section 47BA(1) of the Road Traffic Act makes it an offence for a person to drive a vehicle, or attempt to put a vehicle in motion, while a prescribed drug is present in his or her oral fluid or blood.

This clause amends section 47BA to create a new offence (subsection (1a)) of engaging in conduct involving a motor vehicle that constitutes an offence against subsection (1) while a child under the age of 16 years is present in or on that motor vehicle. A person who commits the new offence against subsection (1a) will be liable to the same penalties as for an offence against subsection (1) and will be subject to the same mandatory periods of licence disqualification if convicted by a court. If a person is charged with an offence against subsection (1a) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (1) if the court is satisfied that an offence against subsection (1) has been so established.

The clause also amends section 47BA to increase the mandatory licence disqualification periods for offences against subsection (1) or new subsection (1a) to not less than 6 months for a first offence, not less than 12 months for a second offence, not less than 2 years for a third offence and not less than 3 years for a subsequent offence.

22—Amendment of section 47C—Relation of conviction under section 47B or 47BA to contracts of insurance etc

This section amends section 47C to alter cross-references to include the new offences against section 47B and 47BA inserted by this measure.

23—Amendment of section 47D—Payment by convicted person of costs incidental to apprehension etc

This section amends section 47D to alter cross-references to include the new offences against section 47B, 47BA, 47E and 47EAA inserted by this measure.

24—Amendment of section 47E—Police may require alcotest or breath analysis

Section 47E(3) of the Road Traffic Act provides that a person required under the section to submit to an alcotest or breath analysis must not refuse or fail to comply with all reasonable directions of a police officer in relation to the requirement and, in particular, must not refuse or fail to exhale into the apparatus by which the alcotest or breath analysis is conducted in accordance with the directions of a police officer.

This clause amends section 47E to create a new offence. New subsection (3a) provides that a person commits an offence if—

(a) the person has engaged in conduct of a kind described in subsection (1)(a), (b) or (c) involving a motor vehicle; and

(b) such conduct occurred while a child under the age of 16 years was present in or on that vehicle; and

(c) the person refuses or fails to comply with a direction of a police officer (given in relation to such conduct) in contravention of subsection (3).

A person who commits the new offence against subsection (3a) will be liable to the same penalties as for an offence against subsection (3) and will be subject to the same mandatory periods of licence disqualification if convicted by a court. If a person is charged with an offence against subsection (3a) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (3) if the court is satisfied that an offence against subsection (3) has been so established.

25—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test

Section 47EAA(9) of the Road Traffic Act provides that a person required to submit to a drug screening test, oral fluid analysis or blood test must not refuse or fail to comply with all reasonable directions of a police officer in relation to the requirement and, in particular, must not refuse or fail to allow a sample of oral fluid or blood to be taken in accordance with the directions of a police officer.

This clause amends section 47EAA so that any police officer can conduct a drug screening test (instead of only those specially authorised by the Commissioner of Police). It also creates a new offence.

New subsection (9a) provides that a person commits an offence if—

(a) the person has engaged in conduct of a kind described in section 47E(1)(a), (b) or (c) involving a motor vehicle; and

(b) such conduct occurred while a child under the age of 16 years was present in or on that vehicle; and

(c) the person refuses or fails to comply with a direction of a police officer (given in relation to such conduct) in contravention of subsection (9).

A person who commits the new offence against subsection (9a) will be liable to the same penalties as for an offence against subsection (9) and will be subject to the same mandatory periods of licence disqualification if convicted by a court. If a person is charged with an offence against subsection (9a) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (9) if the court is satisfied that an offence against subsection (9) has been so established.

This clause also amends section 47EAA to increase the mandatory licence disqualification which apply if a person is convicted of an offence against the section to not less than 12 months for a first offence and not less than 3 years for a subsequent offence.

26—Amendment of section 47GA—Breath analysis where drinking occurs after driving

This clause amends section 47GA to alter cross-references to include the new offences against section 47(1a) and 47B(1a) created by this measure.

27—Amendment of section 47GB—Oral fluid analysis or blood test where consumption of prescribed drug occurs after driving

This clause amends section 47GA to alter cross-references to include the new offences against section 47(1a) and 47B(1a) created by this measure.

28—Substitution of section 47H 47H—Approval of apparatus and kits for breath analysis etc

Substituted section 47H empowers the Governor to make regulations approving apparatus as breath analysing instruments, approving apparatus for the purposes of conducting alcotests and drug screening kits, and approving blood test kits.

29—Amendment of section 47I—Compulsory blood tests

Section 47I(14) provides that a person is guilty of an offence if the person, on being requested to submit to the taking of a sample of blood under this section, refuses or fails to comply with that request and—

(a) fails to assign any reason based on genuine medical grounds for that refusal or failure; or

(b) assigns a reason for that refusal or failure that is false or misleading; or

(c) makes any other false or misleading statement in response to the request.

This clause amends section 47I to create a new offence.

New subsection (7) provides that if—

(a) a motor vehicle is involved in an accident; and

(b) a child under the age of 16 years was present in or on the vehicle at the time of the accident; and

(c) the person who was driving the vehicle at the time of the accident refuses or fails to comply with a request that the person submit to the taking of a sample of blood under this section; and

(d) the person—

(i) fails to assign any reason based on genuine medical grounds for that refusal or failure; or

(ii) assigns a reason for that refusal or failure that is false or misleading; or

(iii) makes any other false or misleading statement in response to the request,

the person is guilty of an offence. The maximum penalty is a fine of not less than $1,100 or more than $1,600 for a first offence, or not less than $1,900 and not more than $2,900 for a subsequent offence.

If a person is charged with an offence against subsection (7) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (14) if the court is satisfied that an offence against subsection (14) has been so established.

If a person is charged with an offence against subsection (7) but the court is not satisfied that an offence against that subsection has been established beyond reasonable doubt, the person may be convicted, on that charge, of an offence against subsection (14) if the court is satisfied that an offence against subsection (14) has been so established.

If a court convicts a person of an offence against subsection (7), the driver is liable to the same mandatory licence disqualification as for an offence against subsection (14).

30—Amendment of section 47IAA—Power of police to impose immediate licence disqualification or suspension

This clause amends section 47IAA to empower the police to give notices of immediate licence disqualification or suspension to persons who commit offences against section 47(3a), 47EAA(9a) and 47I(7).

31—Amendment of section 47K—Evidence

This clause amends section 47K. The amendments to the evidentiary provisions are consequential on other amendments made to the Act by this measure.

32—Amendment of section 175—Evidence

This clause amends section 175 to insert a new subsection that provides that in proceedings for an offence against section 47(1a), 47B(1a), 47BA(1a), 47E(3a), 47EAA(9a) or 47I(7), an allegation in the complaint that a child under the age of 16 years was, on a specified date and at a specified time, present in or on a specified motor vehicle will be accepted as proof of that matter in the absence of proof to the contrary.

33—Amendment of Schedule 1—Oral fluid and blood sample processes

This clause amends Schedule 1 to simplify cross-references and to make minor consequential amendments.

