LEGISLATIVE COUNCIL

Wednesday, 1 November 2017

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:31 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

SITTINGS AND BUSINESS

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) (11:32): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

Bills

BUDGET MEASURES BILL 2017

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2017.)

The Hon. T.J. STEPHENS (11:33): I rise today to speak on the Budget Measures Bill 2017. The commonwealth major bank levy within this bill is nothing but a desperate attempt to stave off the collapse of an ever-dwindling pool of revenue by a government bereft of ideas. You cannot and never will be able to tax your way to prosperity. Taxation upon further taxation does nothing but stagnate growth and investment. You cannot rely on continuously draining the taxpayer and expect to create a flourishing economy. The government has attempted to play this levy off as standing up for the little guy by going after our biggest earners; however, this levy will be nothing but a drain on the everyday taxpayer, thinly veiled as a tax on the big end of town.

The government has tried to seek out an economic scapegoat, someone or something to pin the blame on for its abject failures and the economic mismanagement of our great state. In their musings, they have come across an easy target—the major banks. The Treasurer describes the banks as undertaxed. In his eyes their profits are something unsightly that must be reclaimed. What he fails to mention is that these same banks are the largest corporate taxpayers in the country.

This government is recklessly targeting success with this measure, as they do not have the capacity to foster it themselves. How can such a measure give business enough confidence to attempt to prosper in the state? What incentive does this tax give to business in order to take risks, invest and become successful in their own right?

It is difficult to see how this government can reconcile itself by dubbing this year's fiscal measures as a jobs budget. I do not see how this is possible when they plan to inflict on the people of this state a brand-new levy. Additional taxes are not job creators, they are job and investment killers. This is something that is obvious to the rest of the state but seems lost on this government.

In a recent BDO survey, 72 per cent of small to medium South Australian businesses were opposed to the levy measures in this bill. They have good reason to be. If we were to implement such measures, these same businesses would struggle to gain access to further lending. For the

majority, it is an already difficult market. There will be less incentive from the major banks to invest their money in South Australia.

On a national level, we will be viewed as an uncompetitive option overnight. Such a loss of investment would mean that potential job opportunities for average South Australians would go with it. With the state already losing much of its younger workforce interstate, the likelihood that this levy would propagate the problem further is quite high. We have already seen the beginning of the kind of hindrance this tax will have on our state.

A number of high-profile investors have come out against the management levy, and the fallout has started to take effect. Jupiter Fund Management has specifically cited the bank levy as a key reason for it reducing its exposure to the Australian market. It has described such a measure as 'entirely unreasonable and a misguided policy'—a succinct description of a debilitating tax on jobs and investment.

Bank SA immediately halted its move to expand its back-end operations in June. This has resulted in the suspension of a further 150 jobs within their automated processing centre. The ANZ Bank began to offload millions of state-backed bonds at the same time, of which the major banks are the largest proprietors. This is just a taste of the cost that the people of South Australia will have to absorb if this bill passes, while, at the same time, illustrating my exact point. Increased taxation costs jobs and it costs investment.

The Treasurer has sounded out that these measures will not hit customers. This could not be further from the truth. It will be everyday South Australians who will have to, once again, foot the bill for this government, as they have done so many times in the past. They would like to have you believe that the only stakeholders to feel the impact of this measure are the major banks. What they fail to elaborate on is the flow-on effect and to accurately articulate just who could be classified as a stakeholder of a major bank.

As with any company, there is a cost to doing business. Increasing these costs will cause significant repercussions. The impacted parties are far-reaching: mum and dad investors and even those with investments through superannuation would have to wear any additional costs. They would see the impact that the levy would have firsthand through their dividends and return on investment. Stakeholders such as shareholders, employees and customers will ultimately lose out.

To put this in perspective, the government wishes to inflict further immediate strain on 146,500 shareholders, 6,500 employees and 900,000 customers within South Australia. A measure such as this is nothing more than another dip into the pockets of ordinary hardworking South Australians; the same hardworking South Australians who already face exorbitant taxes such as the increase in the emergency services levy. This government has run the state's economy into the ground and this tax will aid in no way to rectifying their mistakes.

In terms of population, South Australia is a small market, both on a global and a domestic scale. As such, we must be forward thinking in the manner in which we aim to attract outside investment. There are some areas of business where we cannot compete, such as the scale of our market and labour costs; however, our ingenuity and resourcefulness gives us an edge. It is the responsibility of the government to create the conditions that give South Australians the opportunity to use these skills to flourish.

To do so, it must be delivering budget measures which make it easier to start up and invest in business. Introducing a state-based bank tax works against any competitive advantage we could deliver. We will not find economic success through increased regulation and taxes. Instead, we will lose all incentive for investment.

With additional costs filtered through and lines of credit harder to obtain, how can anyone find the right incentive to invest in this state? The bank tax further impinges on direct investment, which has already been diminished with high power costs, the cost of doing business and red tape.

In order to improve the economic fortunes of South Australia, we must shift our focus away from costly short-term gain. We must give business, particularly our small businesses, the capacity to grow. To do this requires limiting costly taxes. Only when we drive down the cost of doing business can those businesses then increase their investment opportunities and seek to employ more South

Australians. While this measure, if implemented, will increase revenue for the state in the immediate future, it will do so at an inordinate price long term.

The conditions will not be there for increased direct investment from outside of South Australia. Businesses will funnel their earnings into the rest of the country or, more damagingly, avoid South Australia altogether.

Other states are aware of just how economically disastrous a tax on the banks could be. Western Australia has recently rejected any notion of introducing such a damaging measure themselves. Their Treasurer is happy to let South Australia take the risk and go it alone. He realises that a levy on the major banks does nothing but have the potential to threaten jobs and investment. Other Labor governments in this country are not willing to bring on these measures themselves due to the potential ramifications it could have on economic growth.

This fact alone should send a message to the Labor government in this state that these measures will not work. It is once again placing the people of South Australia in the role of test subjects for the government's own ideological gain. As they have already done with electricity, it will be everyday South Australians who are forced to bear the brunt of the costs.

This measure does nothing to improve South Australia or its people. It does nothing in addressing the systemic and structural economic issues we are facing. Instead, it further exacerbates them. When all is said and done, a levy such as this could have a net loss on the state, due to missed investment. Further taxation is not the answer for South Australia. We should be doing all we can to free up investment and bring down taxes to make it easier for South Australian businesses to compete, to grow and to employ people. With measures such as the commonwealth major bank tax levy, the only conclusion one can reach is that it is an ill-conceived bill. It does nothing but prop up the government's ailing bottom line at the expense of average South Australians.

The role of good opposition is not to sit back and watch as such measures are passed. We are now in desperate times. It is to call out the government when it makes poor decisions and attempt to reverse them where possible. This is why I speak to this bill and why I see it as being of vital importance to oppose the draconian bank tax levy.

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) (11:42): I thank members for their contribution. As I believe there are no further second reading speakers, I will conclude the debate and I will respond to a number of issues that have been raised, particularly by the Hon. Rob Lucas in his second reading contribution on 19 October.

I have advice that in relation to clause 5 and the publishing of gross state product percentage for each financial year, the gross state product percentage is based on the publicly available data from the Australian Bureau of Statistics. There is a limited number of taxpayers that will be liable for the levy. Publication of the percentage on a website determined by the commissioner is considered appropriate.

In relation to clause 13 and its application, I am advised that this creates a legal prohibition on directly recovering the major bank levy payable by authorised deposit taking institutions from customers of the institution. It has been drafted broadly to capture a range of potential arrangements. Noncompliance with clause 13 of the bill would be a breach of the law. The remedy for such a breach is an injunction. The courts have a jurisdiction to grant an injunction preventing the breach of a statutory obligation or duty.

In relation to schedule 2, part 1, clause 2 and the issue raised about the provision relating to genuine farms, I am advised that this clause simply relocates the current section 18BB, which was inserted in 2008 to the preliminary part of the act. I am advised that the operation proposed in section 6A will not depart from the existing section 18BB in any way, and that RevenueSA is not aware of any applications that have turned on the definition of 'genuine farm' or their interpretation of it.

In relation to schedule 2, clause 10 and the various decisions of the commissioner under the FOGS not being subject to objection, I am advised that, by now providing for objections to be made regarding penalties imposed, it is considered that the full range of decisions that can be objected to

is complete. Further, in relation to the minister's title, I am advised that the Minister for Finance is the responsible minister for objections lodged under both the Taxation Administration Act 1996 and the First Home and Housing Construction Grants Act 2000. RevenueSA's information circular No. 33, which was issued on 28 November 2011, clearly sets out these arrangements.

In relation to part 2, clause 13 and the use of the word 'current', I am advised the legislation as drafted is a drafting preference of parliamentary counsel, and the government is comfortable with that drafting. In relation to part 3, clause 15, I am advised that these amendments confirm that the contractor exemption cannot be apportioned between exempt and taxable services. They are intended to operate on the basis that the contract is either fully exempt because it falls within the relevant exemption or is taxable because it does not fall within the relevant exemption during the financial year.

Further, in relation to the anti-avoidance provision, I am advised that this provision is a general anti-avoidance provision to ensure that contractual arrangements are not put into place to avoid the intended operation of the exemption. This provision applies across each of the contractor exemptions provided in sections 32(2)(a) to 32(2)(d). Previously, it only applied to sections 32(2)(c) and 32(2)(d).

In relation to part 4, clause 20, the commissioner issuing a certificate to a person on the application, I am advised that section 3E(3) of the Stamp Duties Act 1923 (the SDA) will allow the Commissioner of State Taxation to include any other information that the commissioner thinks fit on a stamp duty certificate and RevenueSA will continue to consult and give consideration to including further information on relevant instruments as required. Notwithstanding the secrecy provisions under the TAA, I am advised that the instruments that are now registered with the Lands Titles Office are already available to the public. Such instruments identify the relevant parties to the instrument.

Stamp duty certificate: the stamp duty certificate, which may also be issued for instruments that are not registerable with the LTO, notably those arising from landholder transactions, will certify either that: one, duty has been paid in respect of the instrument identified in the certificate; or that, two, the instrument has been assessed as not chargeable with duty. It will also include the applicable stamp duty identification number and any other information the commissioner thinks fit.

I am advised that, generally speaking, it would only be persons who are parties to the instrument and their agents who would be interested in applying for a copy of the certificate. It is unclear in what circumstances other persons not being parties to the instrument or their agents would be interested in applying for a copy of the certificate. In the limited circumstances that a third party may be interested in applying for a copy of the certificate, for example, for disputes before a court or tribunal, the current disclosure provisions in the TAA are sufficient to allow disclosure of such information with the consent of the affected person or person acting on their behalf. It is also the case that the commissioner may disclose information where it does not identify the taxpayer, either directly or indirectly.

Further, in relation to the stamping of information, I am advised that the proposed section 3E(3) of the SDA provides that the Commissioner of State Taxation must include the stamp duty identification number that is to appear on the instrument, and may include any other information the commissioner thinks fit, therefore linking the certificate and the instrument.

It is not proposed to include any further information on the instrument itself. However, RevenueSA will continue to consult and give consideration to including further information on the certificate as required. This may include the amount of duty paid and the number of instruments stamped, that is, original and copies, as suggested by the tax lawyer.

In relation to the instrument being duly stamped for relief to be available, I am advised that the SDA distinguishes between: one, instruments that are not chargeable with duty; and, two, instruments that are chargeable with duty.

Traditionally, an instrument that is not chargeable with duty has been stamped with a particular stamp denoting that it is not chargeable with duty. Comparatively, an instrument that is chargeable with duty has been stamped with a particular stamp denoting that it is duly stamped. Accordingly, an instrument is one or the other for the purposes of the Stamp Duties Act and cannot be stamped with both chargeable and non-chargeable with duty.

I am advised that a deed formally chargeable with stamp duty of $10 has been exempt from duty from 1 July 2006. Where a deed that is exempt from duty is required to be relied upon as being duly stamped for other purposes under the SDA (for example, to obtain the benefit of the exemptions under section 71(5)), the relevant deed may be stamped accordingly. However, RevenueSA will not insist on an exempt deed being stamped to be accepted as duly stamped.

I add that I am advised that parliamentary counsel has considered the submissions and does not consider that the current drafting requires any further amendment. The government is therefore comfortable with the provisions as drafted. In relation to parts 5 and 7, clauses 22, 26 and 27, the issue of foreign ownership surcharges, I am advised that parliamentary counsel and RevenueSA have made a conscious decision to adopt a certain drafting approach that achieves the goals of the government.

Further, with respect to the foreign surcharge only being payable on a dutiable instrument, I am advised with regard to the submission concerning the term 'dutiable instrument' in paragraph 40 that both 'duty' and 'instrument' are defined in the Stamp Duties Act. 'Duty' ('dutiable' being a corresponding adjective of the noun) relevantly means duty charged under the act and 'instrument' includes every written document. By extension, 'dutiable instrument' is an instrument chargeable with duty under the act. Both 'dutiable' and 'dutiable instrument' are also already used elsewhere in the act. It is therefore considered that the drafting does not give rise to any interpretive issues so as to require amendment.

With respect to clause 22, residential land, I am advised that whilst there are no formal rights available in the Valuation of Land Act 1971 to challenge the land use code assigned by the Valuer-General, the Valuer-General will review land use codes on request. The commissioner also maintains a discretion to determine what he considers the predominant use of the land. I am further advised that the commissioner and the Valuer-General have had preliminary discussions about the issue raised and are committed to considering the issue in greater detail.

With respect to the point about the definitions creating issues in cases of property changing use or involving a mixed development, I am advised that with the abolition of duty on qualifying land from 1 July 2018, only dutiable transfers or acquisitions of land taken to be used for residential purposes and primary production will be liable to duty in the first instance. With regard to an intention to change the use of the land, the act already provides that the date that is relevant to a determination as to whether land is qualifying land or not is the date of the relevant transfer or acquisition.

The predominant use test is considered to be the appropriate test, as it can be readily identified from information presently available via the Valuer-General. This provides greater assurance to taxpayers on how the property will be assessed for duty purposes. Introducing a mixed use or intended use test as suggested would, in both cases, create uncertainty and be complex to administer, potentially involving significant costs and resources to RevenueSA, the Valuer-General and, more importantly, the taxpayer.

In relation to clause 22, foreign persons, I am advised that the definition of a foreign natural person is consistent with the approach taken in Victoria and Queensland and will be adopted in Western Australia. A dual citizen will satisfy the Australian citizen requirements, I am advised. Further, in relation to the issue of foreign persons establishing companies, RevenueSA understands, from discussions with interstate counterparts, that the vast majority of residential property purchased in other jurisdictions to which a foreign ownership surcharge equivalent has been applied have been purchased by foreign natural persons in their own right as opposed to the purchasers being foreign corporations or foreign trusts. Accordingly, the provisions in the bill are directed towards the purchase of residential property by foreign companies and foreign trusts and will likely have, also, a lesser application.

It is considered that the foreign corporation provisions, as drafted, provide an appropriate balance and measure for determining whether a corporation is a foreign person. It is also the case that the usage of the 50 per cent or more threshold (as opposed to, say, New South Wales' lower threshold of 20 per cent at which a corporation becomes a foreign corporation) is in keeping with Victoria, Queensland and the proposed Western Australian provisions, as well as the prescribed interest threshold which applies to the landholder under provisions in the Stamp Duties Act.

With respect to powers to appoint, I am advised that the drafting of the provision will prevent foreign persons having powers to appoint under the trust that could, in effect, give them control of the trust. As such, it is not proposed that the suggested deletion or limiting of the provision to a person with the power to appoint the trustee be enacted. The commissioner and parliamentary counsel are comfortable with the drafting as it stands.

In regard to the issue of a taxpayer in dispute with the commissioner, I am advised that the reference to 'an identified object under the trust' is a reference to the primary or specified objects of the trust deed. That is, the person must be identified in the trust deed by name. The term is not a blanket reference to a class or range of beneficiaries under a discretionary trust deed. The commissioner and parliamentary counsel, I am advised, are comfortable with the drafting as it stands.

Further, as to the issue of a foreign person being a taker in default of the capital of the trust, I am advised that the notion of 'a person who takes capital of the trust property in default' as drafted is commonly understood. For present purposes, capital would include residential land. The addition of the words, as suggested, would unnecessarily limit the provision to only instances where a person takes capital of the property in default of appointment prior to the ultimate vesting of the trust. For example, a deed may otherwise require a trustee to distribute capital at certain or regular times prior to the ultimate vesting of the trust. As such, a deed could provide for a foreign person to be a person who takes the capital of the trust property in default at those times. As such, it is not proposed that the suggested addition to the provisions be adopted. I am advised that the commissioner and parliamentary counsel are comfortable with the drafting as it stands.

In relation to a person who takes capital of the trust property in default, I am advised that similar to the 'identified object' provision mentioned above, a reference to 'a person who takes capital of the trust property in default' is a reference to a specified person in the trust deed. That is, the person must be identified in the trust deed by name. The term is not a blanket reference to a person who may potentially take capital of the trust property in default under a discretionary trust deed. I am advised that both Queensland and the proposed Western Australian provisions also have regard to takers in default in order to establish whether a trust is a foreign trust. The commissioner and parliamentary counsel are comfortable with the drafting as it stands, I am advised.

In relation to clause 26, foreign surcharge adjustment provisions, and the amount that the foreign ownership surcharge is to be reduced by the amount of foreign ownership surcharge paid in respect of the transaction by virtue of which the person or trust became a foreign person or a foreign trust. The legislation as drafted is a stylistic drafting preference of parliamentary counsel and the government is comfortable with the current drafting.

Further, relating to the proposed section 72(7) requiring the payment of the surcharge in certain situations, I am advised that the clawback provision is based on the Queensland model, which I am advised is also to be adopted by Western Australia, and is aimed at preventing the manipulation of interests held in the corporation or trust in order to avoid the surcharge.

With regard to the specific example provided at paragraph 60, I am advised that the foreign ownership surcharge is only payable on a dutiable instrument or acquisition. As the transfer in the example is made in pursuance of the provisions of a will, it is not chargeable with a duty pursuant to section 71(5)(h) of the Stamp Duties Act. As no duty is payable on the transfer, a foreign ownership surcharge is not payable.

With respect to a refund of the duty, if the trustee of the foreign trust distributes the land in specie to a resident beneficiary, I am advised that the refund provisions are consistent with the New South Wales provisions and will also be adopted by Western Australia. Victoria and Queensland do not provide a refund in these circumstances.

I am advised, with regard to the example in paragraph 63, that it would be prudent on the trustee, who was personally liable to pay the foreign ownership surcharge, to endeavour for the trust to cease being a foreign trust within 12 months and before it distributes the land in order to receive a refund of the foreign ownership surcharge it paid. I am advised that the commissioner and parliamentary counsel are also comfortable with the drafting as it stands.

Relating to a migrant purchasing land and obtaining a refund, I am advised that it would be prudent on foreign persons considering purchasing a residential property and their representatives

to become acquainted with the operation of the financial surcharge before purchasing such a residential property, together with any other tax and costs that arise. In relation to the point about 12 months for refunds and three years for the payment of the surcharge being adopted, as previously mentioned the 12 months for refunds and the three years for payments of the surcharge time frames are consistent with those jurisdictions that have adopted similar provisions.

With respect to the adjustments where there is a change in the status of the land acquired, the government recognises that there may be some land acquisitions for developments that may benefit the state where it would be appropriate to grant ex gratia relief from the foreign owners surcharge; for example, Australian-based, foreign-owned developers who contribute significantly to the South Australian housing supply. Accordingly it is proposed to publish a ruling setting out factors that will be considered in determining whether ex gratia relief from the surcharge will apply to certain land. All other jurisdictions with the foreign owners surcharge exclude significant residential developments either by way of Treasurer's discretion or ex gratia relief.

In relation to the zoning of land at the time of acquisition for a development, it is not proposed to allow a change of status from residential land to commercial land within a specified period to receive a surcharge refund. No other jurisdiction allows a surcharge refund for change of status from residential to commercial land. As previously mentioned, introducing a change-of-status test or intended-use test, as suggested, would, in both cases, be complex to administer and potentially involve significant costs and resources to RevenueSA, the Valuer-General and, more importantly, the taxpayer.

In relation to clause 27, landholder provisions, and the operations of section 14(2), I am advised that the issues raised above do not concern the operation of the foreign ownership surcharge provisions. The calculation of and the amount of foreign ownership surcharge payable in both calculations—being $26,00—is the same. I am advised that the commissioner considers that the first calculation set out under paragraph 72 is correct. With the abolition of duty on qualifying land from 1 July 2018, only the non-qualifying land—being the residential and primary production land—would remain dutiable.

With respect to the change of status of the land from non-residential to residential, and in the context outlined by the honourable member, I am advised that with regard to the submission under paragraph 78 a foreign ownership surcharge would be payable where there was an acquisition of a prescribed interest in the landholding entity under part 4 of the Stamp Duties Act. I am advised that the conversion of the land as described in the submission would not give rise to a dutiable acquisition of a prescribed interest in a landholding entity under part 4 of the Stamp Duties Act. In the absence of a dutiable acquisition in the example, neither landholder duty nor the foreign ownership surcharge would be payable on the conversion of the land from non-residential land to residential land.