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

SUPPLY BILL 2017

Introduction and First Reading

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

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:38): I move:

That this bill be now read a second time.

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

Leave granted.

A Supply Bill is necessary until the Budget has passed through the parliamentary stages and the Appropriation Bill 2017 receives assent.

In the absence of special arrangements in the form of the Supply Acts, there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main Appropriation Bill.

The amount being sought under this Bill is $5,907 million.

Clause 1 is formal.

Clause 2 provides relevant definitions.

Clause 3 provides for the appropriation of up to $5,907 million.

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

CHILDREN AND YOUNG PEOPLE (SAFETY) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 13 April 2017.)

The Hon. R.L. BROKENSHIRE (15:39): I rise on behalf of Australian Conservatives to speak to the second reading of the bill and advise the house that, in principle, Australian Conservatives will be supporting the bill. However, I advise the house that I have been in contact electronically with all members to let them know that we have tabled amendments to the bill.

The background to the bill is that on 15 August 2014, Justice Margaret Nyland received a commission from the Governor to conduct an inquiry into the state's child protection system. This followed years and years of concern being raised in the parliament, the media and community regarding what was seen as inappropriate and inadequate support for the protection of children.

In fact, the royal commission of Chief Justice Nyland came after two other select committees into this matter—one completed and another one still going. It comes on the back of

Robyn Layton QC's report that she provided to this government in 2007 or 2008, and also on the back of Justice Mullighan's inquiry. There have been many inquiries, commissions and reports into the concerns facing the protection of vulnerable children in our state, both vulnerable children generally under the care of their parents and also those under the guardianship of the minister.

On 5 August 2016, the commissioner provided a report to the Governor which contained 260 recommendations. Of those 260 recommendations, I am advised that the government accepted 256. This bill will repeal the Children's Protection Act 1993. The guiding principle is set out early on in the bill about the value and importance of children and young people. Clause 7 of the bill provides that the paramount consideration throughout the entire bill is the protection of children and young people from harm.

Clause 8 then provides further detail canvassing the needs of children and young people, including to have a voice and be heard and have their views considered, for love and attachment, for self-esteem and to achieve their full potential. Other considerations that must be taken into account under the bill are subject to the primary objective of the bill, which is the protection and safety of children and young people.

Regarding drug testing parents of at-risk children, the government gives the chief executive officer the power to compel parents of at-risk children to undergo drug and alcohol tests without needing to obtain a court order. Currently, that CEO would need to obtain a court order. The bill includes an offence for not submitting to drug or alcohol testing, which attracts a penalty of up to six months' imprisonment, something the Australian Conservatives very much support. In fact, we are moving amendments to toughen that up.

The regulations will include the requirement that test results be reported directly to the chief executive, and the chief executive has an obligation that all reports of children at risk of abuse or neglect are, one, assessed and, two, actioned. Again, we have put amendments forward to strengthen these provisions. It also deals with the removal of children. The current measures under the Children's Protection Act of removing and giving temporary guardianship to the chief executive of a child born to an offender found guilty of qualifying offences will be maintained. There are provisions in the bill for an emergency removal of the child where they are at risk of serious harm. Again, I flag that Australian Conservatives has amendments to strengthen that area.

The bill contains provisions dealing with the intervention and placement of a child or children or young person at risk of harm. The principles underpinning intervention include timely action and decision-making. Action should be taken as early as possible in order to promote stability for the child. Clause 11 of the bill confirms that a child or young person removed pursuant to legislation should be placed in a safe, nurturing, stable and secure environment, preferably with someone known to the child or young person, and that the custody and guardianship functions currently undertaken by the Minister for Education and Child Development will instead be undertaken by the chief executive of the Department for Child Protection.

In the committee stage, I flag that we want to explore that further because we do not want to see this take away ultimate responsibility from the minister of the day. We understand that from a practical operational sense they would want this to go to the chief executive, but it should not take away the ultimate responsibility from the minister of the Crown who is responsible for the protection of children on behalf of the government.

There are reporting obligations in responding to reports. There has been criticism from the Law Society, SACOSS and members of SACOSS. In some general criticisms, former South Australian Medical Association president, Dr Michael Rice, states that there are no mechanisms for primary intervention and that help is initiated only after an incident or accident. He goes on to say that prevention is better than cure.

There are issues that we will be looking at in the committee stage regarding female genital mutilation. I know there has been a lot of concern expressed by commissioners responsible for children's protection about this matter. It is certainly a matter that is of huge concern to Australian Conservatives.

I will go into detail during the committee stage on the four amendments that Australian Conservatives have put up. I will be happy to go into detail on the reasons we have put them up. We look forward to listening to and reading debate and input from other colleagues and other parties, but it is time that we get very serious about urgently doing more to protect vulnerable young children in South Australia. To be fair, the government has made an attempt to improve the situation and therefore we do support the general principle of that. However, we will be listening intently during the committee stage and observing amendments intensely and asking colleagues to do the same with our amendments.

The Hon. J.E. HANSON (15:46): I rise to speak in support of the bill. While I am fairly new to this place, I acknowledge a lot of the comments from Hon. Mr Brokenshire with regard to the history of the bill. The bill is a complete overhaul of the current Children's Protection Act. It is one of a number of reforms to the child protection system that are being delivered by this government. The bill supports the government's response to the Child Protection Systems Royal Commission and provides the foundation for a new and reforming Department for Child Protection.

Importantly, it makes clear the role of the department and its employees when children and young people and families have come to the attention of the department. This begins, in clause 7, with the easily understood paramount consideration of protecting children and young people from harm. This paramount consideration was introduced into the Children's Protection Act following a recommendation of the Coroner from the inquest into the death of Chloe Lee Valentine. I am pleased to see it being maintained in the bill.

Importantly, the bill provides a greater focus on children and young people and greater recognition of carers. A number of amendments were filed by government and made in the other place, which further refined and enhanced these aspects of the bill. These included removal of provisions which allowed the chief executive to not investigate a complaint by a child or a young person if that complaint was vexatious or frivolous; removal of imprisonment as a penalty to carers and a significant reduction in the financial penalties applicable; refinement of provisions to ensure that children and young people will not be found guilty of an offence for failing to comply with an order made by the court; and shifting the onus onto the department to provide children or young people leaving care with a transition plan.

I support the increased recognition and rights of carers under the bill, both in terms of foster and kinship recognition. Carers are an integral part of our child protection system and the government acknowledges the importance of supporting carers, listening to carers and involving carers in decision-making. I commend the bill to the council.

The Hon. J.M. GAZZOLA (15:49): I rise to speak in support of the Children and Young People (Safety) Bill 2017. In November 2016, the South Australian government committed to a complete overhaul of the child protection and child wellbeing systems in its response to the Child Protection Systems Royal Commission: A fresh start. As part of this large-scale reform, the Children and Young People (Safety) Bill 2017 was introduced to parliament on 14 February this year, following community consultation in December 2016 and January 2017.