In relation to the example about a company that is wholly foreign-owned acquiring some shops and an old industrial site on the eastern edge of the CBD, I am advised that with regard to the example under paragraph 79 above the foreign ownership surcharge would only be payable where there is either (1) a transfer of residential land or (2) an acquisition of a prescribed interest in a landholding entity under part 4 of the Stamp Duties Act.

I am advised there is no transfer upon the deposit of the strata plan. Likewise, the deposit of the strata plan would not give rise to a dutiable acquisition of a prescribed interest in a landholding entity under part 4 of the Stamp Duties Act. In the absence of a dutiable transfer or acquisition in the example, no landholder duty or foreign ownership surcharge would be payable upon the deposit of the plan.

With those answers now in the *Hansard*, I commend the bill to the chamber and look forward to the committee stage later this afternoon. For the benefit of members, I indicate that it is the government's intention to press ahead with this bill, to return to this bill after private members' business concludes today, and to conclude all stages of this bill today.

This bill was introduced four months ago. I think our members are well aware of the operation and the aspects of the bill. It has been in this chamber for over 30 days. It is the government's intention to have all stages of this bill finished today. If, for any reason, that does not occur, it would

be our intention to have all stages of this bill finished tomorrow, regardless of what time that means we finish sitting tomorrow.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. R.I. LUCAS: I thank the Leader of the Government for the answers he provided at the end of the second reading. In the interest of outlining a sensible process in terms of progressing the Budget Measures Bill, I can indicate, certainly from the Liberal Party's viewpoint, that we have been happy to process the Budget Measures Bill this week. The issue in relation to yesterday is that one of South Australia's best tax lawyers has provided detailed advice to the parliament, via me as the shadow treasurer, in relation to the Budget Measures Bill. As members would be aware, I have done this each year over the last four or five years. So, on the last sitting day of the last sitting week, I read some 14 or 15 pages of detailed tax advice from, as I said, one of South Australia's leading tax lawyers.

As I indicated in the second reading, on previous occasions the government has occasionally agreed with suggested concerns and amendments suggested by the tax lawyer and has actually picked up and moved amendments to some of the tax bills as a result of that particular advice. Yesterday, the government finally had detailed responses to the 14-page advice from the tax lawyer, which the government was kind enough by way of email yesterday afternoon to provide to me. That has now been placed on the public record in the second reading.

The reason for sensibly adjourning debate from yesterday to today is it allowed me as the shadow treasurer on behalf of the party to read the detailed response from the Commissioner of State Taxation and the government, and parliamentary counsel in some parts, to the tax lawyer's concerns and advice. I then, albeit I must say hurriedly, had some brief further consultation overnight and this morning in relation to the Commissioner of State Taxation's views and others'.

By and large, as the minister has just read, these concerns relate to other important provisions in the Budget Measures Bill. The entire public focus, and I think the government focus at least from a public viewpoint, has been on one aspect of the bill, which is the state bank tax, but there are significant other provisions in the bill, which relate to a foreign investor tax, payroll tax concessions, land tax changes and stamp duty concessions as well, and most of the detailed advice and concerns relate to most of those other particular provisions.

So, whilst the public attention and controversy relates to the bank tax, and we understand that, what I am sure members are aware of, but perhaps members of the community are not, is that the Budget Measures Bill addresses many other issues, and it is the role of this chamber and indeed the parliament to apply some rigour in terms of the drafting of that and highlighting potential concerns so that, at least if there are concerns further down the track, the government cannot say that the issues were not raised with the Commissioner of State Taxation prior to the passage of legislation, if ultimately we end up in a court of law and major loophole or drafting errors are established.

From my viewpoint, I am comfortable with the process of soldiering on today, both this morning and this evening. Certainly, I can indicate from the Liberal Party's viewpoint that we are quite comfortable with being able to complete this by the end of the sitting week, which was a not unreasonable position for the government to put. My understanding of the crossbenchers' position is they are comfortable with that as well.

The other point I will make is a word of advice to the slow-learning Treasurer in another place; that is, he still I do not think has worked out that in this chamber, the Legislative Council, there are actually only seven Labor Party members on the floor of the chamber, and there are 14 non-Labor members on the floor of the chamber. While the Treasurer of the state in another place jumps up and down and says, 'You will do all of this yesterday. You won't go through the bill thoroughly, and you won't have a chance to read the advice and take further consultation,' the Legislative Council and the parliament does not work that way.

Perhaps in the fool's world of the Treasurer that might be the way he would like to see the place operate, but the Legislative Council has not operated that way for 30 years or so, and I am sure it is not going to operate that way in the foreseeable future, because there will always be a position, I suspect, where governments of the day, whether they be Liberal or Labor, will not have a majority in this particular chamber. So that is the background.

In relation to how I intend to proceed with this to assist the process of the committee, I intend to raise the detailed responses raised by the tax lawyer in the individual clauses as we get through them. As I said, most of those issues and concerns are unrelated to the bank tax. They relate to the other provisions. There are significant concerns in relation to the foreign investor tax. The tax lawyer is very concerned about a potential loophole. I am not comfortable with the government's response, based on the advice of the Commissioner of State Taxation and parliamentary counsel, and I want to explore that in greater detail during those particular clauses later in the committee stage of the debate.

In relation to the bank tax, the Liberal Party has had on file now for some time two pages of amendments. Parliamentary counsel's advice to me is that the first amendment, as the Chair has outlined, is actually in clause 2. It is my suggestion to the Leader of the Government and to other members that it would make sense to actually treat the first amendment as a test vote on the package of amendments. It is not actually the most significant amendment. The most significant amendment does not occur until much later in the bill, but, as we move through this sequentially, it is part of the package.

If the first amendment is successful, the rest of the amendments, in my view, and in the view of parliamentary counsel, are consequential and are part of the package. Certainly, from our viewpoint, unless the government wants to re-enact the debate on the first test clause, it is not our intention to re-enact the debate on the bank tax for all the other amendments. I think there are some seven amendments in total, so that is certainly my suggestion in relation to the process. It is certainly up to the government and other members in the committee as well as to whether or not they want to proceed with it.

As I said, I will not be raising issues in relation to the forensic tax advice in relation to issues other than the bank tax during the clause 1 debate, but prior to actually opening up the debate and getting to the first amendment in clause 2 I did want to raise some general questions in relation to the operation of the bank tax and seek the government's response to it.

I will firstly ask the minister: should the parliament pass the legislation and should the government decide that it is not going to lay the bill aside—I know they are big ifs—when is it the government's intention that the act will come into operation in relation to the broad provisions in the Budget Measures Bill?

The Hon. K.J. MAHER: Can you start back with the 'ifs' again? I did not quite understand what you were saying.

The Hon. R.I. LUCAS: If the parliament passes the bill as the government would wish it, perhaps if I put it that way firstly—

The Hon. K.J. MAHER: If the bill passes as we put it up?

The Hon. R.I. LUCAS: If the bill passes both houses of parliament as the government would wish it, which is as it was originally intended, what is the government's intention in relation to the commencement of various provisions in the act?

The Hon. K.J. MAHER: Did you mean the bank tax particularly?

The Hon. R.I. LUCAS: All the provisions in there. Clause 2(1) says, 'Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.' It is a general provision which is there, but when do you intend that date to be?

The Hon. K.J. MAHER: I am advised that there are various provisions within the act that have operative starting dates for those different provisions in the act. The question is: when would the government—

The Hon. R.I. LUCAS: Assent to it, that's right.

The Hon. K.J. MAHER: Is it the bill as a whole—

The Hon. R.I. LUCAS: Yes.

The Hon. K.J. MAHER: —given that contained within the bill are various starting dates for various rate things that occur under the act? Is that the question, effectively?

The Hon. R.I. LUCAS: Let me clarify it to make it easier. Under clause 2(1), it says, 'Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.' Assuming the bill passes both houses of parliament in the form that the government introduced it, how soon after the parliament handles it are you intending to bring the act into operation?

The Hon. K.J. MAHER: The advice is, as with most other bills, as soon as possible.

The Hon. R.I. LUCAS: There is a provision in the bank tax clauses that states that these clauses:

> … will come into operation on the day on which the Major Bank Levy Act 2017 of the Commonwealth comes into operation (and if this Act is not assented to until after that day, those sections and that Schedule will be taken to have come into operation on that day).

Can the minister, through his advisers, indicate if that day, in relation to the commonwealth act, has already been specified?

The Hon. K.J. MAHER: My advice is that, under the commonwealth levy, the first payment is due on 21 March next year.

The Hon. R.I. LUCAS: That is another set of questions I have, but my question at this stage is: under this bill, which the government is asking us to support, it states, under clause 2(2), that the bank levy, in essence, (if it was to be passed) will come into operation on the day on which the Major Bank Levy Act 2017 of the commonwealth comes into operation. So, under the commonwealth legislation there is obviously a day which says, 'Hey, on such and such a date, the commonwealth bank levy will come into operation.'

What you are asking the parliament to support is: whatever that day is, the state bank levy will come in. So, it is not actually when the collections will be but when the legislation will be activated. My question is simply: what is that date? Has the commonwealth specified already the date on which the commonwealth legislation is to be enacted? Are you saying, as a government to the parliament, that you want this to be activated (if it is passed by the parliament) on that particular date?

The Hon. K.J. MAHER: The advisers do not have that date with them. They have the date for the first payment, but I am sure we will have the answer when we continue the debate over the course of today.

The Hon. R.I. LUCAS: I am happy to accept that; I think it would be useful to know what that date is. In relation to the answer to the question I had not quite put—but let me put it now; that is, the actual collection date—I think the minister has already indicated, based on advice, that the first collection is on 21 March, which is four days after the next state election. In the briefings that members were given, we were advised that the collection date is actually for the first two quarters. It is for the September quarter and the December quarter but that once the sequence is established the actual collection date is, I am assuming, 2½ months after the end of the quarter, almost. So, the 21 March collection date in future will be the collection date for the previous year's December quarter; is that correct?

The Hon. K.J. MAHER: My advice is—and I think it is as the honourable member has outlined—that for that first 21 March payment, the relevant periods it will be applying to for collection will be the preceding December and September quarters.

The Hon. R.I. LUCAS: My question to the minister is: where in the bill does that actually get specified? We were advised that the future operation of the bank tax will be collection quarterly and it will be around about 2½ months or so after the end of each quarter once the initial transition period is established. But we were advised, as the minister has just outlined, that the actual first collection, if this levy is to be passed, will be on 21 March for the two quarters.

Can the minister's advisers indicate where in the legislation that is made clear that the first quarterly collection is not collected when it might otherwise be due, that it is actually deferred and not collected until the second quarterly collection is payable, and that is the 21 March date?

The Hon. K.J. MAHER: I am advised that it is not specified in our state act, but it reflects the government's administrative decision to follow the administration of the commonwealth bank levy.

The Hon. R.I. LUCAS: Can I ask the minister to take that on notice as well, given that we are going to recommence debate either tonight and/or tomorrow. I am just interested to know what is the head of power which actually allows the banks, should this pass, not to pay their first quarterly payment but to pay the first two quarters on 21 March next year. If the minister says it is not actually in this bill, it is actually either in the commonwealth bill or it is in an administrative arrangement somewhere, then I think the parliament, at some stage, is entitled to know where the head of power is. If that could be taken on notice and provided at a later stage of the debate, I am comfortable with that.

The Hon. K.J. MAHER: This might be a partial answer, I think: my advice is that clause 10 specifies returns in relation to the state bank levy in respect to the quarter. Just so I am clear, it is not specifically the head of power that specifies quarter. The honourable member's question relates specifically to what is effectively the first or September quarter not to be paid immediately but to be paid in conjunction with that December quarter in March? The question is not the head of power to allow it generally, but for that very first payment—am I interpreting the question correctly?

The Hon. R.I. LUCAS: Yes.

The Hon. S.G. WADE: I ask the minister whether he can confirm that the government's commitment to allocate $41.5 million over four years for mental health and disability services is contingent on the Hon. Kelly Vincent voting for the Budget Measures Bill and not contingent on the bill passing this house? I should have said 'if the bill passes this house with the bank tax included'.

Parliamentary Procedure

VISITORS

The CHAIR: I welcome students and teachers from Woodcroft Primary. I must compliment you on the way you came in, very quiet—and what we are doing here now is we are debating a very important bill, called the Budget Measures Bill, for South Australia.

Bills

BUDGET MEASURES BILL 2017

Committee Stage

Debate resumed.

The Hon. K.J. MAHER: I thank the honourable member for his question. I have taken some advice. Any discussions—and private discussions have been had with members about this bill and measures in the bill—are discussions with them. It is not part of this bill and not part of something that is contained in this bill. If honourable members want to discuss it further with the Treasurer, I am sure they can discuss with him any issues that are not actually part of this bill.

The Hon. S.G. WADE: I would ask the government, if this bill passes the parliament without the Budget Measures Bill in place, is it the expectation of the government that the $41.5 million deal with the Hon. Kelly Vincent will proceed?

The Hon. K.J. MAHER: As I have said, that is not part of this bill.

The Hon. S.G. WADE: It has been clearly publicly stated that it is linked to this bill. In fact, there was a journal of record on Monday morning that gave a public statement, presumably from the Treasurer but it was certainly quoted as a government statement, that the $41.5 million would proceed, whether or not the bank tax element of the Budget Measures Bill was retained. I can only take it from the minister's lack of willingness to restate that commitment that it is in fact conditional. I think that the parliament needs to know that. It may well influence members such as the Hon. Kelly Vincent as to what her attitude is.

Members interjecting:

The CHAIR: Order!

The Hon. K.J. MAHER: The Hon. Ms Vincent, I think, has had discussions, and I congratulate her and pay tribute to the work she has done, the discussions she has had with the Treasurer advocating for things that we all know in this chamber she has advocated for for a very long time. If any honourable members have specific questions about matters that are not contained in this bill or not to do with what is in the legislation before this chamber, I am sure the Treasurer would be more than happy for them to go and knock on his door later today to have a discussion about them, but they are not contained in the bill, and I will not be verballed by the Hon. Stephen Wade trying to suggest that an answer suggests something that it absolutely does not.

Members interjecting:

The CHAIR: Order! The Hon. Mr Wade has the floor.

The Hon. S.G. WADE: My next question is in the context of what I understand was the request from the Treasurer that the Kelly Vincent package be kept confidential. Can the minister assure the house that no other deals have been made with other members that he intends to keep confidential?

The Hon. K.J. MAHER: I thank the honourable member for his question. Any discussions anybody has had that do not relate to this bill, do not relate to this bill—simple.

The Hon. S.G. WADE: I should congratulate the Hon. Kelly Vincent on the package. I think she has helped the Labor Party remember its values, but it is amazing how proximity to an election also helps. I would remind the minister that the Hon. Kelly Vincent has indicated that this package is directly related to this bill. It is directly related to a commitment that she has given to the government to vote for the bill. and I accept her decision. But the parliament has a right to know what is the nature of that commitment. It is related to the bill. The Hon. Kelly Vincent has already said publicly that in her view it is related to the bill.

The Hon. K.J. MAHER: I thank the honourable member for his question. I will make an exception. I do not intend to go into matters that are not part of this bill, but I think for the Hon. Kelly Vincent's sake—not for the Hon. Stephen Wade's sake whatsoever—I can confirm my advice that, regardless of whether the Legislative Council takes the unprecedented step of eventually blocking this bill in its entirety, regardless of how the Legislative Council seeks to handle this bill—and it is a precedent that I think many on the other side will come to regret if they end up blocking this bill.

It will set a brand-new dynamic for how budgets are handled here, and do not think we will not remember how this bill went through here if at any stage Labor is in opposition. It will completely change the dynamics of how governments handle their bills. I do not do it for the Hon. Stephen Wade's sake whatsoever, but for the benefit of the Hon. Kelly Vincent, the measures that she had discussed earlier this week and she had negotiated with the Treasurer stand regardless of what happens to this bill in the form that it is passed in or blocked by this council.

Parliamentary Procedure

VISITORS

The CHAIR: I would like to welcome the students from Woodcroft Primary. It is lovely to see you all. I hope they will not yell too much and scare you. They scare me sometimes.

Bills

BUDGET MEASURES BILL 2017

Committee Stage

Debate resumed.

The Hon. S.G. WADE: I would ask the minister: is the minister in a position to inform the Hon. Kelly Vincent whether the $41.5 million will be part of the Mid-Year Budget Review later this year?

The Hon. K.J. MAHER: That is even further away from being part of this bill than his other questions. That is completely outside anything we are discussing in this bill. I have done the service to the Hon. Kelly Vincent, not to the Hon. Stephen Wade, to confirm that those measures that he is referring to stand regardless of the fate of this bill. That is all the information I have and, quite frankly, that is all I am prepared to say on it.

The Hon. K.L. VINCENT: Before I ask my question, I might take a moment to remind the minister that it is not for my benefit to have these things on the record; it is for the benefit of the state of South Australia to have the information about how this funding will be spent on the record. Can I ask, while he is in a mood to make exceptions, whether he might seek some information from the government as to whether the tendering process for the intensive home-based support service will be expedited to allow that funding to be spent on reinstating that program this budget cycle?

The Hon. K.J. MAHER: I thank the honourable member for her contribution. I do not have the detail in that sort of granulation, but I am happy to make sure that that information is sought and come back to the honourable member with details of that, maybe not in this forum, but to come with details of that and any other questions she has about those programs.

The Hon. S.G. WADE: Could I ask the minister, considering he has been hit by a wave of generosity, when he is seeking the information on behalf of the Hon. Kelly Vincent in relation to the Intensive Home Based Support Services and whether that will be funded in this current financial year, could he also inquire as to whether the borderline personality disorder centre of excellence funding will start in this financial year and assure the house that the Centre for Disability Health funding at the Modbury Hospital will also be continued in this current financial year and the cross-department Exceptional Needs Unit?

The Hon. K.J. MAHER: I am happy to get information as it is available and provide it to the Hon. Kelly Vincent, importantly, as she correctly points out, to those who will be accessing the services to make sure that that detail is given. But I have to say, as I said at the start, the things the Hon. Stephen Wade raises do not form part of this bill. I am sure that I can give an undertaking that the government will work with the Hon. Kelly Vincent and representative bodies and those for whom the funding is designed to improve their lives and keep them informed about the rollout of these services.

The Hon. T.A. FRANKS: Given the line of questioning, I am happy to take this bit on notice for when we get to the appropriate clause, but I would like the opposition to identify which parts of the spending measures in the budget they see as negotiable should the changes that the opposition proposes to remove the banking levy be successful? Further, given we are talking about what is being exchanged here, are all members of the parliament, who are supporting the opposition backing the ABA's call not to have a banking levy in this state, willing to forego any political donations from the major four banks in the coming election or indeed at a federal or state level?

The CHAIR: Who wants to answer that first? The Hon. Mr Brokenshire?

The Hon. R.L. BROKENSHIRE: I do not have any involvement in fundraising situations for our party. Whether the Greens' individual members have direct involvement in fundraising or lobbying or soliciting money is a matter for the Greens. I cannot speak for anyone other than myself, but I am not involved in any fundraising.

The Hon. T.A. FRANKS: To clarify, have the Australian Conservatives accepted any moneys in the last five years in their former formation as Family First or in their current formation as the Australian Conservatives from the major four banks? Will they rule out accepting any money for the next two years?

The CHAIR: The Hon. Ms Franks, I am getting a bit uncomfortable with that line of questioning. I do not think it is up to the Hon. Mr Brokenshire or anyone else to be basically answering those sorts of questions, but I imagine that sort of information is available on the Electoral Commission's website or something. I do not think I am going to allow that sort of scrutiny of individual members based on how they believe they should vote on this.

The Hon. T.A. FRANKS: Mr Chair, it is on public record as to the amounts of moneys that the major four banks have donated to various political parties. I think it should be put into this debate

because it has become an issue that is relevant to this particular bill. It is an understood practice of parliaments, and indeed this parliament, that one declares an interest. If a political party has an interest, if a political party has a situation where they have taken money from the major four banks and then they are opposing a levy on those same major four banks, then it should be declared in this debate.

The CHAIR: Any further contributions?

The Hon. J.M.A. LENSINK: My questions relate to the NDIS and in part to some of the previous questions and that is—

The Hon. K.J. MAHER: What part of the bill?

The Hon. J.M.A. LENSINK: There are questions at clause 1 I understand we are entitled to have. The minister might need to take advice on this, but the shorthand of what is taking place with the NDIS is that a range of programs that are currently funded through the state are going to the NDIA. I understand that a full rollout will be some $723 million, which is currently funded through the state, will be funded through NDIA. There has been some question mark as to whether the Exceptional Needs Unit is part of that or not. My questions to the minister are: at full rollout, was the Exceptional Needs Unit funding to become part of NDIA, or was the South Australian government going to continue to fund it from its own appropriations?

The Hon. K.J. MAHER: I thank the honourable member for her somewhat odd question. There is no part of this bill before us that speaks to that, but if this is another general question time and the honourable member wants to ask questions of other ministers about different programs they are responsible for, I am happy to take that question on notice, pass it to the minister responsible in another place and, in due course, see if there is an answer that can be brought back.