The state government is committed to working with the community and views their dedication to the reform of child protection and child wellbeing systems as integral to its success. That the government received such numerous and comprehensive feedback, and that at times this feedback revealed a strong divide in the community sectors on certain issues, reflects the understandably highly emotive responses to child abuse and neglect in our society.

Child protection is a truly wicked problem and, sadly, no government has as yet created the perfect child protection system. However, the government's reforms for our child protection and child development systems have given us the best possible blueprint for supporting our vulnerable families and ensuring the safety and wellbeing of our children and young people.

The bill is an integral aspect of our reforms as the legislative framework for how the Department for Child Protection will respond to allegations of child abuse and neglect. I support the paramount consideration of the bill being the protection of children and young people from harm. It is the position of this government that at all times the safety of children and young people must be the paramount consideration when applying a law to protect children from further harm.

It is important to note that consultation identified a divide in the community's views regarding this paramount consideration. Some advocated for acting in the child or young person's best interests as the paramount consideration. AnglicareSA advocated in its original submission for the paramount consideration to be further strengthened by removing the qualifying language of 'so far as reasonably practicable'. I am pleased to see this amendment was made in the other place. I commend the bill to the council.

The Hon. T.T. NGO (15:51): I rise to speak in support of the Children and Young People (Safety) Bill 2017. I note the extensive work that underpins the bill. It comes following an exhaustive two-year-long royal commission, including 260 recommendations from Commissioner Nyland. It comes following a significant consultation process, both formal and informal, conducted by the government. It comes following the government's formal response to the royal commission's findings and the release of a draft bill in November 2016 and formal consultation until late January 2017.

Of course, quite rightly, many groups have a keen interest in this area of policy and, unsurprisingly, many of those groups have different views on what they want to see reflected in the bill. This has led to some vocal criticism. However, I am pleased to report some of the positive feedback received by the government. The Guardian for Children and Young People provided feedback on the 2016 draft of the bill and then provided further feedback on the bill before us in this place. I am pleased to say that the guardian has outlined some particularly positive aspects of the bill, including the inclusion of the Charter of Rights for Children and Young People in Care.

The bill incorporates child safety environment provisions, which feature some helpful new or revised sections that reflect input made during the recent consultation process, especially the inclusion of chapter 8—Providing safe environments for children and young people. These important protective measures apply to prescribed organisations, including, but not limited to, state authorities as well as persons or bodies which provide a service or undertake activities that constitute child-related work.

In addition, the further development of the SACAT clauses requires that children and young people be given a reasonable opportunity to present their views in SACAT proceedings, whether or not a legal practitioner is representing them. This ensures the voices of children and young people are heard on matters relating to their ongoing care and protection. Furthermore, the bill gives support to the Aboriginal and Torres Strait Islander Child Placement Principle through reinsertion of a requirement for the chief executive or the courts to engage and consult with the gazetted Aboriginal or Torres Strait Islander organisation when determining whether to place an Aboriginal or Torres Strait Islander child or young person in care.

Another positive aspect of the bill is the addition of 'neglect' in the definition of harm. It serves to reinforce the fact that neglect is a form of child abuse and therefore falls within the ambit of the bill. The government has provided a robust response to the royal commission's findings and has taken on board some valuable feedback from the community and key stakeholders. I therefore commend the bill to the council.

The Hon. A.L. McLACHLAN (15:55): I rise to speak to the Children and Young People (Safety) Bill. I speak on behalf of my Liberal colleagues. I advise the honourable members that the Liberal opposition will support the second reading of the bill. It is the intent of the Liberal Party to explore the impact of the clauses of the bill in detail and to inform itself from the debate at the committee stage on the implications of the bill as a whole on child protection in South Australia.

Honourable members will be aware this is our practice in all but exceptional circumstances. I make this point as there have been ardent calls from community groups for the bill to be voted down because it is manifestly inadequate and does little to improve upon the extant legislation in force. The Liberal Party believes that it is through debate that ideas can be truly tested and adequately explored. In my reading, I discovered an instructive quote from the Finnish academic Juha Hämäläinen:

> Principally, human beings have always understood that children need to be cared for and protected. Paradoxically, child protection activities and the philosophy of the rights of the child are there because this is not or has not been true.

We, as a community, should rightly question why, in the modern era, we continue to fail to meet the needs of our citizens when we have, as compared to the past, all the resourcing and focus on caring for the vulnerable, young and old in our society. We have a government department filled with bureaucrats devoted to it, we have academics devoted to it, we have front-line staff devoted to it, and we have not-for-profits devoted to it, yet we still managed to fail, and now here we are, debating in this chamber another iteration of the legislative framework protecting children.

From my personal perspective, all failures of this magnitude are seated in a lack of leadership—an inability to do what is right and just, as well as taking accountability for real and meaningful action. We have the manifestation of a culture which prides itself on purposefully leaving the hard work to others, not asking questions in case something is revealed and refusing to drive performance and compliance. The behaviour of the ministers of this Labor government bring to mind the proverb of the three wise monkeys: see no evil, hear no evil and speak no evil.

In Western tradition, the proverb refers to a lack of moral responsibility of those who refuse to acknowledge impropriety, look the other way or feign ignorance. The Labor government should be held accountable for the failures in child protection. Its failure to protect children in its care has cut away at its self-proclaimed progressive credentials. The Labor brand no longer stands for the progression of the worker, but the regression of our community values and attributes. If only the collegium of the Labor Party spent less time with their progressive university colleagues and other fellow travellers focusing on social engineering, and more time on the real, complex and difficult issues facing families, parents and children today, we may not have found ourselves on this road.

This is a stain that will never be removed from the record of this Labor government. It will and should overshadow any hubris from this government's members that their regime has contributed or achieved any self-styled progressive ideal. We are here now, debating this bill because the Labor government has failed to provide the leadership required to protect the most vulnerable children in our state. All that remains is to try to develop the best legislative framework going forward that meets the expectations of the people of South Australia: this is what the Liberal Party is endeavouring to achieve.

The Liberal Party comes to this debate with goodwill. While it will continue to hold this government to account for its grotesque failings, at all times it is conscious of its solemn obligation to develop legislation that is sound and effective and restores community confidence.

I draw honourable members' attention to the litany of reports, inquiries and commissions into the care of our children. We had the Layton report in 2003, followed by the Mullighan inquiry in 2008. That same year there was a select committee into Families SA. That committee reported in 2009. Then there was the Debelle inquiry, which reported in 2013. The same year we had a review by Allen of Families SA, as well as one by Moss on internal record keeping. Finally, there was the Nyland royal commission.

On top of this was a collection of findings by the Coroner in respect of particular tragic cases. The government cannot argue that it was not aware of the deep dysfunction in our government assets that were tasked to affect the will of the government and protect children. I have assumed, probably incorrectly, that there was a desire by this government to actually affect real and lasting outcomes for the vulnerable.

A genuinely progressive child protection education approach should be judged on how effectively it assists children to transcend the circumstances of their birth, and how comprehensively it equips them to take control of their own lives. Having regard to this test, we as a community are sadly observing a failure on a grand and tragic scale. The Labor government has breached its sacred duty to its peoples.

The question before us in this debate is: when should we intervene in the life of a family, and how should we execute that intervention? It is, should be and always will be an extremely difficult and sensitive decision for the state to intervene in the life of a child and the family. The principles that govern these decisions will be the subject of much debate at the committee stage should the bill pass the second reading.

The nurturing of children has occupied the minds of community elders for generations. While the ancient Athenians prided themselves on raising their children, their myths and legends abound

with stories of child abuse. It is clear that the moral obligations of parenting was front of mind. All communities, regardless of their cultural foundation or their environment, place great importance on the protection and nurturing of their children. Any response to child abuse and neglect has been marked by a tension between two approaches—an emphasis on rescuing children on the one hand and efforts to support the family on the other.

There are those whose first instinct is to seek to remove the children from homes to protect them from poverty and maltreatment. In contrast, there is the family support approach, which focuses on ameliorating social and environmental factors which contribute to parental stress and maltreatment of the children. Children grow and thrive in the intimacy of the family unit. Parents should be free to raise their children without undue interference from the state. However, where there is family dysfunction, children—unless close to age—are not always able to request community or government assistance. Therefore, the state must, in certain circumstances, breach the intimacy and privacy of the family and seek to protect the child.

The essence of this debate is striking the right and morally grounded balance between the community's obligation to protect a child and place the appropriate value on the benefits of the family unit. There is an increasing movement by many with an interest in these difficult issues that the child's welfare and the welfare of the family go hand in hand and, further, that government policy should also focus on building and educating the family, howsoever defined, as much as on intervention when difficulties merit such government action.

I make this point because, to solve the underlying cause of family dysfunction, legislation alone will not heal the wounds and sadness that still abounds in our community. Only with a strong commitment by the government and our community as a whole can we take the first steps on a long road to create a system that will help our children grow into happy and healthy adults.

The Liberal Party is listening to the community; the Liberal Party is consulting with community groups. We note the strong views of the Attorney in the other place. We note the strong views of community groups that are advocating that the bill should not pass into law, and retain extant laws at the very least. We are considering carefully the joint statement from the following organisations in respect of amendments to the bill: the Law Society of South Australia, the Australian Medical Association, the South Australian Council of Social Services, the Child and Family Welfare Association, the Council of Care of Children, the Youth Affairs Council and the Child Protection Reform Movement.

Honourable members, despite the rancour over issues within the bill, we must remind ourselves that, regardless of our political orientation, we all share the objective that we seek the best legislative framework for the protection of our children in need. I would like to think that we in this chamber are not motivated to protect our children for economic, cultural or social reasons, but rather from a fundamental moral conviction that children need to be loved, cared for and have their needs attended to, an idea so basic that it binds our society and guides us, as individuals, in how we act in our lives.

Debate adjourned on motion of Hon. T.A. Franks.

SUMMARY PROCEDURE (INDICTABLE OFFENCES) AMENDMENT BILL

Committee Stage

In committee.

Clause 1

The Hon. A.L. McLACHLAN: We are at clause 1 but I just want to set the scene. I say at the outset that, since the second reading debate, the government will be seeking to amend the bill. I should say that the Liberal opposition will not be seeking to oppose those amendments and will support them through the chamber.

The Liberal position is to put forward two amendments at clause 7. As set out in the second reading, they seek to make discrete amendments by deleting two clauses: one in relation to requiring the defence counsel or the defendant to disclose the defence, and the second, which flows from that, the ability of the judge to make comment in relation to the actions of the defence.

At the second reading I set out or attempted to articulate the Liberal Party's position. Our position is consistent with a mountain of submissions from the legal profession in respect of this position about these two clauses which they find particularly offensive. We take the view that it offends the fundamental principle of the right to silence, especially given we have an adversarial system of criminal justice and this would undermine the fundamental pillars of the workings of that system. We also note that, since the debate at the second reading stage, there have been great gains in the District Court made public by a new regime in that court.

So, the technical or maybe even moral imperative (if I could adopt some of the more extravagant language of the Attorney-General in the other place) seems to have transpired. I indicate to the chamber that we intend to continue to pursue the amendments as set out in McLachlan amendments Nos 1 and 2.

The Hon. P. MALINAUSKAS: I thank those members who have contributed to the debate on the bill. The intention of the bill is to improve how major indictable matters are dealt with in the criminal justice system. The changes are designed to enable courts, police, forensic services and prosecutors to focus their resources where they are most needed and to ease the pressure on our court system. The point of this reform is that the bill is to have the whole system working better.

It improves the system of prosecution, disclosure and decisions about the charges right from the outset of the court process. It provides discretion to the Magistrates Court to set realistic time frames for hearings in that jurisdiction. It changes the way subpoenas are issued in major indictable matters and introduces case statements after a matter has been committed for trial. Case statements are required to be prepared by both prosecution and defence to focus the parties and the court on the issues that are genuinely in dispute in a matter earlier in the process.

The bill also amends the existing sentencing discount regime to fit in with new time frames, while continuing to facilitate appropriate pleas being made earlier in the process. It also introduces a new discount, representing an incentive for cooperative conduct of the defence case. The government has not said that delays in the criminal justice system are the fault of the defendant or, indeed, defence counsel, as has been suggested by more than one speaker. On the contrary, we know that the causes of delays are multifaceted.

That is precisely why, before requiring anything from the defendant, we have introduced a tiered prosecution disclosure regime to improve prosecution disclosure. We have introduced a process of charge determination by the Director of Public Prosecutions to provide assurance to the accused and to victims of crime that the evidence supporting a charge has been scrutinised before it progresses through the court system. This is intended to reduce the number of matters where the prosecution later changes the charges and means that the accused can consider his or her position with greater certainty, earlier.

It is the prosecution who is called upon to first prepare a prosecution case statement. The prosecution case statement must include a summary of the alleged facts and a description of the evidence the prosecution may lead in relation to each element of the offence. This requirement is in addition to, not instead of, the existing obligations of prosecution disclosure. It is designed to ensure the defendant has all the material they need about the prosecution case against them before they are called on to prepare their own defence case statement and before they are required to make a decision about their formal plea in the superior court.

The Hon. Mr McLachlan has asked for clarity on what is envisaged will constitute a declaration of particulars of a defence and whether the prosecution will be able to rely on any subsequent inconsistent statement. While the sufficiency of compliance with the provisions as drafted will ultimately be a matter for the court, the bill has not sought the particulars of a defence. The provision requires the nature of the defendant's defence, if any, including particular defences, to be relied on. It may be a fine distinction, but it is an important one.

So, if the defendant wants to put the prosecution to proof on every aspect, on every element of the case, it is envisaged their response will say just that. If they intend to rely on a defence of claim of right to a theft charge, it is envisaged they would say that they are relying on a claim of right. They do not have to provide the particulars of that claim or, for example, indicate they are calling particular witnesses or presenting particular evidence to support it, unless they want to.