However, the honourable member may want to save those questions for question time. If that is a tactic, to use the time today to ask questions that would ordinarily be asked in question time, go ahead, and we can be here until 2am or 3am. I am sure all of us in this chamber are looking forward to sitting very late, if that is what we want to do.

The Hon. J.M.A. LENSINK: I thank the minister for his very generous response in seeking to take that back. I placed that as a question on notice in the House of Assembly several months ago and I have not received a response. I am sure the department, in one of the minister's offices in one way or another, is aware of the question, so if he could take that to the relevant minister and get back a response that would be useful for the people of South Australia.

The Hon. R.L. BROKENSHIRE: Relevant to clauses 1 and 2, at approximately 2.30 on Saturday afternoon—while I was actually mowing hay—I had an email come from the Treasurer's office. I am not sure whether the Treasurer himself was actually in his office at 2.30 on Saturday—I assume he probably was not, because when you look at the letter it looks more like an electronic signature, and it did not have 'Robert' or anything like that on it, which you generally get—but I was very much interested to read the email on my phone. It was an interesting letter. The minister said:

> I remind you that under the Constitution Act 1934 section 62 the Legislative Council may not amend a money clause. The council can only suggest an omission or amendment.

I actually knew that, because there is a precedent for this; there are probably several, but there is certainly one I have been involved with since I have had the privilege of being in the Legislative Council, and that was the car park tax. We actually understand the procedures. We also have an excellent and experienced Clerk and we can gain knowledge from the Clerk if we need to—and I did at that time.

We know now that there is no car park tax. We know that it was a tax that was anti-business, anti-retail, anti-consumer, and we know that the majority of the people did not support that particular tax. We also note with interest that at the time there was going to be shock and horror, that there would be no park-and-ride extensions and investments in park-and-ride unless the car park tax went ahead. But there are extensions to park-and-ride, so life goes on, now and again, when this council stands up for the people it represents. The sky does not fall in as a result of an amendment. Given that paragraph I quoted, and that we understand it, the Treasurer went on to say:

For perspective, a budget bill has never been blocked in South Australia. Blocking a budget bill will have severe long-term consequences for stable governance in this state going forward.

I find that interesting for a couple of reasons. First, it is quite a threatening, bullying and harassing tactic but, secondly, I just wanted to let the minister know that I, on behalf of the Australian Conservatives, am not blocking a budget bill ,and I understand that others who are opposed to this particular aspect are also not blocking a budget bill. I also understand that under the constitution this house cannot block a budget bill.

My question to the minister—and I would like something honest rather than in the manipulative manner of the letter I received on Saturday afternoon—is, does he acknowledge that if there is a blocking of the budget bill, it will be his government that blocks the budget bill and not this council?

The Hon. K.J. MAHER: I thank the honourable member for his question. I think that the Hon. Rob Lucas, when he laid out the various scenarios he could see happening here, somewhat contradicted the Hon. Rob Brokenshire. If this bill goes back down with a suggested amendment, it will be rejected in the lower house, as the government and the Treasurer have said, and when it comes back up here, it will be this Legislative Council that will make the decision to block it.

Let us not muck around: there was a bit of fiddling around with the car park tax last time, but there is a huge amount of mucking around with the bank levy this time. If the opposition honestly think that this huge mucking around with a government bill does not set a new precedent, then they have another thing coming when they get into government and everyone—every opposition, every crossbencher—will feel completely at liberty to muck around with every single bit of any budget that is done from here on in. This is a precedent that the opposition is looking to set. God help them, if ever they get into government, about what might happen with anything they ever decide to try to do in a budget.

The Hon. R.L. BROKENSHIRE: Relevant to this bill, I note with interest an article in the Adelaide *Advertiser* by Cameron England, the highly respected and knowledgeable economic journalist. He had a story in *The Advertiser* yesterday, 'Bank on Trial' and 'Bill returns to Parliament as international pressure grows.' In the article he talks about Jupiter Asset Management, a United Kingdom fund that manages more than $80 billion in assets. I believe they would be more astute managers than those we have in our government at the moment when it comes to economic management. So, I take them with a lot of credibility as an organisation that actually understands a bit about economics. The article states:

…it had already reduced its exposure to Australia because of its "increased level of political risk" and said they "strongly urge the protagonists—

'protagonists' meaning the state Labor government—

to reconsider" the bank tax.

They go on with other quotes as well, saying that this, in effect, in summary, will, in a different light, be assessed as to what they do with investment in South Australia. That is one £48 billion asset manager. Does the government recognise that this tax is a broken promise, because this government said there would be no new taxes? It is a broken promise; there was no mandate for the tax at all, and that is the truth. Does the government recognise that this is going to be placing a dark cloud over businesses looking to grow, invest or stay in South Australia?

The Hon. K.J. MAHER: I thank the honourable member for his question. On pretty much every count I would say that he is wrong. There was all sorts of doom and gloom whipped up by the opposition, whipped up by their mates in the Australian Bankers' Association and whipped up by the top end of town with a heavily funded campaign expressing all sorts of sky-falling-in scenarios: there will be no jobs in South Australia; industry will come to a grinding halt at the mere suggestion of the banks paying their fair share. There was a comment earlier about the government saying that they can afford it, but it was not us who said that, it was the Productivity Commission. So, the doom and gloom about the mere suggestion that this could happen—seeing investment and jobs dry up in South Australia—has proven to be one big, fat lie.

In the last two months, we have seen the lowest unemployment that we have had in South Australia in nearly half a decade. For 24 months in a row we have seen jobs growth in this state. At the end of every month over the last two years, there have been more jobs than in the month before. The predictions were—when the mere suggestion of this bank tax and the mere idea that this might be in the budget would stop jobs in South Australia—that we would have huge unemployment. The Hon. Robert Lucas said we would be in double-digit unemployment when Holden closed. Nothing has been further from the truth. On many, many economic indicators, South Australia is doing well, improving and doing vastly better in relation to other states.

Last month, we had the second-best employment figures behind New South Wales. They are the lowest we have had in nearly five years. This month, it is 0.1 per cent above—the second-best we have had in nearly five years. This idea that the mere suggestion of the banks paying their fair share will have jobs dry up, will have industry coming to a stop, has been proven to be one massive, massive lie.

The Hon. R.L. BROKENSHIRE: Further to that answer, I take it that what the minister is saying on behalf of his government is that the claims by Jupiter Fund Management, which include the fact that they have revealed its Asian income fund has sold down investments in Australian financial services because of this proposal, and concerns also over federal government policies but specifically because of this proposal—

Members interjecting:

The Hon. R.L. BROKENSHIRE: I want an answer on this state issue, by the way, for a change, rather than the diatribe that we cop a lot of the time from both the Minister for Climate Change and the Leader of Government Business here. Are you just dismissing the Jupiter Fund Management claims and saying that they are irrelevant and a nonsense, and this will have no impact whatsoever? Are you saying that they are just irrelevant and a nonsense?

The Hon. K.J. MAHER: I have no idea what goes through the mind of a particular fund manager from somewhere else in the world when they make statements or decisions. I have no idea why they do that, but let's have a bit of a look at not just the national employment figures or the gross state product figures but some of the investment in South Australia recently, while this bank tax that is apparently going to stop everything has been discussed. We have seen the investment in the Whyalla Steelworks. We have seen the investment by Tesla in the battery in South Australia. We have seen the nearly $1 billion new mine being announced by OZ Minerals. We have seen massive investment in this state.

If you believed everything someone like the Hon. Robert Brokenshire says, or particularly some of the claims made by the Hon. Rob Lucas, who is frequently a stranger to the truth when it comes to these matters, they would have you believe that nothing was going to happen in South Australia, and that we would have, as the Hon. Rob Lucas had suggested previously, double-digit unemployment. That has not happened. This is a levy the banks can afford. Quite frankly, when you look at some of the ways in which revenue is being applied in terms of job creation, I think that is what South Australians expect of their government.

Clause passed.

Progress reported; committee to sit again.

Sitting suspended from 12:58 to 14:19.

Members

SENATE VACANCY

His Excellency the Governor, by message, informed the Legislative Council that the President of the Australian Senate, in accordance with section 21 of the Commonwealth Constitution, has notified His Excellency the Governor that, in consequence of the resignation on the first day of November 2017 of Senator Nicholas Xenophon, a vacancy has happened in the representation of this state in the Senate.

The Governor is advised that, by such vacancy having happened, the place of a senator has become vacant before the expiry of his term within the meaning of section 15 of the constitution, and

that such place shall be filled by the houses of parliament sitting and voting together, choosing a person to hold it in accordance with the provisions of the said section.

The PRESIDENT: I inform the Legislative Council that, having conferred, I have arranged to call a joint meeting of the two houses for the purpose of complying with section 15 of the Commonwealth of Australia Constitution Act on Tuesday 14 November 2017 at 10.15am. A formal notice will be distributed to all members of the parliament.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.E. HANSON (14:22): I lay upon the table the 52nd report of the committee, 2015-17.

Report received.

Ministerial Statement

SENATE VACANCY

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) (14:23): Mr President, I make a ministerial statement, which was made in the other place by the Premier, on the topic of a casual vacancy in the Senate, as follows:

I rise to inform the House about correspondence the Government has received regarding the Senate vacancy created by the retirement of Nick Xenophon.

As the House is no doubt aware, Mr Xenophon has now formally resigned his Senate position.

This creates a casual vacancy and, as per section 15 of the Commonwealth Constitution, it is incumbent upon our Parliament to convene a joint sitting and vote on a nominee to fill that vacancy.

I can confirm that the Clerk of the Legislative Council has received a nomination for the vacancy from Mr Rex Patrick.

I can also confirm I have received a letter marked 'Private and Confidential' from lawyers representing Mr Timothy Storer–a Senate candidate for the NXT Party at the 2016 Federal election.

I have sought and received permission to publicly disclose the existence of that correspondence.

Mr Storer asserts rights in relation to the filling of the casual vacancy.

I have asked the Attorney-General to seek legal advice from the Crown Solicitor's Office to allow him to inform the deliberations of the joint sitting.

There will be a joint sitting of Parliament on Tuesday 14 November to consider a replacement Senator.

That is the statement from the Premier.

INTERNATIONAL ASTRONAUTICAL CONGRESS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): I table a copy of a ministerial statement made in the other place, entitled International Astronautical Congress Outcomes, made by the Minister for Investment and Trade.

Question Time

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I seek leave to make a brief explanation before asking a question of the Minister for Health—a member of this very secret government—a question in relation to access to information for the Auditor-General.

Leave granted.

The Hon. D.W. RIDGWAY: The Auditor-General has advised the parliament that he is currently working on a supplementary report for the new Royal Adelaide Hospital public-private partnership, which is at this time the most expensive building in the world.

During a recent appearance at the public hearing of the parliament's Economic and Finance Committee, the Auditor-General indicated that he had been unable to complete his report because SA Health had not provided the requested documents and information in a timely fashion.

The Auditor-General went on to say that in an effort to resolve the problem he has written to the chief executive of the Department for Health and Ageing and directly asked for the information to be provided more promptly. My questions for the minister are:

1. Has the minister been briefed on the Auditor-General's concern that his department is not responding to requests for information within an appropriate time frame? If so, what has he done to assure this problem is immediately resolved?

2. Will the minister instruct the chief executive to respond to all outstanding information requests on this matter as a matter of priority so the Auditor-General can complete his NRAH report?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:26): What an anti-climax! To the best of my knowledge, I haven't received any particular briefing along the lines that the honourable member has asked. I am more than happy to familiarise myself with the concerns that he has referred to.

The Hon. J.S.L. Dawkins: Very quiet voice when you get these sorts of questions—

The Hon. P. MALINAUSKAS: I am more than willing to consult—

The Hon. J.S.L. Dawkins: When you don't know what you're talking about you go very quiet.

The Hon. P. MALINAUSKAS: Well, you just need to listen harder, the Hon. Mr Dawkins. I am more than happy to raise the questions that the honourable member has sought answers to. I will seek advice about it and bring back the information as soon as possible. Needless to say that, obviously, it is my expectation that information that is requested by the Auditor-General that can reasonably be provided is done so in as timely a manner as is reasonably possible. I do not need to pass on my expectations, though, to the chief executive of the department. I have every confidence in her knowing that already. Needless to say, of course, I will make some inquiries along the lines the Hon. Mr Ridgway has asked.

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): Is the minister embarrassed that his agency is one that has been identified by the Auditor-General as not providing information in a timely fashion?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:28): Let's seek some answers to the inquiries that have been made before we start making silly remarks along the lines that the Hon. Mr Ridgway just made.

ASBESTOS WASTE DISPOSAL

The Hon. J.M.A. LENSINK (14:28): My questions are to the Minister for Water:

1. Can the minister confirm that asbestos material is being stored at up to 31 SA Water sites, some close to residential homes in what SA Water has said is a temporary measure?

2. Given this has been going for some time, can the minister advise why he has hidden this fact from South Australian families and why they are only being notified of this toxic waste now?

3. Can the minister provide parliament with a list of the sites where SA Water stores the asbestos?

4. Can the minister advise how long this supposedly temporary measure will last and what steps have been taken to establish long-term storage or disposal options?

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 most important question. As I say, it is important that the community, as well as this place, understands the facts behind this before they run off and become terribly alarmist with local communities.

The Hon. Michelle Lensink would never do that, of course—she is too responsible—but others, some colleagues of hers, don't have the same sort of concern for the community and are all too willing to go and stir up foment when it is not required. To give the honourable member some of the information she has asked for, I can advise that approximately 45 per cent of the water distribution pipes in SA Water's statewide distribution network are made of cement containing asbestos (I think I have given that answer in this place previously to a question by the Hon. Mr Darley, perhaps about 12 months ago).

This is not an issue isolated to South Australia; it was a common construction material for water pipes around the country, indeed probably around the world, but there are reports that would indicate that there are approximately 40,000 kilometres of water pipelines containing asbestos right across Australia. At times, sections of asbestos cement pipe need to be removed to allow for repairs of water supply infrastructure—that should be no surprise to honourable members.

Recent licence notifications that have been made by the EPA are an attempt by the EPA to formalise our long-held safe practices being undertaken by SA Water in regard to their pipe network. The application, as I understand it, for the sites to become licensed in no way presents any increased risk to the community of any sort. SA Water is not, I am advised (and is not proposing), undertaking any asbestos processing or changing any of its existing safe practices in relation to asbestos cement pipes.

Special precautions, I am advised—and, again, I think I have advised the chamber of these in the past—are taken when repairs or maintenance is undertaken on these pipes to ensure worker and public safety. These are in accordance, I am advised, with the Australian Code of Practice for Managing Asbestos Containing Materials, the relevant work health and safety regulations.

I understand that removed sections of pipe are often taken to SA Water depots for temporary storage prior to ultimate disposal. I am advised that the EPA has identified the need for all storage locations, including those where materials are only stored temporarily, to be licensed as waste depots under the Environment Protection Act 1993, and as such the EPA has a few bits of work it needs to do under that legislation in advising the community. I believe it has advised through newspaper advertisements on this issue.

The EPA has been proactively assessing existing asbestos regulations and strengthening oversight where necessary. As part of this, I have been advised that the EPA has identified a need to ensure that short-term storage, where it may be necessary to temporarily store potentially asbestos-containing materials from works, is also licensed. So, licensing allows the EPA a better ability to monitor the activity and to ensure that materials are being appropriately handled.

In response, I am advised that SA Water has recently applied for existing SA Water depot locations to be licensed across the state. As part of this process, I understand the EPA is required to write to all neighbours, as you would expect, of the storage locations to explain the nature of the licence applications. This is both a legislative requirement but also just good practice.

I am advised that the public notice was placed—here we go—in *The Advertiser* and on the EPA website on 26 October this year, and letters were sent to neighbouring properties of each site over 25 and 26 October 2017. Public notifications and letters allow members of the community to contact the EPA with any concerns they might have. I understand community comment is open until 10 November 2017. The EPA will then consider all submissions and comments before it makes a decision regarding the applications by SA Water and the proposed conditions that might be placed on them.

The repairs to asbestos cement pipes are carried out in both metropolitan and regional areas, as you would expect, and they are often, particularly in terms of regional areas, a long way from an EPA licensed landfill site. SA Water, Allwater and contractors have established standard work

procedures for handling asbestos cement pipes, and provide training to employees to ensure the safety of maintenance personnel and the broader community. I am advised that asbestos-containing pipes can stay on SA Water land for up to a month before being appropriately disposed of.

The EPA has advised that the material does not pose a public health risk as it has been stored in compliance with work health and safety regulations; that is, the non-friable material has been double wrapped, labelled prior to being transported to the SA Water depot and then stored in a large bin with a closed lid.

It is important to reiterate that SA Water's applications are for the temporary storage of asbestos-containing materials, such as old pipes, which will then be transferred to an appropriately licensed landfill. It is not for long-term storage of the asbestos-containing material or for its treatment or for any recycling. The EPA considers the current manner in which these materials are being handled and stored to not be a risk to the workers, to the environment or to the wider community.

I am also advised that SA Water continues to transport and temporarily store asbestos in accordance with all SafeWork safety requirements. The EPA, of course, under its legislation, is the independent regulator and will be regulating SA Water, as they would any other company in this state. I expect that they would apply the legislation in a normal regulatory fashion; that is, require SA Water to conduct its business in a way that is in accordance with all health and safety requirements of all legislation pertaining to the state.

ASBESTOS WASTE DISPOSAL

The Hon. J.M.A. LENSINK (14:35): Supplementary: will the minister undertake to provide a full list of all the sites where asbestos is being stored under this process?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:36): I understand that is probably in the public realm already. The SA Water website, I believe, lists its depot sites. As I said, there are 31 locations that have applied for these licences across the state. They are SA Water depots. I will have it checked, but I believe that they are already all up on their website.

COLONOSCOPY SERVICES

The Hon. S.G. WADE (14:36): I seek leave to make a brief explanation before asking a question of the Minister for Health in relation to colonoscopy services in the Mid North.

Leave granted.

The Hon. S.G. WADE: According to the Cancer Council, bowel cancer is 90 per cent curable if found at an early stage. Early detection is particularly important for people with a family history or ageing members of the community. Early detection involves completing a bowel screening test and where a positive result is returned undergoing a colonoscopy.

Jamestown Hospital in the Mid North provides a colonoscopy service for a number of nearby towns. I am advised that currently the waiting list for a colonoscopy in Jamestown is over 12 months and that this delay is related to a lack of funding for additional theatre days. I note that the Auditor-General's latest annual report revealed that, in the last financial year, Country Health SA was the only local health network to experience a reduced level of recurrent funding. I ask the minister:

1. How long should people at risk of developing bowel cancer have to wait for a potentially life-saving colonoscopy?

2. Why are people in the Mid North of our state who have been identified as being at risk of developing cancer, or who have previously had bowel cancer and need to check that it has not returned, having to wait for over a year to undergo a colonoscopy at the Jamestown Hospital?

3. Will the minister ensure that Jamestown Hospital has sufficient funding to provide people in its catchment with colonoscopies within clinically appropriate time frames?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:38): Thank you to the honourable member for his thought through question. It is one that I am happy to seek some advice on. I haven't been briefed on the particular issue as

yet. Needless to say, I am aware of the fact that bowel cancer is one form of cancer that can readily be beaten, or there is a high success rate of it being beaten through early detection.

In my former capacity as a union leader, I had the opportunity to do some work with the Jodi Lee Foundation, an outstanding foundation that started in South Australia and that has at its heart an objective of seeing higher numbers of Australians take bowel cancer screening tests, which are a relatively cheap and uninvasive exercise to detect people who might be in a higher risk category through blood being detected through a basic test. That leads to earlier detection of bowel cancer. If more people undertake early screening when it comes to bowel cancer, it can go a long way to saving people's lives. That is a foundation that does extraordinary work, and I have learnt a lot about early bowel cancer protection through their advocacy.

I am happy to take that question on notice for the honourable member to try to find out some more about the situation within Jamestown or the Mid North generally. If there are some easy fixes, we are always open-minded to them, and if the honourable member or any member within this place has any particular suggestions about how any particular health issue can be addressed, then my office makes itself available to those suggestions. I thank the honourable member for his question in this particular instance, and we will seek some information as quickly as possible.

ASBESTOS WASTE DISPOSAL

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:40): With the leave of the council, I want to make an addendum to my answers to the Hon. Michelle Lensink.

Leave granted.

The Hon. I.K. HUNTER: I am advised that, because SA Water has applied for licences from the EPA, the sites in question will also be on the EPA website.

WINNOVATION AWARDS

The Hon. G.E. GAGO (14:40): My question is to the Minister for Manufacturing and Innovation. Can the minister update the chamber on the outcome of the recent Winnovation Awards?

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) (14:40): I thank the honourable member for her question and her strong support for the role that women play in our society and our economy, which is something she has championed for all of her time in this place and all of her life. It was pleasing to have the opportunity to attend the 2017 Winnovation Awards, recognising some of our best and brightest South Australians—the Women in Innovation awards.

Innovation is vital to a prosperous and competitive future economy for our state. That is why it is so important that the skills and talents of as many South Australians as possible can be unlocked and nurtured. Because many science, technology, engineering and maths industries are still male dominated, promoting women not just to achieve in these areas but to aspire to careers across the innovation spectrum is critically important for our state.

It is not simply the case that women need and deserve to have equality of opportunity or that we need to do everything we can to promote that. Women bring immense value across the innovation spectrum. We need entrepreneurs and innovators with diverse perspectives and experiences, and indeed, those who reflect the diversity of people using their products and services. It is also important to recognise the value of people across our industries who are ready and willing to lead change, as traditional industries reinvent themselves and new sectors emerge. The Winnovation awardees are experts in change and are leading the state in this change.

Eleven of the state's most innovative women were recognised at the recent 2017 Winnovation Awards in Adelaide, highlighting the achievements of women in innovation across 11 categories, including science, technology, the arts, business and government. I want to congratulate a number of the winners on the night, and I was very fortunate to meet many of them at the Winnovation Awards ceremony. Elizabeth Donaldson from Brick and Mortar Creative received

the arts award for her work in designing co-working studios and workshop space for creative businesses.

The emerging innovator award went to Michelle Perugini from Life Whisperer for providing decision support software to the fertility sector. Dr Melanie MacGregor was recognised with the engineering award. Dr MacGregor is from the University of South Australia and her work is in to delivering a device for the non-invasive diagnosis of bladder cancers.

The innovation and intrapreneurship in government award went to Dr Jennie Fluin from the Department of Environment, Water and Natural Resources for her work in ensuring that natural resource management decision-making is underpinned by the best available knowledge and evidence. Marina Pullin received the maths and data award for her work in harnessing the global gig economy, from Adelaide. The rural regional and remote award went to Dr Kate Fennell from the University of South Australia for her work with rural Australians to develop solutions to health and mental health related problems via the internet.

Dr Caitlin Byrt won the science award for her efforts working on genes for improving crop productivity. The social impact award went to Louise Nobes from Inspired BUY, a social innovation organisation where young people's creative enterprises use the Inspired BUY organisation and become employees of part of the organisations that they are working through. Professor Heike Ebendorff-Heidepriem from Optofab was awarded the technology award for the state-of-the-art glass science, fibre fabrication and 3D manufacturing research.

The women's initiative in business award went to Amy Orange from Harvest Fair, who is creating a new social enterprise that employs women as culinary creators to prepare ready-made meals. The open category went to Jane Schueler from TEA HQ for her brain fitness application. I congratulate all the 2017 Winnovation winners, and I congratulate all who have won over the last three years I have been attending these awards. They are shining examples of some of the best this state has to offer.

TRANSFORMING HEALTH

The Hon. R.L. BROKENSHIRE (14:45): I seek leave to make a brief explanation before asking the Minister for Health a question about Transforming Health.

Leave granted.

The Hon. R.L. BROKENSHIRE: There has been a lot of spin around the changes to our health system, particularly with the change of guard to the new minister, who would make a great painter and decorator as he puts this magnificent gloss over what he now believes is the most advanced and well-serviced health system in the world, from what I hear in the parliament. When you get out of fantasyland and actually get into the real world you discover that is far from how the community feels.

In fact, I understand there is a big meeting tonight at Noarlunga about concerns regarding the Flinders Medical Centre and Noarlunga Hospital. So, all is not well out there in 'voterland' when it comes to health. Therefore, I ask the following questions of the minister, and if he cannot answer all of them now I ask that he take them on notice and bring back some answers as soon as possible:

1. Can the minister provide an estimate, or the actual absolute figure if he has it, of the amount of money the government has spent (Health SA) on the planning, building work and general health reform under Transforming Health?

2. Transforming Health was meant to save the government money while improving the health system. What was the savings target at the beginning of this process and what savings have actually been made?

3. What was the cost, the setback, of the government changing its mind on The QEH, the Lyell McEwin and the Modbury Hospital?

4. What was the final cost of building the new RAH and who will actually own it in 2046?

5. How much money has the government spent on health advertising in the past year, and is the woman featured in the commercial, A. Brown, a member of the Labor Party?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:47): I thank the member for his series of questions. There are a number there and I will endeavour to answer them as best I can; for those that I can't, I will take up his invitation to take them on notice. I will certainly take on notice his question about who a member of the Labor Party is and is not. I haven't received any specific advice around whether or not A. Brown—

The Hon. R.L. Brokenshire: Ms A. Brown.

The Hon. P. MALINAUSKAS: —whether Ms A. Brown is a member of the Labor Party or not, but it is a free country and we have lots of people who, of their own volition, choose to be members of the Labor Party, in fact thousands. I understand entirely why they decide to take that decision; in fact, that is probably a good segue—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: —into answering other components of the Hon. Mr Brokenshire's questions. There are a lot of people who choose to be members of the Labor Party, and the reason so many people—

Members interjecting:

The PRESIDENT: Take your seat for a moment, minister. It is totally inappropriate to have a conversation across the floor between the two leaders of the house. The two of them should actually be setting an example rather than causing the problem. I want the minister to be able to answer the question without interjection. Minister.

The Hon. P. MALINAUSKAS: Thank you, Mr President. What I was saying, in response to the honourable member's question about membership of the Australian Labor Party, is that we have a very large membership of the Australian Labor Party in South Australia. In fact, I am happy to report to the chamber that there is a growing number—

Members interjecting:

The PRESIDENT: Order! Let's not get antagonistic. I think those sorts of remarks are totally inappropriate while the minister is trying to answer a very serious series of questions. I ask you to desist.

The Hon. P. MALINAUSKAS: Thank you, Mr President. I was talking about a growing membership of the Australian Labor Party, and I dare say that I have reason to believe that the Australian Labor Party's membership in South Australia far exceeds that of any other political party registered in South Australia. One of the reasons that would contribute towards that, of course, is the fact that many South Australians place a high value on public health services. When genuine and ordinary South Australians contemplate which political party most stands up for the delivery of public health services, they know that the only party that has public health delivery in its DNA is the Australian Labor Party. That's why they join up.

The Hon. Mr Brokenshire asked what are the sums of money that the Australian Labor Party has committed to delivering better health services in South Australia. Let me start by answering the key one that he referred to, and that is the Royal Adelaide Hospital. The Royal Adelaide Hospital represents a cost in excess of $2.1 billion to the South Australian taxpayer in terms of building it. That represents a huge commitment that this government has made to ensuring that we have the world's best quaternary hospital at the disposal of South Australian taxpayers. For anyone who has taken the time to go and have a look through the new Royal Adelaide Hospital, and I am sure that the Hon. Mr Brokenshire has taken up that—

The PRESIDENT: Will the honourable minister address the chair.

The Hon. R.L. Brokenshire: I'm interested in country health. Country health's going backwards.

The Hon. P. MALINAUSKAS: The honourable member shakes his head, Mr President. He hasn't even taken the time—

The Hon. R.L. Brokenshire: I haven't been there yet.

The Hon. P. MALINAUSKAS: Well, there we go, the Hon. Mr Brokenshire has just interjected by saying that he hasn't gone through the Royal Adelaide Hospital, yet he is obviously taking up every opportunity to criticise it, having not once actually gone through the hospital himself. It's an extraordinary position.

The Hon. R.L. Brokenshire: I don't want to visit your hospital unless I'm sick.

Members interjecting:

The Hon. P. MALINAUSKAS: Well, there we go—

The Hon. R.L. Brokenshire: Even then I'd probably be going elsewhere.

The Hon. P. MALINAUSKAS: There we go. For those people who have taken the time—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: Those people who have taken up the opportunity—and I would encourage every member in this place to go through the new Royal Adelaide Hospital—have been nothing but impressed at the new facility and what it is capable of delivering to the South Australian public. Of course, there have been other investments that the state government is making when it comes to our public hospital system, because we understand that delivering a world-class health service can't just be done in the city alone. It needs to be in other facilities as well, which is why we have committed $52 million towards further upgrading the Lyell McEwin, which is, of course, on the back of a lot of other capital investment that has been made.

We are doubling the size of the emergency department at the Lyell McEwin Hospital, which will be a great result for residents of the northern suburbs and also for many people who access the Lyell McEwin from our regional areas as well. We know residents of the Mid North frequently attend the Lyell McEwin Hospital, so it will be a worthwhile investment. Recently, we have delivered a $187 million upgrade to the Flinders Medical Centre—a huge investment—which will deliver a far superior service to what many people previously had access to in buildings that were built in the 1950s.

Recently, the state government has announced a $250 million new commitment to The Queen Elizabeth Hospital, which is great news for residents in the western suburbs, who will be able to get access to a brand-new emergency department, along with new theatres and, of course, an expanded car park. We have also committed approximately $9 million to the Modbury Hospital to see a new service there as well.

So, the honourable member is right to ask questions around the government's commitment to providing an improved service when it comes to public health in South Australia. This government is serious about it. The honourable member is right to point out that it comes with a cost. In fact, it is a very substantial cost—

The Hon. I.K. Hunter: It's an investment.

The Hon. P. MALINAUSKAS: The Hon. Mr Hunter is right: it's a substantial cost that represents a very substantial investment in public health in South Australia—one that only this government can deliver. It's a Labor government demonstrating its Labor values about ensuring that every South Australian gets access to world-class health care in modern, world-class facilities.

TRANSFORMING HEALTH

The Hon. R.L. BROKENSHIRE (14:54): A supplementary to the minister's part of the answer: will the minister commit to get the rest of the answers to questions that are now on the *Notice Paper* tabled for me prior to the end of this session?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:55): I am happy to take components of the honourable member's question on notice because we are very keen to get on the record everything that we are doing around public

health in South Australia. It is a record that we are proud of, so we are happy to take the question on notice and put everything on the public record for everyone to see.

ROYAL ADELAIDE HOSPITAL

The Hon. T.J. STEPHENS (14:55): Supplementary question: minister, you spoke about the just more than $2 billion for the new RAH. What is the total amount South Australians will actually pay for the new RAH? Is it not closer to $9.5 billion by the time we pay for it?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:55): I am more than happy to get a specific number for the Hon. Mr Stephens around what the cost is over the whole life of the contract that we have. Needless to say, the new Royal Adelaide Hospital, as the pre-eminent hospital in South Australia, a quaternary hospital that is brand-new, is going to cost an extraordinary amount of money to run over the coming decades. We hope that this is an institution that will serve the state well, not just for the next 10 or 20 years—

Members interjecting:

The PRESIDENT: Minister, can you please take your seat. This is the second time I have asked the two leaders (of the government and the opposition) to cease debate or discussion while the minister is on his feet. I don't want to do it a third time. Minister.

The Hon. P. MALINAUSKAS: The old Royal Adelaide Hospital—

The PRESIDENT: Just before you do, up there, were you taping that then? Are you sure you weren't? Alright. Minister.

The Hon. P. MALINAUSKAS: The old Royal Adelaide Hospital, which I should add is the hospital that the Liberal Party would have us stuck in still had they got their way in campaigning against the new Royal Adelaide Hospital, was an institution that many South Australians were served well by for a very long period of time. We expect that the new Royal Adelaide Hospital will be able to provide a service comparable in length of time to what the old Royal Adelaide Hospital provided. Of course, that will bring with it a substantial cost. I am happy to take the honourable member's question on notice and try to get some information back as quickly as possible.

The PRESIDENT: The Hon. Mr Dawkins.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dawkins has the floor.

SOUTH AUSTRALIA POLICE 801 GROUP

The Hon. J.S.L. DAWKINS (14:57): I seek leave to make a brief explanation before asking the Minister for Mental Health and minister representing the Minister for Police a question regarding the 801 Group.

Leave granted.

The Hon. J.S.L. DAWKINS: The 801 Group is made up of serving and retired police personnel who are concerned about the health and wellbeing of their colleagues. In May this year, following the incredible growth in the 801 Facebook page after the tragic suicide of a SAPOL officer on Eyre Peninsula, I arranged a meeting for the 801 Group with the Hon. Mr Malinauskas in his then role as police minister. My questions are:

1. Will the minister outline what actions resulted from that meeting during his time in the police portfolio?

2. Will the minister also bring back information from the current Minister for Police about advancing support and assistance for the 801 Group from SAPOL and indeed, as the Hon. Mr Malinauskas suggested at the time, from PASA?

3. In his new role as Minister for Mental Health, and particularly being responsible for suicide prevention, will the minister indicate what future involvement he intends to have with 801?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:59): The honourable member is right. I did have the opportunity to meet with the 801 Group in my previous capacity as the minister for police. I thank the honourable member for arranging and facilitating that meeting the first time around.

In my time as police minister, SAPOL was in the process of actively engaging with the Police Association of South Australia to analyse its mental health services for existing officers. It is clear that police have an incredibly difficult job, not just in South Australia but anywhere in the world really, where they provide front-line services, often in highly traumatic circumstances. There is a growing body of work coming out around the vulnerability of emergency services workers to PTSD in some circumstances, particularly for those people who work on the front line.

My understanding is that, as a result of that meeting and others, SAPOL actively engaged with PASA to review their services in this area generally to see if they couldn't be improved. I suspect that effort remains ongoing, but I am happy to take the question on notice for the minister in the other place to respond to accordingly.

SOUTH AUSTRALIA POLICE 801 GROUP

The Hon. J.S.L. DAWKINS (15:00): Supplementary: will the minister outline, as I asked in my third question, what roles he now endeavours to take in relation to groups such as 801 in his role as the minister responsible for suicide prevention under the mental health portfolio?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:01): Clearly, suicide prevention is an important area of concern to the government and myself, in particular, as the Minister for Mental Health. In respect to meeting with the 801 Group, that being a representative of the specific concerns of police, that effort would probably best rest with the police minister. However, of course, when it comes to suicide prevention generally, I think we have a lot of work to do as a community and I am sure the honourable member, Mr Dawkins, knows this probably better than anyone.

Tragically, suicide claims more lives in Australia today than the road toll, yet it probably doesn't receive the same notoriety as road accidents do. In one way, that is a good thing, but in another way, it inhibits the ability of the community to realise the severity and size of the impact that suicide regularly has on us as a society, so I think there is always more work to be done.

In respect of the 801 Group's engagement, my generally held view would be that, it being of a more industrial and police-specific nature, ongoing engagement would best be facilitated through the Police Association and the police portfolio.

CLIMATE CHANGE

The Hon. J.M. GAZZOLA (15:02): My question is to the Minister for Sustainability, Environment and Conservation and Climate Change. Will the minister update the chamber on how the government is helping to support our towns and cities to be cooler, greener and more resilient to climate change?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:03): I thank the very cool and the very green Hon. Mr Gazzola for his very important question.

The Hon. P. Malinauskas: A good question.

The Hon. I.K. HUNTER: It's an excellent question. Last month, the Adelaide and Mount Lofty Ranges Natural Resources Management Board awarded grants worth more than $710,000 for projects that promote water-sensitive urban design. Water-sensitive urban design is an innovative approach to incorporating whole of water cycle requirements into our towns and cities, including capturing and reusing rainwater to help prepare our communities for hotter and drier summers to come with the challenges of global warming. These grants are funded by the NRM levy.

The NRM board is working with local government and other partner organisations to facilitate the transition to water-sensitive communities by investing the NRM levy in the development and implementation of better water policy research, capacity building for communities and on-ground projects. Transition to water-sensitive communities inherently recognises the value of green

infrastructure and incorporates the need to help communities adapt to a change in climate. These funds will be used for projects such as:

- footpaths that allow rainwater to soak through, watering street trees and saving 40 million litres of stormwater from going down the drain every year;
- car parks that direct rainwater to garden beds;
- street trees along Port Road;
- establishing a school wetland at St Catherine's primary school;
- reusing stormwater to irrigate sport fields; and
- installing 85 Treenet inlets to roadside gutters to use more than one million litres of stormwater every year to water street trees.

They are just some of the projects. In total, seven projects received grant funding in this round to make Adelaide greener and cooler through water-sensitive urban design. For the chamber's benefit I want to outline two of the projects that received grant funding in the City of Mitcham, or that general area.

The first project is the water-sensitive urban design street renewal for Kent Street from Cross Road to George Street in Hawthorn. The City of Mitcham is undertaking a complete renewal of Kent Street, including a reconstruction of the road pavement. Drawing from their smart water design strategy, the council has embraced the water-sensitive urban design approach and the resulting road renewal design incorporates rain gardens, permeable paving and passive stormwater street inlets for irrigation of the street trees.

This water-sensitive urban design approach means that street trees will be healthier and will have bigger and denser canopies, which will, of course, provide more shade and local cooling through evaporation in the summertime. The street tree root systems will be very unlikely to cause damage, I am advised, to the roads and footpaths, as the permeable paving discourages shallow roots, encourages deeper rooting and allows the trees to better manage the soil moisture balance within their root zones.

The life of asphalt road surfaces will be extended due to the shading provided by the street trees, as well, and the quality of the stormwater flowing from Kent Street into Brownhill Creek, which crosses under Kent Street, will be significantly improved, and the quantity and frequency of flows will be reduced, helping to protect Brownhill Creek, the Patawalonga and, of course, Gulf St Vincent ultimately.

Local biodiversity will be improved, with a variety of rain garden plants, and the amenity of the street will be improved by the rain garden plants and improve street tree health in those streets. With the City of Mitcham planning to commence construction in November and with the completion planned for January of next year, the local community will begin to see the benefits of this forward-thinking by this council very soon.

Another of the projects funded through these grants is for Angas Road in Hawthorn and Westbourne Park, and aims to quantify the benefits of water-sensitive urban design. In 2015-16, the NRM board supported a broad range of water-sensitive urban design projects in the City of Mitcham, building on their long relationship founded on the shared interest in green infrastructure and WSUD. This included support for the installation of water quality and quantity monitoring equipment in the Angas Road stormwater subcatchment, and the capture of 12 months of data from the subcatchment represented a traditional approach to street tree and stormwater management.

The funding provided for this project represents the next phase for the Angas Road subcatchment and drawing from their smart water design strategy, the council is constructing around 75 passive stormwater street tree irrigation installations throughout the Angas Road subcatchment. The council will then use the water quality and quantity monitoring system established in the first phase to assess the benefits of the Treenet inlets to stormwater management. The Treenet inlets will also ensure that targeted street trees in and around Angas Road will be healthier, with bigger

and denser canopies—as I said earlier—and provide more shade and local cooling. The council will also be monitoring tree health and canopy cover.

These projects are fantastic examples of some of the many ways that NRM boards are supporting local governments and local communities, towns and cities to manage water wisely and to plan for climate change by implementing measures that will ensure that we are better prepared for the future. These measures also help to create cooler, greener urban spaces for South Australians to enjoy into the future.

Contrast that with those who are actually not trying to cool things down and are trying to inflame things. I came across a report today that says former state Liberal candidate Peter Gandolfi has confirmed that moderate faction powerbroker Christopher Pyne urged him to stand as an Independent against his own party in the federal seat of Barker in 2013. Commentators, who will remain nameless, of course, said:

> One party insider—

that is a Liberal Party insider, I presume—

> suggested the revelations could suggest an escalation of a simmering factional feud in SA, sparked by the looming federal redistribution.

This is amazing. Here we have the state government working with local governments and NRM boards trying to cool the city down and we have the member for Sturt, Chris Pyne, indulging in factional warfare, trying to run Independent candidates against Liberal candidates and trying to fan the flames of internal division and disunity in the South Australian branch of the Liberal Party in the lead-up to the state campaign.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Mr Gandolfi, I understand, according to this report at least, did not respond to *The Australian* other than to stay that he confirmed he did not dispute the account. Mr Pasin also declined to comment, I am advised, in this article, but said he stood by his comments in *The Australian*, which confirmed he first heard about Pyne's alleged approach earlier this year. The article states:

> The person who told me said, 'Mate, I'm about to tell you something that is going to rock your world,' he reportedly said.
>
> The person expected me to be shocked—

This is according to Mr Pasin—

> but, sadly, I wasn't shocked because I have witnessed attempts to damage career prospects of young conservatives over a long period of time. I have become all too familiar with this kind of Machiavellian behaviour.

Pyne, who is overseas, apparently told Ms Albrechtsen of *The Australian* that it is not true. Of course, then you have Liberals coming out of the woodwork, on the basis of anonymity, saying this all happened, and they cannot understand it. 'Party insiders responded angrily to today's revelations', the article says, with one telling InDaily:

> You've got the Manager of Opposition Business out there trying to actively lose a seat for…[the then leader Tony Abbott] in what turned out to be a hung parliament—it's just bizarre.

Today's claims, of course, follow a series of very damaging leaks against Mr Pyne in the national media. The article continues:

> Last week it was reported he had told a meeting of MPs and party powerbrokers that if his Sturt fortress was abolished in a forthcoming re-draw he would seek preselection in neighbouring Boothby at the expense of 39-year-old first-term factional opponent Ms Nicolle Flint.

Members interjecting:

The Hon. I.K. HUNTER: It is remarkable. We in the government here are trying to cool down the temperature of our city, and it looks like the member for Sturt is fanning the flames of disunity

and factionalism in the Liberal Party. All I can say is: good luck to him, and I hope he continues it for the next four or five months.

WOODLAND BIRDS

The Hon. M.C. PARNELL (15:11): I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation about biodiversity.

Leave granted.

The Hon. M.C. PARNELL: Members would have seen the very—

Members interjecting:

The PRESIDENT: Order! Will the honourable Leader of the Government and the Leader of the Opposition show some leadership, and allow the honourable member who has been waiting quite a while for his question to be able to ask it without interjection.