If they are charged with the offence of rape and they do not dispute that sexual intercourse took place but dispute that there was a lack of consent, it is envisaged that they will indicate that the nature of the defence is that there was not a lack of consent. Again, they do not have to identify any witnesses they might be calling or disclose evidence of Facebook posts or text messages, or any other evidence they might have that helps them to establish that assertion, if that is how they choose to run their case.

To answer the next point, it is intended that the prosecution could rely on any subsequent inconsistent statement. This means, in the rape example, if the defendant had indicated in their case statement that there is no dispute that sexual intercourse took place and they subsequently dispute that at trial, they would be entitled to be asked about that, if they give evidence. Of course, there is no obligation on an accused person to ever give evidence, and a decision by a defendant to remain silent and refrain from giving evidence cannot be used by a jury or finder of fact to draw any adverse inference. That situation remains the same.

However, if they do not give evidence but they otherwise conduct their case in such a way as to suggest that the fact of intercourse was in dispute, such as unnecessarily cross-examining the complainant about it, this is the type of thing that may be made the subject of comment to the jury. I stress the word 'may' there because before such comment could be made the permission of the court must be obtained. This is an important safeguard. It means that the trial judge will decide whether such comment is appropriate before it is made and, in doing so, will take into account whether there is in fact good reason for the departure from the case statement, or good reason for the noncompliance with the disclosure requirements, or simply other good reason not to permit the comment at all.

In summary, asking the defendant to identify a positive defence which they intend to raise at trial does not change the burden of proof, just as it does not change the burden of proof when they eventually and inevitably raise it at trial now, but bringing the timing of that disclosure forward to pre-trial, instead of during trial, allows the parties to narrow the issues and focus trial preparation on those issues rather than wasting time preparing for every possible permutation of the facts. It does not remove the right to silence.

On a related point, the Hon. Kelly Vincent asked whether it would result in longer trials if the defendant put the prosecution to proof on every aspect of the case. The short answer is yes. That is part of the very mischief the government is trying to address by introducing this bill. The whole point of the case statement process is, as has been stated previously, to narrow down the issues that are genuinely in dispute so that the prosecution, and indeed the investigating police, forensic science services and the courts, do not waste time and resources gathering, preparing and hearing arguments over evidence to prove issues that are not even seriously in dispute. However, the defendant may, if they choose to do so, put the prosecution to proof; that is their right.

The Hon. Kelly Vincent also asked why the additional resources for case statements amount to approximately $400,000. I am not too sure where that figure came from, but I can say that funding for the reform proposed in the bill was approved, together with funding to permit the transfer of responsibility of circuit and country committals from SAPOL to the Office of the Director of Public Prosecutions as part of the 2016-17 budget.

The combined funding was as follows: $1.271 million in 2016-17, $1.109 million in 2017-18, $1.033 million in 2018-19, and 1.055 million in 2019-20. Of that, the funding specifically applicable to the reform contained in the bills is as follows: $521,000 in 2016-17, $532,000 in 2017-18, $542,000 in 2018-19, and $533,000 in 2019-20.

This funding was to provide additional resources to the Office of the Director of Public Prosecutions to enable the new process of charge certification to occur, including funding towards extra resources towards witness assistance staff to assist with consultation with victims during that process, as well as preparation of case statements. In addition, the Office of the Director of Public Prosecutions will provide training to SAPOL on the requirements of a preliminary brief.

There is another issue that I want to address before concluding my remarks. It was said by the Hon. Mr McLachlan during the debate that failures in regard to prosecution disclosure can cause miscarriages of justice, but failures in regard to defence case statements only impact supposed

efficiency. Honourable members, this comment is indicative of the traditional view that the prosecution represents the interests of the state to secure a fair trial for an accused and that the victim had no role or voice in the criminal justice system at all.

As a society, we have progressed well past this archaic view of the criminal justice system. It is true that a failure by a defendant to identify issues in dispute and a failure to identify the issues that are not seriously in dispute at all impact on the efficiency of a prosecution with a flow-on effect across the justice system. This bill seeks to improve that process, but we all know that is only one part of it. It cannot be said that the impact is merely an issue of efficiency. The impacts are multiple. These include delays, trials not being reached, adjournments, as well as impacts on witnesses and victims of crime. In many cases, they impact on them significantly. This must not be overlooked.

Time and again, we hear stories from victims of crime saying that delays in the justice system have contributed to their ongoing trauma and to their overall dissatisfaction with the system. The government recognises this, and this is why the government is firmly of the view that defence case statements, like prosecution case statements, have impact far beyond efficiency.

It has been noted that there has been significant public consultation on this bill, and the original draft was amended to take the issues raised by interested parties into account, in particular those of the criminal defence bar and the Law Society of South Australia. At the end of the day, there are a number of interests to balance here—the interests of the community in having an effective justice system, the interests of those who are charged with committing criminal offences to receive a fair trial and the interests of victims of crime.

Some of the second reading contributions set out the view that efficiency measures should never compromise the right of an accused to a fair trial. The government completely agrees with this sentiment, and this bill does no such thing. The bill represents an appropriate balanced proposal, taking into account the submissions made by interested parties and balancing the competing interests of the community, victims of crime and the accused. I commend the bill to members.

The Hon. M.C. PARNELL: I thank the minister for putting those things on the record. When I made my second reading contribution, I went through a list of the people I had spoken to, and the minister has alluded to how plenty of members of the defence bar were on that. What I did not mention was that, on the recommendation of the Attorney-General, I also spoke to a retired judge who asked not to be quoted so I will not, but I am comfortable that I heard all sides and I mentioned the other day that I had spoken to the Director of Public Prosecutions as well.

This is a complex issue, and I guess in our attempt to narrow it down to some simple concepts, this idea of the right to silence and whether the bill does or does not impede the rights to silence has become a key question. As the minister pointed out, if a defendant chooses to remain silent, no adverse inference can be drawn from that, so the judges usually go to some lengths to explain to the jury that, 'Look, you didn't hear from the defendant but that doesn't mean they are guilty.' You have that routine line that the judge will give to the jury. But as to the bill we are looking at, despite the minister's assurances that it does not, I think it does impact the right to silence.

The idea of putting in a case statement—it is not a voluntary thing. It does not say that the defendant may put in a case statement, and it does not say that the case statement may include the nature of the defendant's defence, if any, including particular defences to be relied on; it is obligatory. You have to do it. The minister said, 'Well, the clever lawyer might find some words that get around that' and basically say nothing at all whilst complying with the letter of the law. I do not accept that. It may well be that some lawyers try to do that, but other lawyers, looking at the act and taking the words literally, will make disclosures that they would not normally be obliged to make, and that can have the effect of overturning the right to silence.

We have then got the consequences that flow from a defendant not completing a full case statement. They might just leave out that one bit. They might include everything else in their case statement but leave out:

> …the nature of the defendant's defence (if any), including particular defences to be relied on...