The Hon. M.C. PARNELL: Thank you very much, Mr President. Members would have seen a very sobering article in the press last week in *The Advertiser* by Professor David Paton, one of our state's foremost ecologists, based at the University of Adelaide. In his article he outlines the decline of woodland birds in the Mount Lofty Ranges. He says:

> Woodland birds are disappearing from our landscapes. We are heading towards a *Silent Spring*.

He goes on to describe some of the facts and figures and then says:

> In the early 1980s, South Australia led the country by introducing legislation that protected native vegetation. Vegetation clearance was stopped before 1984, but the birds continued to decline.
>
> However, the declines are a legacy of vegetation clearance before the 1980s. There is a simple relationship: the less habitat that remains, the fewer species that can be supported. When vegetation is first cleared, most birds do not immediately disappear.
>
> But as time passes, species do disappear, as they are unable to survive in the fragments of woodland that remain. This ongoing loss of species is known as an extinction debt.
>
> Based on the area of remaining woodland, more than 50 species of woodland birds are predicted to eventually disappear from the Mount Lofty Ranges.

But he says:

> There is still hope and it is not all 'doom and gloom' yet, because the populations of most species have not yet disappeared.
>
> The time lag provides a brief window of opportunity, but we have to act now. The solution is simple. Re-establish substantial amounts of woodland habitat and give homes back to the birds.

So, my question of the minister is: does the minister agree with Professor Paton and, if so, what steps is he taking to establish substantial amounts of woodland habitat and give homes back to the birds?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14): I thank the honourable member for his very important question about birds and biodiversity. They are very important questions, because, of course, they point to the fact that in our social advances we have actually chopped down a lot of the habitat for animals. These animals, of course, provide very important services to our economy. That is not often factored into the way we consider gross state product, for example.

I think this is what Dr Paton's comments could be drawn to, that perhaps we should think differently about how we value habitat, our native woodland, and whether we use it for best use by ongoing creation of residential suburbs, particularly in areas where we have concerns about, for example, fires, particularly going into our fire-challenging season now. If we look forward a few years, with the global warming situation that we face, we know, from the expert advice we have, that fires in the Adelaide Hills, for example, will become much fiercer, much more frequent and will have a heavy cost for our community, hopefully just in economic value and not in lives, but that is something we face every year.

That is obvious: if you remove habitat then you will remove species, and that is an issue we have been grappling with for some time. Climate change and biodiversity is something we will need to grapple with in future as well.

We have been a leader in tackling some of these critical global issues, which affect not just South Australia but the whole country. The honourable member could have invited me to comment on things that are happening interstate as well, but I am glad he didn't. We have been a leader in this place in tackling the issues associated with climate change, such as renewable energy and emissions reduction targets. We were the first Australian state to enact legislation that committed us to renewable energy and emissions reductions targets.

We announced the objective of South Australia to reach zero net carbon emissions by 2050. We are working to embed this objective into our policy making and legislative frameworks, and we have worked with our regions to deal with the issues of climate change and to encourage them to think about adaptation and action plans and to identify what different parts of each state region should consider in preparing for the impacts of climate change. Every part of our state is different, and the impacts will be different, not least because of the different agricultural programs we run across the state.

These regional adaptation plans, our regions, which are made up of local councils, RDAs, NRM boards, local government associations and community groups, indicate that they are concerned about the future of our biodiversity, specifically how we identify, protect and develop corridors to enable species migration, and how these organisations collaborate across regional boundaries to protect certain plants and animals.

We are seeing species migration right now, but most easily recorded is in the oceans, and scientists are recording now, for anyone who cares to look at their reports, the southerly migration of species down the eastern and western coast to areas that would not normally be part of their range—even moving down as far as Tasmania—because of the rising sea temperatures being caused by global warming. The same thing will apply to terrestrial environments as well, but it is not quite so easy, so we need to provide for species the ability to migrate and having natural migration corridors will be very important for that purpose.

By the end of 2017 the state government will respond to priority actions that are identified in the adaptation plans from a statewide perspective. Our parks and reserves, both terrestrial and also marine, are a key plank in our parks and reserve program and our biodiversity conservation approach. These areas, particularly our marine parks, which we arrived at reasonably late (nonetheless we have a good system of marine parks in this state), are aimed at conserving and protecting a large range of not just species but of course habitat, biodiversity assets, including land and seascapes, ecosystem services (which I referred to earlier), species and genetic material.

There is no point enabling species to migrate if they are going to be genetically islanded and reduce their ability to cope into the future with climate change challenges. We need to enable species to breed in a genetically diverse way so that they can be the strongest they possibly can be in terms of the challenges they face from climate.

The role and importance of our parks and reserves, and more broadly protecting the habitats in them—and not necessarily those habitats just in government hands—under a change in climate continues to gain recognition here and also internationally. The key message is that protecting remaining habitats remains the foundation that allows species to adapt to change, improving their resilience so they can cope with change better, and our parks and our reserves also provide South Australians with the opportunity to strengthen meaningful engagement with their environment to unlock the economic potential of these interactions.

So, we come to protected areas, proclaimed under the National Parks and Wildlife Act, the Wilderness Protection Act and also the Arkaroola Protection Act 2012 These areas combined cover a portion of our state roughly the size of Victoria, about 21 million hectares, or 21.5 per cent of the state. In addition, our marine parks, proclaimed under the Marine Parks Act 2007, cover just over 2½ million hectares, or 44.7 per cent of SA state waters.

It is important to understand that these marine parks are under challenge, because if the Liberals win government at the next election, they will roll back these marine parks. They will roll

back the protected areas. They have already had a bill in this place to do exactly this. They have identified the areas, the jewels in the crown of our marine parks, biodiversity hotspots; they want to roll back and open up the fishing.

There is some clear difference just there, in the fact that the Liberals want to roll back marine parks. The work that we have done in this state bringing communities together, regions together, ecologists together and scientists together with our local communities will all be for nothing if the Liberals are elected to the Treasury benches at the next election, because one of their first actions, I have no doubt, will be to bring back that legislation, that I think the Hon. Michelle Lensink brought into this place, which was to take away some of the jewels in the biodiversity crown in our marine parks protected systems.

An honourable member: Unbelievable.

The Hon. I.K. HUNTER: It is unbelievable, but there you go; that's the Liberals for you. They believe in coal as the future of renewable energy as well, which is a bit of an oxymoron. Since Labor came to government in early 2002, there have been 74 new parks. The Hon. Mr Parnell might like to listen to this part of the answer I am providing for him, when he asked about what I am doing.

The Hon. M.C. Parnell: You are talking about fish; I asked you about birds. You are talking about fish.

The Hon. I.K. HUNTER: Yes, I am talking about biodiversity. I am talking about biodiversity, the Hon. Mr Parnell. There have been 74 new parks proclaimed and 87 additions made to existing parks. Over 2.2 million hectares have been added to the state's reserve system or reclassified to a higher conservation status. As I said, just over 2 million hectares of this land resulted from upgrades in classification, while about 234,000 hectares of new land have been proclaimed. All of the marine parks have been added as well to that tally.

Coming to birds, one of the most recent additions to the park systems is the Adelaide International Bird Sanctuary National Park—Winaityinaityi Pangkara. This government is committed to the sanctuary growing into the future. It stretches for 60 kilometres from the Barker Inlet in the south to Parham in the north and provides a protected area for a diverse range of species, including 50 shorebird species. The Port Gawler Conservation Park, members will remember, was reclassified on 8 August 2017 to become part of the national park, an addition of another 418 hectares.

Members will remember that the area is a key part of the East Asian Australasian Flyway. It has the potential to be an exciting drawcard for birdwatchers from interstate and overseas, supporting both tourism and our local environment. The government has committed to invest an additional $1.7 million over four years for the establishment and ongoing maintenance of the bird sanctuary.

Other additions to our protected area system were proclaimed in March of this year, including a new 1,058-hectare conservation park—the Hon. Mr Parnell might remember this one as well—at the eastern end of Hindmarsh Island called Lawari Conservation Park. We had a question from the Hon. Mr Parnell about its establishment earlier in the year. It is situated within an area of internationally important wetlands, formally recognised as the Coorong and Lakes Alexandrina and Albert Ramsar Wetland. There are birds there as well. There is also the addition of 3,949 hectares to the Ngarkat Conservation Park on the northern boundary of the vast mallee park, which is south of Lameroo.

The Hon. M.C. Parnell: There are fewer birds there; they got burnt out.

The Hon. I.K. HUNTER: Well, they are coming back; they are bringing them back from Victoria. The Hon. Mr Parnell might like to understand that in fact we have engaged in a program with our Victorian colleagues to bring these birds back and re-establish them on the South Australian side of the border, where they should always be, and always will be under this government. We have already badged them as South Australian birds as well.

There has also been the addition to the Ikara-Flinders Ranges National Park of Sacred Canyon, a site of profound cultural and spiritual significance to the local Adnyamathanha people that has been added to our parks and reserves system. The list will go on, but the honourable member seems to be getting the gist of my answer.

The state government, primarily through our NRM regions and NRM boards, will lead policy and management on pests and diseases that threaten our native species, including birds, and by doing so contribute to improving the state's capacity to respond to climatic extremes and ecological disturbances.

The red-whiskered bulbul was one of those the Hon. Mark Parnell would be very interested in. We have a program of trying to trap those, engaging the community to alert us if they see the sightings of what is a rather attractive bird but apparently should not be here. So at the risk of offending some of the sensitive souls in this chamber, we are carrying out as best we can an eradication program of the red-whiskered bulbul. We have not found a home that wants to take them. We will continue to do that ourselves.

We are working together with our partners (too many to mention) but some of the key projects are: DEWNR is currently working with its Victorian colleagues, as I said earlier, and Zoos SA, to work on the recovery of the Mallee emu-wren which has become threatened through prolonged dry spells, increased frequency and severity of fire in its Mallee habitat and the direct effects of climate change, we believe.

The Australian government Threatened Species Recovery Fund has recently announced support for the important recovery work, approving funds of $225,322 to translocate Mallee emu-wrens into the Ngarkat Conservation Park to establish a new population—a South Australian population—of proudly South Australian Mallee emu-wrens. In the South-East, the Australasian bittern is being recovered by DEWNR and key partners through the restoration of wetland habitats at Piccaninnie Ponds, Pick Swamp, Lake Hawdon, Lake Bonney and Iluka in the South-East. This has also helped the threatened dwarf galaxias fish—although the Hon. Mark Parnell is not so concerned about fish at this stage—but also the pygmy perch, mud fish and a range of migratory birds.

Also in the South-East, revegetation has been undertaken at Bangham, Lake Bonney, Naracoorte Range, including creating additional habitat for the nationally endangered red-tailed black cockatoo—one of the Hon. Mark Parnell's favourite cockies. Bounceback, founded on feral animal control and habitat restoration, has seen significant increases in the nationally vulnerable yellow-footed rock wallaby populations in the Flinders Ranges over the 25 years of the program which in turn has enabled the reintroduction of the western quoll and brushtail possum into the area after decades of local extinction. That is what this government is doing, Hon. Mark Parnell. That is what we are doing.

Nationally vulnerable warru, or black-footed rock wallaby, populations within the Anangu Pitjantjatjara Yankunytjatjara lands have been protected and declines halted by working to alleviate feral animal predation, changes in fire regimes and pressure from grazing.

The Hon. J.S.L. DAWKINS: Point of order, Mr President: the minister is obviously on his feet trying to stop the Hon. Mr Parnell from having the opportunity to ask a supplementary question. He has been going for almost 13 minutes.

The PRESIDENT: My advice is that he can ask a supplementary, and he will ask a supplementary if he wants to. Minister.

The Hon. I.K. HUNTER: Thank you, Mr President, and I thank you for your protection. This is an incredibly important—

An honourable member interjecting:

The Hon. I.K. HUNTER: Well, it is an incredibly important question. The Liberals do not care about the environment, they do not care about biodiversity, they want to hack in to our marine parks.

Members interjecting:

The PRESIDENT: Order! Minister, sit down. The Hon. Mr Parnell, do you have a supplementary?

WOODLAND BIRDS

The Hon. M.C. PARNELL (15:27): I do have a supplementary and I thank the minister for his extensive answer on quolls, rock wallabies and various sea creatures, but if he could answer the question I asked: what is he proposing to do to re-establish substantial amounts of woodland habitat, particularly in the Mount Lofty Ranges? That was the question.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:28): The honourable member seems to want to focus on one little part of biodiversity which is a bit of an oxymoron because everything is integrated, but to give him a more specific, narrow-focused answer, the Adelaide and Mount Lofty Ranges NRM Board has supported recovery actions for 39 threatened animals and 106 threatened plants. They have done work to support the recovery of four nationally listed threatened ecological communities—the Fleurieu swamps, the greybox woodlands, the peppermint box woodlands and the irongrass grasslands.

In addition, 48,477 hectares of native ecosystem have been actively improved through protection and management of remnant native vegetation such as by fencing and abatement activities, and 4,705 hectares of native ecosystems have been reconstructed to support declining woodland birds. I have pages and pages of more detail that I could give the honourable member. I invite him to ask me another supplementary question or to ask this question again because this government has been active in managing the biodiversity across our state, unlike the Liberal Party whose only proposition for the environment is to slash our marine parks.

Matters of Interest

HOUSE OF SONGS PROJECT

The Hon. J.M. GAZZOLA (15:29): Last month I represented Premier Weatherill at the celebration of the Adelaide House of Songs project. This House of Songs was a special collaboration between Adelaide artists and artists from our sister city of Austin, Texas.

This House of Songs story began in September 2016 in Adelaide's sister city, Austin, when our Adelaide artists Taasha Coates, Dan Crannitch and Kelly Menhennett travelled to the USA to meet songwriters for the first time and to set up camp in the literal House of Songs. The journey for this House of Songs came full circle this October, when we were proud to host the Austin-based artists here in Adelaide, including Akina Adderley, Chris Hawkes, Miranda Dawn and Graham Wilkinson.

Through the ambitious work of South Australia's Music Development Office team, in collaboration with Troy Campbell and The House of Songs in Austin, this esteemed opportunity has grown significantly from its early concept. It has also yielded an amazing body of work that came from an unexpected but serendipitous source, the unfinished material of Albert E. Brumley, as generously granted by his granddaughter Betsy Brumley.

During this visit to Adelaide, together the artists performed at two iconic live music venues in the heart of the city, the Grace Emily Hotel and the Exeter Hotel. They were also interviewed for ABC radio and played at the ABC studio's Gardeners' Market. The celebration event, hosted by St Paul's Creative Centre, was attended by Deputy Lord Mayor Sandy Verschoor, Paul Goiak, Jen Layther, Troy Simcock and, most importantly, House of Songs artists from Adelaide and Austin—with the exception of Kelly Menhennett, who was performing at another event on the night. Presenting partners of the celebration included Arts SA, the MDO and the City of Adelaide.

Thanks to the work of Adelaide and Austin film crews we were treated to two fantastic films, *Brumley's Suitcase* and *Albert E. Brumley: Songwriter of the Ozarks* by The House of Songs. *Brumley's Suitcase* premiered earlier in the week in a world first at the 2017 Adelaide Film Festival. The films documented the Adelaide artists' 2016 trip to Austin, sharing some insights into the whirlwind creative partnership, and touched on the buzz this project created.

Word-of-mouth of the Brumley project travelled fast, with the artists being sought after for both radio interviews and performances—a wonderful opportunity and important exposure for our Adelaide artists. I would like to note that the film *Brumley's Suitcase*, by Adelaide's Closer

Productions, was brilliantly directed by Benjamin Dowie and produced by Christine Williams. The films really have enriched this project and have provided a valuable record of this special collaboration.

It was also revealed that the creativity and collaboration has continued. In Adelaide the Austin artists spent time in the songwriting rooms at St Paul's Creative Centre creating new relationships, and co-writing material with Adelaide artists Tom West and Naomi Keyte in a new collaboration. The artists began recording some of the Brumley project House of Songs works here at Adelaide's St Paul's songwriting rooms.

An essential part of this project was the element of songwriting, from new collaborations to the completion of the Brumley recordings, which ultimately provides the artists with new products that create an important source of income. The fact that many of these activities took place at St Paul's Creative Centre also demonstrates the value of such spaces in encouraging collaboration, networking and creativity. We are very proud to be involved in this project.

We are passionate and vocal supporters of live music in South Australia, and were equally delighted to facilitate the creative pursuits that enable artists to hone their skills, add to their collection of songs, and make enduring international connections. Furthermore, there is the potential for leads to new market opportunities for the Adelaide artists in terms of distribution of their product, and for live performance and touring. Both activities are, of course, key sources of income for artists.

The state government was proud to support this House of Songs project. House of Songs Adelaide was supported by the City Of Adelaide, Adelaide UNESCO City of Music, the Adelaide Film Festival, The House of Songs and Music SA. Many thanks again to Karen Marsh, Becc Bates and Elizabeth Reid of the Music Development Office. We congratulate all the artists and the filmmakers.

FESTA

The Hon. T.J. STEPHENS (15:33): I rise today to speak about Festa, the annual Croatian food and wine festival. Festa is a fantastic event held by the South Australian Croatian community in the grounds of the Croatian Sports Centre at Gepps Cross. It is a showcase of culture from the community, which has provided a substantial contribution to our quintessentially South Australian way of life. It delivers a variety of aspects from both traditional and modern Croatia.

The hardworking volunteers, led by the Croatian Sports Centre's president Julia Cirjak, vice president and festival co-organiser Dinko Blazincic, festival co-organiser Gordana Smoljan, along with committee members Ljiljana Milicevic and Eddie Kovacev, must be commended for their tireless efforts and achievements. Year in and year out, they have put on a great event since the first Festa 14 years ago.

As the Croatian community best explains: Festa is a broad term for a number of celebrations. In essence, the meaning behind it would be described as 'a good time'. There is no doubt this is what the organisers of Festa produce each and every year, without fail. The Festa offers a range of Croatian homemade delicacies and much-loved traditional fare, which gives the public a glimpse into the culture and way of life in Croatia.

Some of the favourites on offer at Festa include the ever-present mainstays of Croatian events: chevapchichi and spit-roasted meats, from pork to lamb and beef. The range of homemade cakes provided by members of the community is extensive: sample all types of strudels, sponges and rolls. One could not speak of Festa without mentioning the traditional Croatian doughnut known as krafne. A popular dessert in the community, this doughnut will have lines of people eagerly waiting for not just one but a plateful. As with all in-demand items, it is best to get in early to avoid disappointment.

It would not be possible to put on an event like this without the support of many local businesses, many of which highlight the tremendous impact and success the Croatian community has had in South Australia. From Croatian-owned family businesses, such as Tomich Wines, the suppliers of the wine for the festival, to sponsors, such as Kilic Engineering and Grange Dental, the community has had a wideranging input into the growth of our great state.

A food and wine festival would not be complete without entertainment. The Festa does its part to showcase both contemporary and traditional Croatian music. The 2017 Festa is offering up

another fabulous line-up, which includes local musicians performing a wide variety of Croatian songs. As the day turns into evening you will find that many of the local Croatians in the crowd do their bit to add to the festivities themselves. With local musicians playing traditional Croatian folksongs, it does not take long before everyone is up and on the dance floor, linking arms in large circles and breaking out the kolo.

Other attractions on offer include a cultural display, which also involves a parade of traditional national costumes from Croatia. For those looking for a bit of the competitive spirit in the festivities, there is also a keenly contested boulder throwing competition. It has Johnny Gazzola's name written all over it. This also coincides with the Festa Cup, an annual soccer match played out by Whyalla and Port Lincoln. Both of these cities have strong Croatian communities, which helps to further the cause of Festa being a truly South Australian event.

The generous efforts of its volunteers is the reason the festival returns bigger and better each year. Many of these people are longstanding within the Croatian community. These include many expatriated Croats, still toiling away in the kitchen and at the bar. These people form the fabric of our immigration story and put their heart into the event each and every year. The longevity of Festa has occurred not only due to these diligent volunteers, but because the generations following have also contributed so much to the event. They have followed in the footsteps of their parents and grandparents.

From donating hours of their time each year in setting up and running the event, to keeping age-old family traditions alive, the Croatian culture brought over to this country has not only been kept alive but it has thrived. This can be seen everywhere at Festa, from younger generations following recipes decades and centuries old, to children performing traditional folk dances. Their continued passion and hard work has created the best Croatian event of its kind in Australia.

This year, the Festa is being held on 25 November and promises to deliver a great day of festivities, as it has done each and every year. I wish the Festa committee and all those who attend all the best for this year's festivities, and I look forward to another very successful event. I finish with, zivjeli!

WOMEN IN AGRICULTURE AND BUSINESS

The Hon. J.E. HANSON (15:38): Recently, I had the pleasure of attending the Women in Agriculture and Business centenary celebration in Riverton, representing the Hon. Leon Bignell. I was joined at the event by the Hon. Geoff Brock; Mayor Alan Aughey, who is the mayor of the Clare & Gilbert Valleys Council; and Liz Calvert, the Women in Agriculture and Business president. The Women in Agriculture and Business centenary celebration was a great opportunity to promote and celebrate the important role that women have in advancing agribusiness and regional South Australia.

South Australia's food, wine, fisheries and aquaculture industries are a vital part of the state's economy and its biodiversity and are our largest export sector. Our agribusiness sector has experienced strong growth in recent years due to rapidly increasing global demand for high-quality food and wine. In 2015-16, these industries generated more than $21 billion in revenue accounting for more than 52 per cent of the state's merchandise exports, and employed approximately 150,000 people or, to put that another way, one in five working South Australians.

South Australia's regions are the heart of the state's agriculture, food and wine industries along with other major industries, including tourism, mining, minerals processing and energy production. Our regions punch well above their weight, contributing about $25 billion to the state's economy per year and producing approximately half of our merchandise exports with just 29 per cent of the population.

The government wants to see the contribution made by our primary industries and regions continue to grow, to help drive the economy and generate much-needed employment opportunities. We need to encourage both men and women to become involved not just in primary production but also in critical areas right throughout the value chain, such as manufacturing and processing, wholesale and retail sales, and services.

Agribusiness is a vital part of our state's economy. Regional businesses, including agribusiness, are the driver of many local economies and communities. We have a proud history of agriculture in South Australia, from the establishment of the Roseworthy Agricultural College as the first dedicated agricultural teaching college in Australia to our current cutting-edge research and development programs being undertaken, particularly at the Waite research precinct.

Women in Agriculture and Business has been a significant part of the agricultural history in Australia. Women in Agriculture and Business is the oldest rural women's group in Australia with a statewide branch network and is dedicated to women interested in rural, agricultural and business issues, offering an education hub, leadership opportunities and skills and a dynamic network. Indeed, it had its beginnings in Riverton where we celebrated on the weekend.

From the early days, WAB has had close links with the Agricultural Bureau and various government and agricultural agencies. PIRSA has had a long relationship with this group and was very proud to have been a major sponsor of their centenary celebration. Both the aim and the mission of Women in Agriculture and Business are to recognise women for their leadership and contribution to the vibrant and sustainable communities that exist in our regional areas. As well as facilitating a range of activities throughout the state that support, encourage and develop women with rural, agricultural and business interests, this aligns of course with the government's and PIRSA's Women Influencing Agribusiness and Regions Strategy.

Women play a significant role in agribusiness, and there is great potential for the sector and our regions to benefit even more from female industry participation and leadership. I congratulate the women who attended the Women in Agriculture and Business centenary celebration for their dedication to the agricultural sector, and praise the efforts of Women in Agriculture and Business for their tireless efforts in promoting and supporting the development and involvement of rural women in the South Australian agricultural sector.

YAMBA QUARANTINE STATION

The Hon. J.S.L. DAWKINS (15:42): I rise today to highlight the 60th anniversary of the Yamba quarantine station and the critical role it has played in South Australia. I note that the member for Chaffey in another place is marking this anniversary with a motion in the House of Assembly.

It is appropriate to acknowledge the 60th anniversary of the Yamba quarantine station and the role it has played in protecting South Australia from biosecurity threats, including fruit fly, phylloxera, exotic, invasive weeds and nursery material. It is also appropriate to highlight the ongoing fruit fly threat to the Riverland in South Australia from interstate, to note the importance of the Yamba quarantine station operating 24/7 and also to ensure that everyone is aware of the importance of keeping fruit fly out of South Australia and adhering to the strict restrictions in place for bringing fruit, vegetables, other plants and plant products into the state.

The first South Australian quarantine roadblock was established at Yamba in 1957, primarily as a response to the discovery of an outbreak of Queensland fruit fly at Mildura. In 1965, a boom gate was erected across the Sturt Highway at Yamba to better control traffic and, by 1997, the Yamba roadblock operated full-time throughout the year to monitor traffic from the Murray-Darling Basin interstate.

Fresh fruit and fruiting vegetables cannot be carried from interstate into South Australia, unless they comply with importing requirements. Commercial importers generally need a plant health certificate or a plant health assurance certificate to bring these items into the state. Uncertified fresh fruit and fruiting vegetables (those generally carried by the travelling public) cannot be brought into the state. Fines and penalties apply if people breach these regulations and requirements. Quarantine stations, signs and disposal bins are located across the state, including at road entry points, airports and rail terminals. There are also random roadblocks conducted by Biosecurity SA.

I well remember in the late days of the last Liberal government that certainly a lot of work was done towards establishing a regime of random roadblocks in different places around the road network in South Australia. That stalled after the change of government. I remember a number of exchanges in this place with the Hon. Mr Holloway to make sure that those random roadblocks were established.

Permanent quarantine stations are located on the Sturt Highway at Yamba between Mildura and Renmark, the Eyre Highway at Ceduna, the Barrier Highway at Oodla Wirra, and the Mallee Highway between Murrayville and Pinnaroo. There are a number of other disposal bins that are situated on major highways in other parts of the state.

I also remember the occasion when the current government threatened to take away the 24/7 quarantine coverage at Yamba and that was strongly resisted by people from the Riverland. I also think that we need to increase the amount of random roadblock occurrences and increase the imposition of penalties on people who are caught bringing fruit into this state. The fruit fly free status of the Riverland is an export market advantage that must be cherished and preserved.

I also note that in recent times, a landmark that would be well known to many people at Yamba, not far from the quarantine station, the iconic Dunlop tyre, which actually welcomes people to a phylloxera-free Riverland, has just celebrated the 30th anniversary of its erection. I think most people would know this structure. It was created by Mr Neil Webber of Webber Enterprises in 1987 and funded by Dunlop Australia and the Riverland Tourism Association. It is still there. It is one that I think most people would recognise when they drive between Mildura and Renmark.

ABORTION

The Hon. T.A. FRANKS (15:47): I rise to speak about abortion and the criminal law. The year after my birth, all the way back in 1969, the South Australian parliament liberalised abortion and clearly stated and set the circumstances in which a medical practitioner could lawfully provide abortion services. It was a very progressive movement for its time and it has no doubt meant a lot to many women. However, regardless of this liberalisation, it is almost 50 years ago now, and abortion offences and the requirements for the provision of lawful abortion continue to be set out in the Criminal Law Consolidation Act.

Abortion is a medical procedure, yet here we are in 2017 and section 82A of the Criminal Law Consolidation Act 1935 of our state outlines the circumstances in which a lawful abortion may be obtained. The Criminal Law Consolidation Act outlines what a woman can do with her body and her right to choose and treats her like a criminal.

The act says that for an abortion to be legal it must be carried out within 28 weeks of conception, in a prescribed hospital by a legally qualified medical practitioner, provided he or she is of the opinion, formed in good faith, that either the maternal health ground or the foetal disability ground is satisfied. A second qualified medical practitioner must also share the first medical practitioner's opinion that either of these grounds is satisfied. Also, the pregnant woman must have been resident in South Australia for at least two months before the abortion.

Women choose to terminate pregnancies for a number of reasons, none of which I am here to discuss today. What I am here to do is to share my wonder at why something that is clearly a health issue remains part of the Criminal Law Consolidation Act. Although our state was the first in Australia to liberalise access to abortion through legislation, we now have one of the most restrictive processes. Given that historical advance, we should not rest on our laurels but bring our laws into the 21st century.

While terminations here are legally available in a hospital or clinic, all abortions must be reported to SA Health. While South Australia, Western Australia and the Northern Territory are the only states in Australia to collect abortion statistics, only South Australia releases that data. Women are also required by law to have lived here more than two months and be examined by two doctors—it is too much.

If a woman is in a position where she has chosen a termination, the last thing she needs to do is then be treated like a criminal. She needs the support of our health system under the Health Act. Under SA law, the woman herself can still be charged with procuring an unlawful abortion. Abortion is a medical procedure and is governed by the same rules as other medical procedures. Federal and state laws already exist to stop unqualified people from practising as medical practitioners, nurses or pharmacists. That is what should be illegal under law.

Since the Australian Capital Territory took that step more than 15 years ago, there has been no example of any increase in late term abortions there. Decriminalising abortion will not change late

term abortions in this state. Despite what scare campaigners say and what they will have you believe, late term abortions are extremely rare, with nearly 95 per cent of pregnancy terminations in Australia taking place before 13 weeks of gestation. While abortion remains in the criminal law it sends a clear message that the law, as it stands, does not trust women, doctors and nurses to treat these sensitive issues in the appropriate manner.

The criminality of abortion is a persistent barrier to the availability of an important medical procedure. Getting abortion out of the Criminal Law Consolidation Act does not force them to do anything that they would not have done anyway, and it certainly does not make a statement or take a position on abortion. However, what it does do is to make sure that this matter is treated as a health issue and not a criminal issue.

SOCIAL MEDIA

The Hon. R.I. LUCAS (15:52): I rise to speak in my MOI about some twits who tweet. In the late afternoon or the early evening of 17 August, some government spin doctors and some MPs were excited at leaked news they had received that *The Advertiser* was about to run a story about ICAC charges against the member for Mount Gambier to be lodged in the following week. Just prior to that story being published online by *The Advertiser*, Speaker Atkinson tweeted at 8.04pm that particular evening, 'Nothing leaks like ICAC.'

It is interesting to note, in looking at Speaker Atkinson's Twitter profile, that it had been almost a year since Speaker Atkinson had tweeted anything which included ICAC in the text of the tweet; yet, miraculously, just minutes prior to the story appearing online, 'Nothing leaks like ICAC' is tweeted by Speaker Atkinson.

At some later stage, unknown, Mr Atkinson deleted that tweet. We now understand that he was challenged by ICAC by way of correspondence from the commissioner and that the Speaker then backed down in relation to the claim. So, it is reported in *The Advertiser* that the commissioner wrote to the Speaker of the House of Assembly in respect of the comment allegedly made by the Speaker on social media. The Speaker replied to the commissioner in writing. The Speaker indicated that he did not intend to suggest, nor did he have information to suggest, that a person working at the ICAC had leaked confidential information. That was Speaker Atkinson's new position.

Speaker Atkinson was obviously severely embarrassed about this particular issue, but some sections of the media have continued to pursue the Speaker for some explanation in relation to the now-deleted tweet.

What has occurred since then has been shameful, because the Speaker has now tried to claim different texts for the tweet. What he is now claiming is that, rather than the tweet which actually said, 'Nothing leaks like ICAC' singular, he is now claiming that he was talking about leaking from 'ICACs plural', not the South Australian ICAC.

The problem for Speaker Atkinson is that the Liberal Party and some other people actually kept copies of the now deleted tweet from Speaker Atkinson, which makes it clear that he was referring to an ICAC singular.

Two Labor MPs with whom I have discussed this issue have burst out laughing and shaking their heads at Mr Atkinson's claim that he was not referring to the South Australian ICAC, and their views, as expressed to me, were that they did not believe him either.

The reality is it is impossible to believe Speaker Atkinson's explanation of the situation. It is completely implausible in my view that minutes before *The Advertiser* puts online a story about this particular issue, Speaker Atkinson tweets, when he has not tweeted for years, in the text of his tweets, in relation to the ICAC story. If you believe Speaker Atkinson's construction of the story, you probably believe that shows like *The Bachelor The Bachelorette* reflect the real world.

Given the significant claims and allegations that have been made by Speaker Atkinson against ICAC, I believe those claims have the potential to demean the office of the Speaker of the House of Assembly. They also have the potential to demean the parliament generally, not only the context of the nature of the tweet that Speaker Atkinson issued but then his attempt to reconstruct the tweet and to explain away the tweet by claiming that his tweet was in fact different from what the reality was.

In those circumstances, I believe that Speaker Atkinson must, before the parliament rises at the end of the year, stand up in the House of Assembly and explain the background to his original tweet, the reason why he deleted the tweet and why he has been wrongly and untruthfully claiming that the tweet referred to ICACs in plural as opposed to a singular ICAC as the original tweet indicated here in South Australia. That is the challenge for Speaker Atkinson between now and the end of the session. I hope he has the courage and the guts to stand up and do it.

PORT ELLIOT SHOW

The Hon. R.L. BROKENSHIRE (15:57): He won't; don't hold your breath. I rise in this matter of interest today to talk about agricultural shows and in particular on this occasion the Port Elliot Show. The Port Elliot Show was held recently on 7 and 8 October. It is a two-day show and it is a feature show now for the Fleurieu Peninsula.

Many years ago, my hometown and others in the district had shows as well. Unfortunately, we have seen a shrinkage of shows, but both the Port Elliot Show, the Strathalbyn Show and the Yankalilla Show are still very good successes and attract a lot of support.

I want to congratulate the whole committee. I know that the chair and all of the committee work very, very hard throughout the whole year. I particularly congratulate Gayle Garrett, the secretary. Having had my wife and children involved in a lot of different committees, I know it is the secretary that ends up having the heaviest role in background support to the requirements of the committee to get the shows happening each year.

Unfortunately this year, as it turned out, I was not able to attend the Port Elliot Show, but I did appreciate the invitation. However, since the show I have talked to a number of people who have said that this was one of the most successful agricultural shows that they had been to and that they thought that particularly the Port Elliot one this year was an outstanding success.

Unlike last year, when I was able to attend and a decision was made, because it was such a wet year and a wet period at that time, to cancel it, the weather was superb for the two days, and it was reported to me that they had extremely good crowds. I understand that those who had stalls there were also pleased with the day.

The Port Elliott show was established in 1869; it has been going for a very long time, and I am confident it will go for a long time into the future. One thing that did disappoint me was the cutting of funding through the primary industries minister, the Hon. Leon Bignell, to the shows right across South Australia. I think, from memory, it was around $40,000 a year that PIRSA was making available for these shows—an incredibly small amount of money in the big scheme of things, but that money was distributed across country South Australia to assist with the running of these shows, to assist with supporting trophies and other requirements of each individual show.

When you see the exorbitant waste the government is guilty of on a regular basis here in the parliament—reports that we read in the media and information we receive from colleagues—for it to be penny pinching and cutting $40,000 from the shows is just unacceptable.

The Hon. R.I. Lucas: Leon could just cut his travel budget.

The Hon. R.L. BROKENSHIRE: Some of the ministers would spend that sort of money just in business class fights overseas in one year. But that money is important and, as we head towards the election, I will be calling on the government and the opposition to reinstate that small but very important amount of money.

We need to keep the social fabric of our country strong. Shows are one of the ways of doing that as they bring the community together with the agricultural sectors and those who are involved in horse events, and the like. When I was younger, I used to help with my father-in-law's stud, because he was always keen to support the Port Elliott show, and I remember going down there and grooming and leading the cows through the shows at Port Elliott, which was always a lot of fun. Sometimes we came back with some great ribbons for some of the best cows in the herd.

It brings young and older people together, and gives kids the chance to have a bit of fun with their families. It is time that there was a refocus on the importance of these shows and just what they do for country South Australia, particularly in our area on the Fleurieu Peninsula, where we have the

advantage of being able to offer city people the chance to bring their children and families to experience country life.

A lot of that does occur, with people travelling from Adelaide to Port Elliott and other shows on the Fleurieu Peninsula, and I wish them much success into the future and encourage the hardworking volunteers on the committees. It is an enormous amount of effort they put in to continue that, but these shows are important to country South Australia and to all South Australians.

Parliamentary Committees

BUDGET AND FINANCE COMMITTEE: INTERIM REPORT 2016-17

The Hon. R.I. LUCAS (16:03): I move:

That the interim report of the committee, 2016-17, be noted.

It is with much pleasure that I move that the interim report for the Budget and Finance Committee for 2016-17 be noted. In speaking to this motion as an interim report, in practical terms as committee chair and as committee members we would view this as, in essence, our annual reporting to the Legislative Council in terms of the work that was conducted during the financial budget year 2016-17.

The committee has been operational now for approximately 10 years. It commenced in around about 2007, I believe—I do not have the exact date with me. I think, in its time in the Legislative Council, it has demonstrated that it has added value to the operations of the Legislative Council. I think it has added value in terms of the transparency and accountability of government departments and agencies and ministers over their expenditure of public moneys, and I think it has added value in terms of looking at the detail of what government departments and agencies do or do not do in acquitting the funds that are provided to them in the budget.

It is certainly a committee that, in my view, should continue post March 2018, whichever party happens to be in the fortunate position of being in government. I am sure the set of circumstances is going to be that no government is going to have a majority in the Legislative Council, and therefore non-government members post March 2018 will continue to be in the majority on the floor of the Legislative Council. I think that whichever party is in government, the Budget and Finance Committee, in some role or other, should continue, and should continue with the sort of work that it has undertaken over the last 10 years.

It is a committee that is controlled by non-government members, a committee of five, with two government members, two Liberal Party members and one non major party member. That particular member has changed over the years in terms of the people who have offered their services to the committee. At the moment it is the Hon. John Darley, and as committee chair I acknowledge the work that he has undertaken zealously and religiously over a number of years now as a member of the Budget and Finance Committee.

The other innovation that was introduced at the time of the 2007 establishment of the Budget and Finance Committee was the notion of participating members being allowed to come along and, as the title suggests, participate in the operations of the committee. This applies to any other member of the Legislative Council, and I think over the ten years almost all other members of the Legislative Council, with the exception, obviously, of ministers and the President, have at some stage or another come along to either be members of the committee or to participate in some meetings of the committee.

Where a member has an interest in a particular portfolio area, they have been able to come along to the committee, ask questions of the witnesses who are there, and seek answers in a more expeditious way, perhaps, than putting questions on the *Notice Paper* or even asking questions in this chamber.

The other big advantage, in my view, and the reason why it was constructed that way, is that ministers do not come and give evidence to the committee. There have been occasions, I think, when ministers might have been asked, but certainly it was constructed to be taking evidence from the chief executives of the government departments and agencies and their senior officers.

Whilst, if I can speak frankly, there is a small number who play the game as if they were a minister and a politician, by and large I think most chief executives and senior departmental officers

have genuinely sought to cooperate with the reasonable questions of the committee and provide answers within a reasonable time frame. It has not always been the case, and some, as I said, have played the game as if they were ministers and answerable to no-one, but I think by and large, as chair of the committee over the 10 years, I can report that the majority of senior public servants have recognised the importance of the committee and the work it does, and in most cases have sought to cooperate by answering reasonable questions that might be put to them.

The fact that there have been any number of occasions—and I do not propose to list even any highlights from those—but the fact that information gleaned either at the meeting or in answers to questions on notice has, on any number of occasions, ended up in being an ongoing matter of interest or potentially controversy in relation to the public expenditure of taxpayer funds is testament to the value of the committee.

I have spoken briefly before that there have been a number of discussions at varying stages about how one might restructure the committees of the parliament. I expressed personal views years ago in relation to some aspects, and certainly I continue to have some views. Should we be fortunate enough to be in government after March 2018, I would participate as a member of the government team in proposing some constructive and alternative options to the structure of committees.

I think the value of upper houses rests in terms of the merit and worth of the committee structure of the chamber. I see and I read views that some new candidates in the South Australian political context have put in terms of restructuring our parliamentary process to directly replicate the Senate process. I think that is perhaps an easy response. There are some elements of the Senate process which we have borrowed and crafted in the work that the Budget and Finance Committee, for example, has done which better suit and fit the smaller chambers that we have, compared to the federal chambers of the Senate and House of Representatives.

A situation in the future where potentially you might have up to three standing committees of the Legislative Council divided into portfolio areas that in some way continue to meet on a regular basis, holding departments and portfolios to account, is certainly a model that other states have already implemented in terms of holding governments and departments to account. That is certainly a model that is worth contemplating, but whatever the model is, I think there needs to be active recognition of the fact that the value of the way the current Budget and Finance Committee has been structured has sought to hold governments and departments to account.

I suspect that any proposed change to committees would need to recognise that non-government majorities in the Legislative Council would wish to see at least the continuation of the capacity to be able to continue to do that process. Irrespective of whether my party happens to be in government or in opposition, I think that is an entirely appropriate position not only to adopt but to support. I think it is an element in terms of trying to ensure good government, good governance and transparency and accountability, and I think it is also a recognition of the reality of life.

That is, even if new committees were established, there would always be the capacity for the majority of non-government members in this chamber to establish a new select committee or new committee arrangement where there was a majority of non-government members to either conduct specific inquiries or, as in the case of the Budget and Finance Committee, to be a rolling efficiency and effectiveness review mechanism across the board.

I think governments, Liberal or Labor, would have to recognise that fact and work within those constructs, and the Legislative Council then could have a wholly appropriate role as a committee house and a committee house of review in terms of the work that it undertakes. It might be a forlorn hope, and I have heard it before, when the basis of the current committee structure was negotiated in the period between 1989 and 1993 when there were two Independents in the House of Assembly. The argument at that time was, by establishing these new committees, there would be fewer select committees.

The reality is that has just not occurred—certainly not in the Legislative Council and, increasingly, it is not occurring in the House of Assembly either. Again, I think one has to recognise the reality, if we look at the Legislative Council, that if a particular member has a particular issue they want to pursue and they want to establish a select committee, they want to somehow be engaged in

the committee that actually prosecutes the case. If it is just referred off to a standing committee and they have no role they are less inclined to want to refer it to a standing committee.

I think that is why a greater acceptance of the participating member mechanism would assist the process. There would be maybe slightly fewer select committees because a member could move a motion on a particular issue, get the kudos for having moved the motion and the attached publicity, and then come to the meetings of the committee and ask questions, again attracting kudos for asking the questions and for any media that might be attracted to that, or that the member might wish.