And that very fact or the fact that their defence changes at trial may be used to direct the jury in an adverse way against the defendant. The minister pointed out, quite rightly, that it is at the discretion

of the judge. What is interesting is that among every judge and lawyer I have spoken to the one thing they have agreed on is that it is very unlikely to happen—that judges are unlikely to use either failure to comply with the defendant case statement requirement or deviation from that defendant case statement to enable an adverse reflection to be made to the jury.

There are two ways you can approach that. One is to say, 'Well, it'll do no harm; leave it in.' The other one is, 'It does no good; take it out.' They are the two approaches we can take and, as I said the other day, the Greens are taking the second approach. That means that we will be supporting those two amendments that the Liberals are moving. I accept what the minister says—that the object of the exercise is to narrow down the issues in dispute. Most jurisdictions have those sorts of requirements. Certainly, the one I practised in many years ago—the environment jurisdiction—has pre-trial conferences where the idea is to see what is agreed and what is not; can you narrow down the issues in dispute?

The fact remains, however, that if a defendant wants to put everything in dispute, that is their right. It can be very unfortunate, and it can lead to the sort of unnecessary trauma that the minister referred to, but it is the price we pay in our legal system for guaranteeing the utmost fairness in the system. It is the job of the prosecution to prove the case beyond reasonable doubt. They have to prove every element of the case, and if the defendant wants to put them to that proof then they can. They will miss out on sentencing discounts, cooperation discounts and a whole range of other things, but the price we pay for our justice system is that sometimes these things happen.

The other point that I would make—and this might seem to be quite out of left field—relates to the sort of offences we are talking about: indictable offences. People have been talking about rapes, murders and things like that, but I am still very nervous that in the High Court the South Australian government is supporting Tasmanian anti-protest laws. Whilst most of those might be seen to be not in the indictable offence range, it is not beyond the realms of possibility that civil disobedience offences could become indictable. What I will say is that one of the tactics of the non-violence protest movement, which came out in the Franklin River case, is occupying the forces, occupying the law, taking as much time as you can and bogging down the police in their pursuit of unjust laws. That is why 1,300 people got arrested at the Franklin River.

Their tactic was to drag out the resources of the state as much as you can, and they won, and they were legitimate tactics. I am not saying that at present in South Australia we have anti-protest laws that are in the indictable range. What I am saying is that South Australia is supporting Tasmania's anti-protest laws in the High Court, and that causes me a great deal of disquiet. That is not why I am voting for these amendments; I just thought I would throw that in. But the fact remains that despite the minister saying this does not infringe the right to silence, I think it does in practice. Whilst we were urged to move and to support many more amendments than just these ones, I think this at least overcomes the main evil in the bill.

The Hon. A.L. McLACHLAN: It may come as no surprise to honourable members that I oppose just about everything that came from the minister. To a practising lawyer, it is sad that a progressive government would make those arguments—sad—and at the same time, in another day, laud the great achievements of Don Dunstan. It is offensive to anyone who understands how the criminal justice system works that those arguments would be made.

I have great empathy, as does every practising lawyer who is an officer of the court, with the trauma the victims have, but before we can seek to heal the victim's hurt we actually have to convict someone. We have to convict them. The state has made the decision that someone is guilty. What we are discussing here is the process before that conviction. To dredge in the shallow argument of balancing competing interests in a court structure is simply not tenable in this debate.

The Hon. P. Malinauskas: Why not?

The Hon. A.L. McLACHLAN: Because you are trying to inject civil court principles into a criminal system that is based on advocacy. If you want to deconstruct the whole court system and create an inquiry system similar to the French or continental system, then we can debate that, but today we are debating the simple principle that the prosecution has all the power, resources and legislation behind it and a single individual may or may not be able to afford an adequate defence counsel.

Therefore, the principles of our justice system are that the state must prove its case and then the defence can respond. It always wants to respond early if the client is guilty. In fact, you have an obligation to advise your client to plead guilty if there is sufficient evidence, but time and time again, in the experience of defence counsel—my own and those whom I consulted, and the prosecutors I consulted—there is continual last-minute delivery of key evidence.

I take particular issue in relation to the criticisms of the issue regarding efficiency. Defence counsel always want to bring it on as soon as possible, particularly if their clients are in remand. They have an incentive to do it because there will be, as a consequence if this bill passes and the sentencing bill coming in, substantial discounts to plead early. That is the driver: the early release of evidence. Why haven't these resources, that have been indicated by the minister, already been delivered to the DPP, and SAPOL been trained, and then we could see if the current system works? Then perhaps, on the minister's argument, we might give consideration to this provision.

The Liberal Party remains unpersuaded. I am also very disconcerted by the word 'envisaged' that was littered in the speech that was prepared, probably, for the minister. We do not know what is going to be required, what is going to be demanded in the court rules. Court rules change. They do come through the Legislative Review Committee, but it is a rare thing for the parliament to override the court rules. We do not know what the detail is that is going to be required for these defence statements. I would say to honourable members that the issues remain. The divisions between those who support these amendments and the government's position is not healed. We will proceed with the amendment.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. J.A. DARLEY: I move:

Amendment No 1 [Darley–1]—

Page 9, after line 41—After inserted section 103 insert:

103A—Compliance with principles under *Victims of Crime Act 2001*

If, in any proceedings before a court, the prosecution seeks to amend, or to not proceed with, a charge of a serious offence (within the meaning of the *Victims of Crime Act 2001*), the prosecutor must advise the court whether any consultation has occurred with a victim in accordance with section 9A of the *Victims of Crime Act 2001*.

My amendment simply states that if the prosecution amends the charge or decides not to proceed with the charge, then there is a requirement for the court to be advised whether the victim has been consulted or not. I understand there is already a requirement in the Victims of Crime Act for the victim to be consulted in such circumstances; however, this amendment will see that this information is passed on to the courts and provides an opportunity for the courts to ask questions about the consultation.

The court may want to know whether or not the victim consented to the changes. Whilst I accept that the courts could seek this information independently, this requirement will act as a prompt and provide comfort to victims, as they will know for certain that the court knows whether or not they have been consulted. It is an avenue for victims to have a voice in a process that they feel excludes them, notwithstanding the fact that it can have a profound impact on them and their families. I commend the amendment.

The Hon. P. MALINAUSKAS: The government, of course, supports victims of crime and is committed to ensuring that all the principles governing the treatment of victims of crime set out in the Victims of Crime Act 2001 are upheld. Indeed, it is the intention of the bill that outcomes for victims of crime will be improved by reforming how major indictable matters are dealt with in the criminal justice system. This will be achieved by reducing adjournment and other delays, ensuring that trials are reached when they are listed and encouraging appropriate early guilty pleas. There will be greater certainty about the matters that are proceeding and earlier finalisation of matters, allowing victims of crime to put the court process behind them sooner.

The amendment is opposed by the government because, in the government's submission, it is unnecessary. The Victims of Crime Act gives statutory recognition to victims of crime and the harm they suffer from criminal offending. One of the objects of that act is to establish principles governing how victims of crime are to be treated by public agencies and officials. Section 9A of the Victims of Crime Act falls within the part of that act setting out the declaration of principles governing the treatment of victims.

It provides that a victim of a serious offence should be consulted before any decision is made to charge an offender, amend a charge or to not proceed with a charge, as well as when it is intended to apply to investigate mental competence and mental fitness of an offender. Section 5 of the Victims of Crime Act makes it clear that public agencies and officials are required to have regard and give effect to the principles set out in that act, insofar as it is practicable to do so, having regard to the other obligations binding upon them.

It also makes it clear that principles are not enforceable, nor do they affect the conduct of criminal proceedings. In addition, within the Victims of Crime Act, the commissioner for victims of crime is provided with power to supervise compliance with the act and to take steps on behalf of victims of crime if he is satisfied that there has been a failure to comply. Of course, honourable members are aware that public agencies and officials, such as the DPP, police and courts, have other obligations in the conduct of criminal matters, such as to ensure a fair trial for the accused as well as obligations to the community. These must be borne in mind and balanced against the principles.

The proposed amendment introduces a requirement for the prosecutor to advise the court whether consultation has occurred with the victim of an offence in accordance with section 9A of the Victims of Crime Act 2001 whenever they seek to amend or withdraw a charge of a serious offence. The requirement on a prosecutor to give effect to section 9A is contained within the Victims of Crime Act—it already exists. This amendment does not change that requirement.

The Victims of Crime Act already provides for the Commissioner for Victims' Rights to oversee compliance. Advising the court does not alter the requirement which already exists, nor does it overtly give the court the power to do anything in response to the information because to do so would be contrary to the Victims of Crime Act itself. However, it does open up the possibility that the court will be asked to hear disputes about compliance with the Victims of Crime Act and to permit the conduct of criminal proceedings to be affected by the outcome. In this way, the amendment has the potential to undermine the Victims of Crime Act.

The Victims of Crime Act was carefully drafted to include the proviso that the principles do not affect the conduct of criminal proceedings. No doubt this was in recognition of the complexity of balancing the interests of victims of crime with the need to uphold the protection of an accused to a fair trial and the need to balance the competing interests of the accused, the community, victims and witnesses within criminal proceedings. The amendment is opposed by the government.

The Hon. M.C. PARNELL: The thrust of what the minister just said is that these provisions are unnecessary because the victims of crime legislation already requires the prosecution to be consulting the victims, including, say, with a downgrading of charges. But I think that the amendment before us is slightly different from that. Certainly, the obligation, as the minister has explained, exists, but the question remains: what is the consequence of noncompliance? The minister's response was: well, the Commissioner for Victims' Rights will be onto them.

It seems to me that, with the range of cases we have, the number of cases, the number of victims, that is a very poor regulatory tool. It may well be, if we look at a situation where there was no consultation—let's say the prosecution downgraded a charge and just decided, for whatever reason, not to tell the victim that that is what they had done. It would seem to me that the victim is not able to front up to court as a party and stand up in the proceedings and say, 'Excuse me, what's this manslaughter business? They were suppose to charge them with murder—they never talked to me about this.' That is just not going to happen. I cannot see it happening.

If the honourable member's amendment gets through, then it says that the prosecutor must advise the court. I think the honourable member might think this will do more than it does. He used the example of where a victim does not agree with the downgrading of charges. That is often going

to be the case: they are not going to agree. I do not think there is much they can do about it. Ultimately, the prosecution will look at what evidence it has and what charges it thinks it can proceed with. It is not the role of the victim to say, 'No, no, no, I insist on you pursuing the murder charge, forget this manslaughter business'—that is just not going to wash.

I do not think it will give the victim more rights, but it will put a great deal of pressure on the prosecution to make sure they do what the victims of crime legislation says they have to do and talk to the victim about downgrading or dropping charges. The best way to make sure they have done it is to provide an obligation for them to tell the court that they have done it.

I do not think the trial then morphs into a 'did the prosecution do the right thing?' scenario. All the prosecution will do is say to the judge, 'We've downgraded the charges, we told the victim that's what we're doing', and the judge might say, 'What did the victim think about that?', and the answer would be, 'Not very happy', but, honestly, I do not think it has much further to go than that—I think that is just the way it is going to be. At least it guarantees that the prosecutors will be complying with their obligations under the victims of crime legislation.

So, I do not think this does any harm. I think it provides some checks and balances that the existing obligations will in fact be carried out the way parliament intended, so the Greens will support the Darley amendment.

The Hon. A.L. McLACHLAN: I indicate to the council that the Liberal Party will support the amendment. My view, the Liberal Party view, is similar to the Hon. Mark Parnell's. The insertion of this provision is simply an obligation to advise the court. It does not go any higher than that. I cannot see why that would cause difficulties in the administration of justice in this state. As the Hon. Mark Parnell has articulated, as far as I see it (and I might be corrected by the Hon. John Darley) it is a transparency provision to ensure that everybody understands what the victims of crime know or do not know. The Liberal Party is proud to support it, given that we have great empathy with the issues associated with the victims of crime.

Amendment carried.

The Hon. A.L. McLACHLAN: I think enough has been said between the minister and me in relation to these matters, although I would put on the record that there was one thing I neglected when I was rebutting the minister's aggressive assertions against the criminal justice system. I alluded to this in my second reading speech. Many of the defendants, particularly if they have a degree of intellectual disability, are unable to formulate a defence, so there is considerable pressure on the defence counsel to do the best for them. There are those who may be influenced by drugs and alcohol who cannot formulate their defence. That is why you need the complete prosecution case before deciding on the defence in certain circumstances. I only make that submission by way of completeness. So, I therefore move my amendment:

Amendment No 1 [McLachlan–1]—

Page 27, lines 31 and 32 [clause 7, inserted section 123(4)(g)]—Delete inserted paragraph (g)

The Hon. P. MALINAUSKAS: The government opposes this amendment. The amendment relates only to clause 123(4)(g), which requires the defence case statement to include the nature of the defendant's defence, if any, including particular defences to be relied on.

There are a few things to quickly say about this, in addition to the remarks that have already been made at clause 1. This provision is in almost identical terms to the provision in the New South Wales legislation, section 143(1)(b) of the New South Wales Criminal Procedure Act 1986. The equivalent provision has been in the New South Wales legislation since 2013 and has not caused any of the problems suggested in that jurisdiction.

In addition, the provision is not dissimilar to the existing section 285BB of our Criminal Law Consolidation Act 1935. Section 285BB of the Criminal Law Consolidation Act already permits a court to order a defendant to give the DPP written notice of an intention to introduce evidence to establish various defences, including self-defence, provocation, automatism, accident, necessity, duress, claim of right and intoxication.

The provision specifies that before the court makes such an order, it must be satisfied that the prosecution has provided the defence with an outline of the prosecution case so far as it has been developed on the basis of material currently available and that the prosecution has no existing but unfulfilled obligations of disclosure.

That provision commenced in our Criminal Law Consolidation Act in 2007; that is, it is in the existing legislation in SA and has been for 10 years. The difference between that provision and the provision under the bill is that, under the existing provision, the prosecution has to apply to the court for orders. Under this bill, similar obligations apply to the parties, but they come into effect as a matter of course. In that sense, the content of the provision sought to be deleted is not completely new to the law in South Australia.