The only restriction would be that the member would not be participating in the final vote or deliberation of the committee on that particular issue and in the report writing. However, nothing would prevent the member, who would have access to all the evidence, all the reports tabled with the committee, from coming to his or her own conclusion and providing their report directly to the Legislative Council anyway. I think it is worthy of consideration, in terms of how our committees might operate in the future.

I remain a strong advocate of a stronger committee system for the Legislative Council and for the parliament generally. I am not the passionate advocate for joint committees that many others are, but I grudgingly acknowledge that in certain areas they are probably a necessary evil. They have been here for 20 plus years and are likely to continue to play a useful role. However in terms of two options, one being a much greater concentration of joint committees between the houses and a reduction in Legislative Council-based committees with the other alternative being maintaining a small number of joint standing committees and beefing up or increasing the number of Legislative Council-based committees, I am unashamedly a fierce advocate for the latter proposition.

That is, a small number of necessary joint standing committees and an increase in the number of ongoing standing committees of the Legislative Council, more broadly-based perhaps than the ones we have, but without losing the advantage of an equivalent to the Budget and Finance Committee, that holds government departments and agencies to account, that the government does not control, and that the government member does not chair. I hasten to say, as I have done before, that these remain my personal views.

Post March 2018 these are issues which our new party room, with lots of new members and some continuing members, will ultimately express a view on. As with the Labor Party and minor parties in this chamber, there will be new blood and new views in relation to the operation of committees. In moving this motion for the most recent report of the Budget and Finance Committee I wanted to acknowledge, on the record, the work it has done over 10 years, and indicate that it is a useful model when looking at what may be effective in terms of committees and a committee structure for the Legislative Council into the future.

Debate adjourned on motion of Hon. J.A. Darley.

LEGISLATIVE REVIEW COMMITTEE: REVIEW OF THE REPORT INTO THE PARTIAL DEFENCE OF PROVOCATION

The Hon. J.E. HANSON (16:19): I move:

That the report of the committee on its Review of the Report of the Partial Defence of Provocation be noted.

By way of some lengthy background to this particular report, on 1 May 2013 the Hon. Tammy Franks introduced the Criminal Law Consolidation (Provocation) Amendment Bill 2013 into the Legislative Council, obviously some time before my arrival. I will refer to this as 'the bill'. The bill proposed to amend the Criminal Law Consolidation Act by way of insertion of a new section 11A. This section was to limit the partial defence of provocation, otherwise known simply as 'the provocation defence'. The proposed new section would read as follows:

For the purposes of proceedings in which the defence of provocation may be raised, conduct of a sexual nature by a person does not constitute provocation merely because the person was of the same sex as the defendant.

The provocation defence, if established, allows for a court to reduce the charge of murder to the offence of manslaughter. It is referred to as a 'partial defence' because it only lessens the charge and potential consequences. By comparison, self-defence can provide a complete defence to a charge of murder, entitling the accused to a full acquittal without further penalty. The bill sought to

address the possibility that a non-violent homosexual advance could be used as the basis for a provocation defence, which is often termed 'the gay panic defence'.

On 30 October 2013, following debate in respect of the bill, the Legislative Council resolved that the bill would be withdrawn and referred to the Legislative Review Committee for inquiry and report, pursuant to section 16(1)(a) of the Parliamentary Committees Act. I refer to this as 'the initial inquiry'. The committee received 12 submissions to the initial inquiry. Four public hearings were held. Although the majority of submissions supported the intent of the bill—that is, to prohibit the legal argument of a gay panic defence—the submissions could be divided into three distinct groups:

1. Those that supported the bill in its current form without addressing further reform.

2. Those that supported the bill in the context of recommending a broader review or abolition of the provocation of defence.

3. Those that did not support the bill on the basis that common law has previously addressed the issue contemplated by the bill and that the issue the bill seeks to address does not exist.

In 2014, there was a judgement of the South Australian Court of Criminal Appeal in Lindsay v The Queen. This was referred to in a number of submissions. The matter involved an accused who had sought to establish a provocation defence following the killing of Mr Andrew Negre after Mr Negre had made a homosexual advance to the accused. The judgement of the Hon. Justice Peek in Lindsay v The Queen, with the Hon. Chief Justice Kourakis agreeing, clearly appeared to contemplate that homosexuality is now largely accepted as part of contemporary Australian society and that it was no longer unlawful for consenting adults to engage in homosexual activity. Justice Peek did not allow the defence of provocation to be put to the jury in the circumstances of Lindsay v The Queen.

On 2 December 2014, the committee tabled the Report of the Legislative Review Committee into the Partial Defence of Provocation, which I will refer to as 'the initial report'. The initial report made a number of findings, including the following:

1. That the bill would not achieve meaningful reform of the provocation of defence.

2. That introducing provisions to limit the conduct that may be considered by a court as relevant to a provocation defence at trial will also fail to achieve meaningful reform, given the complex evidential matrices that often accompany the use of the defence.

3. That the abolition of the defence would not allow for consideration of circumstances at very high levels of provocation and consequently could not be supported.

4. That the terms of reference did not extend to reviewing the sentencing in relation to murder in South Australia, and, in the context of that finding, that any future reform of the provocation defence should only take place in the context of a wholesale review of the mandatory sentencing provisions that may also apply in South Australia in respect of murder.

5. That consequently there was no need to amend the basis of the provocation defence.

Notably, the initial report also included a minority report from the Hon. John Darley MLC to the effect that the existence of the gay panic aspect of provocation is not considered appropriate by the community and further consideration should be given to options for reform.

On 6 May 2015, an appeal to the High Court of Australia by Mr Lindsay resulted in the setting aside of the order of the South Australian Court of Criminal Appeal and the ordering of a new trial. The majority judgement of the High Court observed that there were a number of potential sources of provocation beyond the homosexual advance that should have resulted in the defence being left to the jury for consideration. The High Court considered that it was not for the Court of Criminal Appeal to refuse to allow the provocation of defence to be put to the jury in the Lindsay case. The entire evidential matrix must be available for the jury to consider.

On 13 May 2015, the Legislative Council resolved to refer the initial report to the committee for review in light of the High Court's decision in Lindsay. After receiving a number of further submissions and hearing from a number of further witnesses, on 23 September 2015, the committee resolved that, as the matter remained before the courts, it should refrain from making findings and

recommendations in respect of the review until the completion of that process. A total of eight further public hearings were conducted by the committee.

On 8 March 2016, the committee tabled the interim report of the review of the report of the Legislative Review Committee into the partial defence of provocation, which did not include findings or recommendations. Upon retrial on 30 March 2016, Mr Lindsay was again found guilty in the Supreme Court of South Australia, by verdict of a jury, of the murder of Mr Andrew Negre, and again the verdict was appealed to the Full Court of the Supreme Court of South Australia sitting as the Court of Criminal Appeal.

It was submitted amongst a number of matters that the trial judge erred in her directions to the jury in relation to provocation. On 8 December of that same year, the Court of Criminal Appeal determined that the trial judge did not err when directing the jury in relation to provocation, or in relation to any other matters, and the appeal was subsequently dismissed.

Mr Lindsay applied for special leave to appeal to the High Court of Australia. It was submitted amongst other matters that the trial judge had 'failed to direct the jury in accordance with the correct legal test or question on the objective limb of provocation'. On 16 June 2017, the High Court determined that the trial judge did not err when directing the jury and dismissed the application.

This exhausted all rights of appeal available to Mr Lindsay. Consequently, the committee agreed to receive final evidence and complete the review. The submissions and evidence received by the committee were to the effect that the 2015 judgement of the High Court in relation to Mr Lindsay's first appeal did not change the basis of the provocation defence. The reason for the allowance of the appeal was considered to be in relation to the difference of opinion between the High Court and the Court of Criminal Appeal with respect to the interpretation of the facts of the case.

As a result, despite its condemnation of all forms of unlawful violence, the committee expressed its support for the recommendations and findings set out in its initial report. It again expressed its opinion that the bill would not introduce meaningful legal reform. The committee took the view that a consideration of the relevance of a provocation defence at trial will require an assessment of the complex factual matrices that inevitably apply, and it was further considered that excluding any particular factor from the matrix was unlikely to affect meaningful reform.

The 2015 judgement of the High Court in Lindsay particularly highlighted the many factors that might have been relevant to provocation in the circumstances of the case beyond the relevance of a homosexual advance. The committee continued to be of the view that it is very unlikely a non-violent homosexual advance would ever, of itself, constitute sufficient grounds to establish a provocation defence.

The committee was unable to recommend further options for reform of the law, particularly the scope of other available defences to murder and manslaughter, without undertaking a wholesale review of sentencing options available for such offences. The committee considered that the terms of reference for the initial inquiry did not provide for the undertaking of such a review.

The committee noted the current work of the South Australian Law Reform Institute in relation to the provocation defence, following the invitation by the Attorney-General to review legislative or regulatory discrimination against individuals or families on the grounds of sexual orientation, gender, gender identity or intersex status. It was also noted that the Premier has indicated he awaits the publication of the institute's stage 2 report, following its review of the provocation defence, before assessing the potential for further reform in relation to this area of law. It is expected that this report will be published in late 2017.

The committee respectfully noted that its findings and recommendations may be inconsistent with those of the institute. The institute was of the view that the provocation defence may be discriminatory on the basis of sexual orientation and therefore inconsistent with the Sex Discrimination Act 1984. In the view of the committee, the requirement for the entire evidential matrix to be assessed for the purposes of the relevance of a provocation defence at trial appeared to temper any discriminatory aspect of the defence.

The committee also noted the submission to the initial inquiry by Kellie Toole and a number of others, which observed that it was almost certain that a heterosexual advance made in

circumstances, such as those which applied in the High Court's 1997 decision in Green v R, would be found to provide a basis for a provocation defence, although it was noted that the defence is yet to be applied in relation to opposite sex advances in Australia. The need to address the issue of discrimination on the basis of sexual orientation consequently did not influence the deliberations of the committee.

In conclusion, the committee would like to thank the committee secretary, Mr Matt Balfour, and the committee's research officer, Mr Ben Cranwell, who provided valuable assistance to the committee throughout the conduct of the inquiry. I personally would also like to thank other members of the committee for their contributions to the inquiry, given my very late status as sitting member on it and, indeed, Chair.

I would like to thank the Hon. Gerry Kandelaars, the former presiding member of the committee; the Hon. John Darley; Sam Duluk, the member for Davenport; the Hon. Andrew McLachlan; Lee Odenwalder, the member for Little Para; and Jack Snelling, the member for Playford. I would also like to thank those members who resigned from the committee during the course of the conduct of the inquiry, including the member for Heysen, Isobel Redmond; the member for Elder, Annabel Digance; and the member for Fisher, Nat Cook. I commend the report to the council.

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

JOINT COMMITTEE ON MATTERS RELATING TO ELDER ABUSE

The Hon. K.L. VINCENT (16:32): I move:

That the final report of the committee be noted.

Today, we release this important report on matters relating to elder abuse—the abuse of older people—in South Australia. This joint committee was instigated by myself and the member for Fisher, Nat Cook, in the other place. We worked together on this important issue for a number of reasons. The first, of course, is that, some time before this committee was established, I had a matter on the *Notice Paper* to instigate a separate committee to look into this very important issue. Once the horrific abuse at the Mitcham nursing home came to light, the member for Fisher and I decided to work together to instigate a more speedy inquiry, so that we could get these issues on the table and get results to prevent this very big scourge in our community.

The member for Fisher and I had worked together on the South Australian parliament's Social Development Committee, which delivered its report on domestic and family violence last year. Because we were both very passionate about working on issues particularly relating to protecting vulnerable people, in these cases particularly people facing domestic violence and people facing elder abuse, we wanted to work together collaboratively on addressing elder abuse. This is important because issues relating to vulnerable people, particularly elder abuse pertaining to vulnerable older people, should, of course, be beyond party politics and require a collaborative approach.

With that work being done together, a joint committee on elder abuse was established in October 2016. This, of course, became completely and utterly important to do very quickly, after public revelations of elder abuse in South Australian aged care where a care worker (and I use the word care worker in quotation marks because I do not think anyone could argue that they were very caring) was convicted of aggravated assault. Also, 2017 was a shocking year with the revelations about the Oakden Older Persons Mental Health Service coming to light.

This committee was not focused particularly on matters relating to Oakden, although there were some moves to broaden the terms of reference of the committee to allow that to happen. The committee took a focus on the bigger picture: systemic issues relating to elder abuse across the board, as opposed to focusing on one particular instance. Of course, that is important because, unfortunately, elder abuse is not contained to either Mitcham or to Oakden and so it was important that we had an across-the-board, systemic approach to solving and addressing elder abuse wherever and whenever it occurs.

The committee held eight public hearings and received personal testimony from 28 diverse witnesses in person. The final number of submissions, combining those in person and those in writing, was around 36 submissions. The experience, the views and, importantly, the knowledge of

the witnesses was taken into account in our recommendations. Witnesses included families or representatives of abuse survivors, victims of abuse, experts in law and policy in the area of elder abuse, including state government, older people's advocates, aged-care service providers, police, representatives of Aboriginal and culturally and linguistically diverse communities, including the LGBTIQ community, and representatives of the nursing sector. We were informed by information and outcomes or recommendations from other inquiries surrounding elder abuse, including the Australian Law Reform Commission (ALRC) inquiry into elder abuse in Australia at the national level.

Our report, in total, makes five comprehensive recommendations. I commend the writer and researcher for our report, Myrana Wahlquist, particularly for giving us what is a very comprehensive but also succinct report, making sure that it is easy to work through not only for members of parliament and members of government who will be working to implement those recommendations, but also for members of the community, many of whom have taken a great interest in this topic. It is really important to have a comprehensive but succinct and to the point report, and thanks to the great work of our researcher that is what we have here.

We make five recommendations which are practical and affordable. They support those made by other expert inquiries around the nation in the last seven years. I would like to elaborate on those five recommendations now. Recommendation 1 calls on the state government to advocate strong federal government leadership for an ambitious, comprehensive and coordinated approach to elder abuse in supporting the 2017 Australian Law Reform Commission's recommendations. As I said earlier, given that this is a human rights issue and one that should absolutely be above politics, it is important that we have a collaborative approach at all levels, including all members in this parliament and all members between state and federal parliaments.

Recommendation 2 supports the establishment of a national elder abuse strategy supporting the ALRC's call for unregistered care workers providing direct care to be subject to the planned national code of conduct for care workers, or support workers, as they are often called; national screening processes, of course, to make it easier to detect those who have done or may do the wrong thing; and legislation to regulate the use of restrictive practices in residential aged care, and given the Dignity Party has played a great role in getting a senior practitioner to oversee, limit and, indeed, stop the use of unnecessary restrictive practices, such as physical and chemical restraint, we are very keen to see that expanded to the aged-care sector, which can be just as vulnerable and need just as much help in terms of a change in policy, and also practical help, as people with disabilities Given that we have made that change in the disability sector, it makes absolute sense to expand that to address the unnecessary use of restrictive practice against older people also.

Recommendation 2 refers also to a national online register for enduring documents, improved research, data collection and community awareness raising. Of course, whilst that does not address the end point of elder abuse, it is important that we have online portals to make it easy for people to get documents relating to their enduring care, such as guardianship documents and so on, and also that we have improved research and data collection so that we know exactly how the state and federal governments are tracking in tackling the issue of elder abuse. That is recommendation 2.

Recommendation 3 calls for the state government to actively take part in the new federal government initiatives announced on 1 October this year, including making the most of the membership and co-chairing of the national elder abuse working group established in January 2017, using this group to discuss, clarify and promote, as appropriate, an online register for enduring documents, as I have discussed, extended mandatory reporting, which is something that the Dignity Party has advocated for people with disabilities, largely modelled on the fact that it does already exist for older people in this state but there have certainly been some submissions to us that that scheme needs to be extended. Certainly, that needs to be investigated.

Importantly, we would also like to see increased discussion of the potential use of surveillance cameras in residential aged care. Because of the somewhat controversial nature of that topic and the number of diverse views that exist around this topic, this committee did not make any particular recommendations around surveillance, but believes that surveillance should be implemented on a case-by-case basis in residential care where residents agree to it, rather than it being an across-the-board issue, again recognising many different views that people have and not

wanting to see all older people as vulnerable and therefore having to be under surveillance, when some people might see that as very much being against their dignity.

Recommendation 4 is the most important recommendation of the report; it is certainly my favourite. It calls on the state government to introduce new legislation in this place to establish a South Australian adult protection act. This is something that I and a number of other members have had an interest in for some time, because, as I said earlier, there are adults who may be vulnerable in the same way that older people living in aged care are. Yet, older people living in residential aged care are protected by measures like mandatory reporting, as are young children in the state, and rightly so. The fact of the matter is that we have a whole group of other people who may face those same vulnerabilities but are not necessarily protected with adequate legislation.

This report calls for a new act to encompass all adults who might be vulnerable, be that because of disability or age but they are not necessarily living in residential aged care, to be covered through new-look legislation and, importantly, the establishment of an older person's protection unit to make sure that the rights of older people and other vulnerable people are monitored and upheld by this state government.

That is modelled on a number of existing pieces of legislation in Scotland, where their adult protection act has been legislated since, I think, 2006. There is certainly a model that we can copy. We do not need to reinvent the wheel here. We need to learn from that model, learn from those experiences and make sure that we get that new legislation and that unit up and running as quickly as possible to ensure that, finally, the rights of older people who are vulnerable in the state and who count on us to pass adequate laws and policies to protect them, can finally have that right and that expectation met.

Finally, recommendation 5 calls on the state government to establish a new South Australian elder abuse unit, previously recommended in the Closing the Gap Report in 2011 and, as I have said already, legislated for in other jurisdictions, including Scotland. So, there are models we can copy here. It is proven to work, it is based on working models interstate, and it is what the community, based on the evidence given to the committee, has told us they want.

I am looking forward to working with all members in this place on all five recommendations, but particularly the last two—4 and 5: the establishment of new legislation and a new unit to comprehensively respond to and protect the rights of older people and all vulnerable adults so that, hopefully, we do not see a repeat of the abhorrent and unacceptable behaviour and disregard of human rights that has happened in places like Mitcham and Oakden.

As I have said, two instances are two too many, but it would be great if those were the only two we had to deal with. We know that we would be naive and neglecting our duties if we only responded to those two, and that is why the committee has taken a systemic view and supports a national approach, long called for by experts.

The problem is a national one, a human rights one, and human rights know no borders. So, we need national action under leadership from both the federal and state governments, as well as significant state government policy changes, like the new legislation and Australian elder abuse prevention unit, from both the federal and state parliaments.

I am looking forward to working with all members in this place. I thank our wonderful secretary and researchers, I thank all members of the committee, and I look forward to, finally, getting a comprehensive response to this issue so that one day we can look forward to governments adequately responding to the rights of all people, including vulnerable adults and vulnerable older people, as something that just happens as a matter of course.

We should already be at the point where older people should be able to expect governments to adequately respond to their needs, particularly in the face of abuse and neglect, as a matter of course. But, as Oakden has sadly shown us, where reports of abuse and negligent went under the radar for some 15 years, this needs new, fresh ideas and significant state and federal investment. I look forward to working with all members in this place, particularly the member for Fisher in the other place, to finally get a South Australia where all human rights of older people are responded to as a matter of course.

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

Motions

ENDOMETRIOSIS

The Hon. T.A. FRANKS (16:48): I move:

That this council—

1. Notes endometriosis is an illness where tissue similar to the lining of the uterus occurs outside this layer and causes pain and/or infertility and that there is currently no known cure;

2. Acknowledges endometriosis as a serious health concern, often resulting in fertility issues, multiple surgeries, education and employment absences and a diminished quality of life for the girls and women affected;

3. Recognises the strain on the economy and health sector due to lack of research and expertise in the area of endometriosis and related conditions;

4. Supports the need for early intervention to protect teenagers and young women from infertility and chronic pain in later life;

5. Supports the need for better training and awareness in endometriosis for health professionals in the interests of early diagnosis and prevention of further health issues;

6. Recognises that women are at risk of suffering severe physical and mental health issues if endometriosis continues to be under-researched and under-funded;

7. Affirms that women's health issues like endometriosis should be more of a priority for funding and research; and

8. Calls on the South Australian Government to provide funding to extend the trial of the ME program in South Australian schools; an early intervention and education program developed by Endometriosis New Zealand teaching young women that not all pain is normal pain and facilitating early diagnosis of endometriosis.

Endometriosis is a chronic illness and it can affect anyone who has a period. Before some, particularly males, tune out because it sounds a little icky, let me tell you how this affects men. Endometriosis can cause infertility in your daughters, sisters, partners, colleagues and friends. It causes chronic pain and illness in those daughters, sisters, partners, colleagues and friends. It can affect the sufferer's career, schooling or training and endometriosis can make sexual intercourse extremely painful for women.

Endometriosis is a condition where tissue that is the same as the lining of the uterus grows outside the uterus. It can grow around the pelvis, ovaries, fallopian tubes, bladder or bowel, and elsewhere in the body. This means that when a woman has her period that tissue acts as it normally would, bleeding with each cycle into the body, causing inflammation and pain.