The Hon. A.L. McLACHLAN: Quickly, a rebuttal of that: it is certainly not, in my research, a universal opinion that everything is working well in New South Wales. I always think it is a weak argument for a chamber to say, 'Well, in New South Wales or Victoria they do X, and that is why we should do the same.' I think it is an argument I too often hear in this chamber and outside of it. It is certainly not my understanding that it is well received. There is increasing academic analysis that it is having a counterproductive effect.

The Hon. M.C. PARNELL: Just to help you with the numbers, the Greens are supporting the amendment.

The Hon. J.A. DARLEY: For the record, I will be supporting both of the Liberal amendments.

The committee divided on the amendment:

Ayes.....13
Noes 6
Majority 7

AYES

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Franks, T.A.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.

PAIRS

Hunter, I.K.	Lensink, J.M.A.

Amendment thus carried.

The Hon. A.L. McLACHLAN: I move:

Amendment No 2 [McLachlan–1]—

Page 31, lines 24 to 28 [clause 7, inserted section 125(6)]—Delete subsection (6)

The Liberal Party has articulated its position. This amendment deletes subsection (6), which provides for the judicial officer to make comment to the jury. It is our view that this, whilst not technically consequential in the context of this council, flows from the offensive elements of paragraph (g), which the chamber just agreed to delete.

The Hon. P. MALINAUSKAS: The government opposes this amendment. The proposed amendment seeks to remove the provision providing for comment to be made to the jury when a defendant conducts their case in a manner inconsistent with the defence case statement and fails to comply with the disclosure requirements. There appears to be a misguided belief that the provision will be used in a way that is unfair to the accused.

It must be noted that comment can only be made to the jury with the permission of the court. This is an important safeguard and ensures those fears that the provision will be misused will not be realised. It means that the trial judge will decide whether such comment is appropriate before it is made and in doing so will take into account whether there is in fact good reason for departure from a case statement or good reason for the noncompliance with the disclosure requirements. Trial judges are required to make decisions about material going before the jury on a daily basis throughout the trials before them. They weigh up whether evidence is likely to be more prejudicial to an accused than probative on a daily basis, and we trust them to do so.

There is no reason to think they will not continue to weigh up the competing issues and make the correct decision in this context. I also point out that both New South Wales and Victoria have similar provisions—powerful arguments—permitting comment to be made to the jury in appropriate circumstances with the leave of the court. New South Wales has had their provision since 2013 and Victoria since 2009. WA also has a similar provision without the leave of the court proviso as well.

The provision seeks to ensure that a defendant cannot play games. If the accused tells the prosecution they are going to say one thing and then go to court and say the opposite, then, in the absence of a good reason for the departure, why should the jury not know about that? The amendment is opposed.

The Hon. M.C. PARNELL: To reinforce what I said before, the Greens will be supporting this amendment. The minister has admitted that it will not be often used, and that raises the argument: if it is not going to be often used, you can probably safely take it out. I agree with the Hon. Andrew McLachlan that the main driver is going to be the sentencing discounts. That is really what is going to drive cooperation, rather than this provision, which, as the minister has admitted, will not often be used. I would rather see it removed altogether.

The CHAIR: The Hon. Mr Darley, I think you have already indicated you are supporting the amendment.

Amendment carried.

Progress reported; committee to sit again.

PUBLIC INTEREST DISCLOSURE BILL

Conference

The House of Assembly requested that a conference be granted to it in respect of certain amendments to the bill. In the event of a conference being agreed to, the House of Assembly would be represented by five managers.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Final Stages

The House of Assembly agreed to amendments Nos 3 to 10 made by the Legislative Council without any amendment and disagreed to amendments Nos 1 and 2.

At 17:00 the council adjourned until Tuesday 16 May 2017 at 14:15.

Answers to Questions

AUTOMOTIVE WORKERS COMMUNICATIONS CAMPAIGN

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (4 August 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:

In 2016-17, $500,000 has been budgeted to implement the Drive Your Future campaign. The campaign uses press, radio, bus shelter, billboard and social media advertising, as well as targeted public and company locations.

The campaign is aimed at current GM Holden employees, GM Holden employees who have left within the past 12 months and current and former supply chain workers. It directs workers to a new DriveYourFuture.sa.gov.au website which has been designed to simplify the registration process for automotive supply chain workers and ensures they are directly connected with job opportunities.

As at 31 March 2017, there have been 4,147 visitors to the website since the campaign was launched.

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

In reply to **the Hon. A.L. McLACHLAN** (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:

23 information sessions have been held at the Career and Workforce Development Centre at Warradale as at 24 February 2017, with guest speakers from Centrelink, Beyond Auto, the commonwealth government's jobactive providers, employers and representatives from industries with career opportunities including correctional services, health medical and aged care. Demand is expected to increase as the closure of GM Holden approaches.

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:

There are 12 computers available at the centre.

LIQUOR LICENSING

In reply to **the Hon. T.J. STEPHENS** (1 March 2017).

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety): I am advised:

1. The SAPOL Licensing Enforcement Branch performs a statewide specialist resource for policing a range of regulated industries including brothels, the Casino, classification of publications, gaming machines, the retail hydroponics industry, liquor licensing, second hand dealer compliance, security and investigation agents, tattooing and unlawful gambling.

The Licensing Enforcement Branch also undertakes intelligence, investigation, probity, prosecution and administration functions associated with these industries.

The activities of the Licensing Enforcement Branch are mandated by the:

- Police Act;
- Liquor Licensing Act;
- Second-hand Dealers and Pawnbrokers Act;
- Tattooing Industry Control Act;
- Casino Act;
- Lottery and Gaming Act;
- Gaming Machines Act;
- Classification (Publications, Film and Computer Games) Act;
- Hydroponics Act;
- Security and Investigation Industry Act; and

- Controlled Substances (Cultivation of Poppies) Act.

2. The staffing levels and budget of the Licensing Enforcement Branch are as follows:

The annual budget is $4.6m.

There are 29 uniform FTE positions comprising of:

- 1x Chief Inspector;
- 1x Senior Sergeant First Class;
- 5x Sergeants; and
- 22x Senior Constable First, Senior Constables and Constables.

FTE for unsworn staff is 11 comprising of:

- 4x ASO1;
- 5x ASO2;
- 1x ASO3; and
- 1x ASO4.

Due to workload, the Licensing Enforcement Branch has also hired the following additional (unsworn) staff:

- 3x ASO2 temps for a period of 6 months.

FROME STREET BIKEWAY

In reply to **the Hon. M.C. PARNELL** (1 March 2017).

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety): The Minister for Transport and Infrastructure has been advised:

1. No, the state government's co-funding deal with the Adelaide City Council for bicycle infrastructure is not dependent on the council modifying the Frome Street bicycle lanes to allow four lanes of motorised traffic.

2. No, if council decides to leave the Frome Street bikeway as it is, it will not risk state government funding for other bicycle infrastructure projects.