What this means for those women is that some cannot go to work, some cannot go to school. In fact, studies have shown that lost productivity in women with endometriosis is equivalent to 11 working hours per woman per week. The impact of endometriosis on families, workplaces and relationships is substantial and this, of course, is coupled with huge economic implications.

At present, there is no cure. There are no substantive physical prevention methods for either endometriosis or persistent pain, although early intervention can lessen its impact. The exact cause of endometriosis is not known, but what we do know is that it affects one in 10 women. It is about as common as asthma and diabetes. Both of these conditions we know a lot about. Indeed, last year, the National Health and Medical Research Council (NHMRC) allocated more than $14.7 million to asthma research and $64.1 million to diabetes research. Comparatively, it allocated $837,433 to endometriosis research.

'The High Price of Pain—November 2007' report estimated that applying evidence-based treatments could halve the cost of chronic pain to the Australian economy. That would be a saving of some $17 billion per annum. With an estimated 500,000 women and girls in Australia who have endometriosis, the cost for adult women alone is around $6.6 billion.

To put it in other words, that saving would be $3.3 billion. These figures would be even higher if adolescent women with endometriosis were included, not to mention the indirect costs associated

with disability and unemployment benefits, complementary medicines and therapies and the cost, of course, of downstream infertility.

But most importantly for these women, the price of missed opportunities in their lives is immeasurable. Most women with endometriosis will tell you their stories of frustration, of visiting numerous doctors who tell them that this is their lot as a woman and to 'man up' and move on. On average, it takes eight years to diagnose.

A woman on my staff first complained to her doctor about her endometriosis symptoms when she was 18 years old. Throughout her life she returned to many doctors to seek answers and treatment for the pain, the hormonal dysfunction and related issues. The answers to her were always the same. Doctors prescribed Panadol, they prescribed antidepressants, and they gave her regular cups of 'harden up, because this is just your lot as a woman'.

It was not until she had suffered an ectopic pregnancy, the first of five failed pregnancies, that a doctor agreed to look for endometriosis. She was then, by this stage, 37 years old.

That is 19 years for a diagnosis, 19 years of living with a chronic illness that had caused miscarriages and fertility issues because of a lack of education, research and understanding in the medical profession. She is one of many women affected by this illness—as I said, one in 10. If my staffer had been diagnosed earlier or had been told as a teenager that not all pain is normal pain, she may have had a chance at motherhood and she certainly would have had a better quality of life.

In New Zealand, the ME (Mental Health and Endometriosis) program has been running successfully in secondary schools for some 20 years. It is a fun-based, age-appropriate educational program designed to fit in with the school curriculum. It educates young women about endometriosis and what to be aware of. ME is a one-hour session where pelvic pain and associated conditions like endometriosis are discussed in a safe and educational setting.

Menstrual disorders can have quite a significant physical, emotional and psychological impact on young people and seriously compromise their schooling, quality of life and, of course, future fertility. In the past 20 years in New Zealand, they have seen in that country a significant increasing trend in an earlier presentation of symptoms, diagnosis, management and improved health-seeking behaviours in girls and young women.

Not all pain is normal pain, and sometimes pain can be a part of something far more sinister and can have a substantial impact on the life of a woman with endometriosis and on the lives of those close to her. While medical students are gradually being taught more about women's health issues like endometriosis, it is crucial that we intervene early to avoid serious issues in the future. We need early intervention to help women, so they are not waiting needlessly for years in pain for a diagnosis, so they are not needlessly missing school, work and their social events due to a chronic illness that is not properly diagnosed and, if they choose to be later in life, that they can be mothers.

In a recent study in Canberra of Australian teenagers, it was found that 26 per cent of girls missed school because of their period. Of these, 2 per cent of those girls reported time off school with every single period. Statistics and studies like these make it very clear that something must be done. Earlier this year, the Endometriosis New Zealand and Pelvic Pain Foundation ran a trial program in South Australian schools. Students in that trial learnt that one in 10 girls and women are affected by endometriosis and that it is not normal for a period to affect their lifestyle. They learned what is normal and what might be considered a problem.

These South Australian girls learnt how to relieve symptoms of pelvic pain and where to go and who to see if they are worried about pelvic pain. Most importantly, they learnt all of this in a nonthreatening, fun, safe session facilitated by trained instructors and were given the resources to help keep track of their cycle.

Early intervention and education have the potential to save young women from a lifetime of physical and mental pain. I certainly think that they are worth this investment and I hope the government does, too. I am calling upon all parties in this place to support the extension of a trial program here in schools next year and into the future to teach young South Australian women what to look for and how to cope with pelvic pain. We need an end to endo and we can start that end right here right now in this council.

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

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

A quorum having been formed:

AUDITOR-GENERAL'S SUPPLEMENTARY REPORTS

The Hon. R.I. LUCAS (16:59): I move:

That on the prorogation of the present parliament, should the Auditor-General deliver to the President any supplementary report emanating from the Office of the Auditor-General, the report is deemed to be laid upon the table of the Legislative Council and the President is hereby authorised, upon the presentation of that report to the President, to publish and distribute that report.

This is a most important motion in terms of public accountability and, in particular, accountability of the government of the day and the departments and agencies responsible to various ministers. In moving this motion I refer members to the Report of the Auditor-General tabled in the house only in the last few weeks, and to pages 4 and 5 of that report. Under the heading of 'Changes to improve timing of Auditor-General's reports', and paragraph 1.3.1 'Tabling process amendments sought', the Auditor-General said:

Reports prepared by the Auditor-General under the [Public Finance and Audit Act] must be delivered to the President of the Legislative Council and the Speaker of the House of Assembly. They must table these reports on the next parliamentary sitting day. Only then is the report deemed to be 'published' (that is, it is available to all Members of Parliament and the public). The availability of the Auditor-General's reports is therefore restricted to parliamentary sitting dates. This impacts on the Auditor-General's ability to report on audit outcomes as soon as possible. For example, in the last election year the Auditor-General was unable to table a report between the last sitting day on 28 November and the first time the new Parliament sat on 6 May.

Reports prepared by the Auditor-General under the Adelaide Oval Redevelopment and Management Act 2011 have a different tabling process whereby if Parliament is not sitting at the time a report is delivered to the Speaker and President, the report will be taken to have been published one clear day after it is received.

The adoption of a similar tabling process for reports prepared by the Auditor-General under the [Public Finance and Audit Act] would ensure prompt reporting of audit outcomes.

There is a second and subsequent issue that the Auditor-General raises which I will address later in my contribution, but this motion addresses that particular expression of view from the Auditor-General in his annual report.

In his evidence to the Economic and Finance Committee, again in the last week or so, the Auditor-General was asked further questions in relation to this and he further expanded on the issue. However, what he did say in his evidence was that he had expressed these views previously to the government and its officers, on one occasion through the Simplify process (and we currently have a bill before the parliament). He also indicated that he had had other opportunities to raise the issue, although he did not expand, in detail, on what those occasions were.

What he has confirmed in evidence to a parliamentary committee is that the tabling of this annual report was not the first occasion he had raised this issue with government and its representatives. The fact that he then outlined his views in the annual report is an indication that, having been unsuccessful through other mechanisms in achieving a change of policy and approach by the government, he included it in the report, which was publicly available not only to members of parliament but also to the public generally.

The motion we have before us is, therefore, an alternative mechanism to ensure that what the Auditor-General seeks to do can occur. As I said, his preferred mechanism was amendments to the Public Finance and Audit Act, but the capacity to be able to amend that act from opposition as a private member's bill is obviously fraught with time difficulties, given that there are only three or so sitting weeks remaining, with the optional week. In essence, this motion is the alternative mechanism to allow that to occur.

If passed, the motion will essentially state that after parliament is prorogued the Auditor-General's Report can be presented to the President of the Legislative Council, and that if they are presented to the President of the Legislative Council they would be made public soon afterwards, not only to members of parliament but also to members of the public. So, to all intents and purposes,

it is a mechanism to allow the Auditor-General to conclude the work he has been undertaking, and, more importantly, to report on it in the period between the proroguing of parliament and the state election period.

It raises an interesting question as to why the Weatherill Labor government was not prepared to accede to the wishes of the Auditor-General in this respect. When one looks at the back of the Auditor-General's Report to see what the government might not wish to see the public light of day prior to a state election, page 117 of the Auditor-General's Report is very interesting reading indeed. Under the heading of Supplementary reporting 2016-17, the Auditor-General states:

> Specific and general matters for supplementary reporting include:
>
> - the State finances and related matters
> - the new RAH
> - a grant to the One Community organisation
> - Adelaide Riverbank (Festival Plaza) development
> - various public sector information and communications technology systems
> - certain public sector infrastructure and other projects.

Just addressing a few of those, I would certainly be surprised if the Auditor-General's supplementary report on the state finances and related matters was not tabled prior to the prorogation of the parliament. The history of the Auditor-General in relation to that annual report is that he has generally managed to conclude it whilst the parliamentary session before Christmas continues.

Certainly, the other reports are in and of themselves very significant. The NRAH project has been a matter of much controversy: massive blowouts of more than $600 million in terms of the total cost, significant delays, ongoing mitigation between stakeholders and various partners and a variety of other issues that the Auditor-General has obviously had a good, long look at.

The outrageous $600,000 or $700,000 grant to the One Community organisation was in and of itself a disgrace, as we would all understand. A complaint was lodged with the Auditor-General, asking him to investigate the process and mechanism of that particular grant: the fact that it was kept secret, the fact that some of the money was used to pay for polling booth workers in a federal election in some marginal seats and the fact that key office bearers in that particular organisation were former Labor Party members and staffers. Much of that has been revealed publicly, but the process and who was responsible for the decisions and whether or not any laws were breached are the issues that need to be addressed by the Auditor-General.

If there were to be a report produced between the prorogation of parliament and the election, it should see the light of day so that ministers and this government should be held to account in relation to that issue. I do not need to outline the detail of the concerns that have been expressed regarding the controversy in relation to the Walker Corporation or the Riverbank Festival Plaza development.

There are other areas I will talk about, including various public sector ICT systems—the Auditor-General has done good work in recent years in looking at some of the blowouts in ICT programs; the scrapping of expenditure and a number of others; the lack of adequacy of the performance of a number of others, such as the EPAS in the health system; and, finally, the public sector infrastructure and other projects. I guess that could refer to any number public sector infrastructure projects that the Auditor-General may or may not have been addressing.

Clearly, the Weatherill Labor government is significantly concerned that the Auditor-General may report and report unfavourably on government performance in relation to managing some of these issues. The Weatherill government is obviously petrified of any transparency or accountability being brought to bear on any of these issues in the months leading up to the state election. That is why, not unreasonably, the Auditor-General asked for action to be taken by the Weatherill government to allow supplementary reporting between the period of prorogation of parliament and the state election.

For the obvious reasons, Premier Weatherill, Treasurer Koutsantonis and the Weatherill government have refused to accede to the Auditor-General's requests in this area. That is why the motion is being moved today, and that is why it is important that the motion be passed before the parliament rises. I will be circulating among members, urging that there be a vote on this particular issue on the next Wednesday of sitting.

Before concluding, there was one other issue that was not addressed by this particular motion but was raised under the same chapter heading in the Auditor-General's Report. It raises the very interesting issue of annual and supplementary reporting process amendments that the Auditor-General sought in relation to his report.

The Auditor-General has evidently interpreted his act in such a way that, unless a particular issue was raised in his annual report, he is unable to undertake supplementary reports. To give an example, what the Auditor-General is saying is that, if he has conducted an annual report over a whole range of issues for the financial year 2016-17, if in the next financial year, July 2017, a major controversy erupts in relation to a particular project or process, because it was not covered or handled in the annual report, he is unable to produce a supplementary report on that issue until October of the following year. So, if the issue was raised in July of this year, he would not be able to produce a supplementary report, or report in the annual report, until October of next year.

That just seems an entirely ludicrous proposition. I am sure the Auditor-General has taken legal advice. Should there be a Marshall Liberal government after March 2018, it would certainly be my intention to seek legal advice, Crown advice, as to whether there are alternative mechanisms within the existing legislation that would allow the Auditor-General to not only inquire into but to report on any issue that arises during a particular financial year.

I have to say I am not a lawyer, but I would be surprised if there was not a mechanism within the existing legislation to allow that to occur. I respect the fact that the Auditor-General has obviously taken advice. It may well be that it has been the custom and practice of previous auditors-general as well, and that is just the way they operate, and for them to operate differently, they want a change to the Public Finance and Audit Act.

This is not an issue that, as you would know, Mr Acting President, our party room has addressed as yet, but as the shadow treasurer, and if in the position of treasurer in a Marshall Liberal government after March 2018, I would indicate personal sympathy to resolving the issue either by clarifying that the existing law allows the Auditor-General to do what he should be able to do, but if the Public Finance and Audit Act does not allow that, then to seek the support of the party room, if in government, to amend the Public Finance and Audit Act to allow that sort of sensible operation of the Auditor-General's office. I merely make mention of that in this particular motion because it was raised in the same section of the Auditor-General's Annual Report.

In concluding, motions like this are not unprecedented. I know the Treasurer and the government love to wrongly and untruthfully refer to actions of the Legislative Council as being unprecedented—as never having occurred in the history of the Legislative Council since 1857—but this is not unprecedented. There have been similar motions before. With the assistance of the Clerk, I was able to produce one such motion back on 18 November 1999 when there was the last Liberal government. There was a similar, but not exactly the same, motion which allowed the tabling, in essence, out of session of a report in relation to the leasing arrangements for the electricity trust of South Australia.

My recollection, although I did not really require it for the purposes of this speech, is that there have been other examples, certainly in my time in the Legislative Council, where we have used this particular device to allow the tabling of reports. I must admit that I did have some vague recollection it might have been used in relation to the State Bank at one stage, or issues related to the State Bank, but, putting that to the side, there is precedent for this sort of motion. It is not unprecedented in terms of its nature or scope. It is an entirely sensible proposition. I urge members of the Legislative Council to support it in the interests of transparency and accountability and, as I said, my office will advise members that we will be seeking a vote on this on the next Wednesday of sitting.

Debate adjourned on motion of Hon. J.E. Hanson.

Parliamentary Committees

JOINT COMMITTEE ON FINDINGS OF THE NUCLEAR FUEL CYCLE ROYAL COMMISSION

Adjourned debate on motion of Hon. D.G.E. Hood:

That the report of the committee be noted.

(Continued from 18 October 2017).

The Hon. R.I. LUCAS (17:17): I rise with pleasure on behalf of Liberal members, not only in this chamber but also in the House of Assembly as well, to speak to the report of the Joint Committee on Findings of the Nuclear Fuel Cycle Royal Commission and the motion that the report be noted. In doing so, I speak on behalf of my colleague, in particular, in another place, the member for Stewart, Mr Dan van Holst Pellekaan, who together with myself were the two representatives from the Liberal Party on a joint select committee investigating the nuclear fuel cycle. I honestly cannot remember now how long the committee went for, but it was a long time. I am sure the committee secretary—

An honourable member interjecting:

The Hon. R.I. LUCAS: I am told it was around 18 months. As the report would indicate—and I am not going to go through that sort of detail—it took considerable evidence. It travelled widely—the most widely travelled committee that I have ever sat on in my long period in the Legislative Council and probably the most widely travelled committee of any committee in my time in the parliament.

The committee was supported by Premier Weatherill and the government because they clearly had a clear policy agenda in relation to the issue. Significant additional resources were provided to the committee in terms of the operation of the committee to enable evidence to be taken firsthand from overseas locations where toxic waste dumps were either being built or being contemplated in terms of their operations.

I thank the Hon. Dennis Hood, the Chair of the committee, in terms of its operation, and the government members and the Hon. Mark Parnell, who represented the Green fringe of the Legislative Council, on the operations of the committee.

As the committee report indicates, there was an overwhelming majority view of five of the six members on one particular recommendation, and then the committee fractured, splintered, shattered, or whatever word you wish, in all directions in terms of individual—I will not call them dissenting statements—minority statements by members of the committee.

So, five of the six members concluded that there should be no continuation of an exploration of a toxic nuclear waste dump in South Australia. The dissenting view in that case was the Chair of the committee, the Hon. Dennis Hood. But then there were four or five separate minority statements, one from the two government members, one from the two Liberal Party members, one from the Hon. Dennis Hood, and one from the Hon. Mark Parnell—so, four separate minority statements, that are attached to the back of the committee's report.

The position of the Liberal Party as it entered the 18-month process of looking at this was that many of us—and I put myself in this category—were sympathetic to the notion of exploring the possibility of a toxic nuclear waste dump in South Australia because of the claims of the very significant economic and financial benefits that would emanate from such a proposal in South Australia.

I certainly commenced the process with an open mind in relation to it; however, as my minority statement with the member for Stuart indicates, by almost the conclusion of that particular process, certainly at the conclusion of taking evidence, I had moved very strongly against the proposition and I did so on the basis that I just did not accept the claims of this economic and financial nirvana that Premier Jay Weatherill had been promoting as the silver bullet solution to the economic problems confronting the state of South Australia.

I hasten to add, without going on at any length in relation to it, that one of the many problems that I and some on our side see in the Weatherill Labor government, the Premier himself, the

Treasurer and senior ministers, like the leader of the government in this chamber, is this delusional quality they have about themselves: that there is some silver bullet solution which they are always striving for, spinning and trying to sell to the people of South Australia. Whether it is the value from a toxic nuclear waste dump in South Australia, whether it is a massive expansion which then treasurer Snelling proclaimed proudly about the expansion of Olympic Dam, which was the centrepiece of one of the more recent budgets, or whether it is the Elon Musks of this world in relation to the world's biggest battery, there is always the silver bullet solution to the stark economic problems that confront the state.

I do not intend to prosecute the alternative, as I outlined the differing views of government and the alternative government in the Appropriation Bill debate, but there is a starkly alternative view to that silver bullet solution, and that alternative is to recognise very simply that the only way we are going to see economic and job growth in South Australia is if our small and medium-sized businesses can compete nationally and internationally in terms of the sale of their products—clearly not just in South Australia but interstate and, more particularly, overseas—and if they are going to be nationally and internationally competitive then the costs of doing business in South Australia have to be nationally and internationally competitive.

That involves state taxes and charges, it involves utility costs, it involves labour costs, it involves red tape costs and it involves workers compensation costs. It involves all of the costs of doing business in South Australia for small and medium-sized businesses. We suffer the tyranny of distance. In the age now of online selling that is less of an issue. It still does not disappear completely, but it means we have to recognise the fact that there is no silver bullet solution such as a nuclear waste dump for South Australia. There is a lot of hard work in terms of ensuring our small and medium-sized businesses are nationally and internationally competitive.

In relation to the analysis we did of the financial and economic benefit claims that were made by the Premier and the government and the royal commission in relation to this, we applied considerable rigour through the select committee to some of those claims.

There was very strong support for a position that Liberal members pushed that there be a separate high-level independent review of the claims being made by the royal commission and Premier Weatherill in relation to the financial and economic benefits of the state.

The committee resolved without dissent to do that. So Labor members and all the members of the committee accepted the sense of having a high-level independent analysis. A group called the Nuclear Economics Consulting Group, based in Washington DC, was appointed—someone untouched and untainted, in the main, by working and operating in the South Australian nuclear industry—to review the economics of the nuclear industry in South Australia and Australia, because it is not much of a nuclear industry obviously. That group was as independent as we are likely to get in this particular field.

That group and the value of the report that it produced together with the work of the committee research officers, one of whom had a background as a senior level Treasury officer from South Australia, was invaluable in terms of peer reviewing the claims being made about economic and financial benefits from the toxic nuclear waste dump.

In relation to some of the issues in terms of the NECG report, one of the big issues in terms of the revenue projections obviously was the issue of the price that has been assumed you could charge for accepting toxic nuclear waste from other countries. NECG pointed out that there are several reasons for significant differences between what they believed to the case and assumptions made by the royal commission. In part they were as follows:

- Amounts already spent on existing national solutions (e.g. interim storage in dry casks) would reduce the value provided by the Project;
- National laws usually preclude the use of such funds for anything other than a stated purpose (e.g. a national repository) and changes to laws may be required to allow use of the funds to pay for the Project, as a foreign activity;
- Each customer country has its own financial considerations, anticipated national repository program timelines and interest rate/foreign exchange rate expectations;

- Actual 'avoided cost' for each potential customer country depends on what activities a customer country has already undertaken with respect to a national repository and how much has been spent on those activities;
- The extent that customer country funds accrued for national disposition of nuclear waste can be used to pay for the Facility and whether such funds are accessible (i.e., are in a segregated account, as opposed to approximated by asset values);
- Each customer country's expectations about the services that they expect or require from the Facility;
- The extent that a customer country compares the value of the Facility's value proposition to competitive offerings from other countries which may offer lower costs and simpler approaches or options to develop new advanced nuclear reactors that can dispose of spent fuel as fuel;
- The risk discount assessed by a customer country to reflect the risk that the Facility may fail for some reason prior to waste delivery or prior to waste being placed into the geological disposal facility, with residual liability for the customer country;
- A customer country's views on the cost, risk, and other issues associated with moving radioactive waste from current approved locations (e.g. at a nuclear power plant site) to South Australia;
- The customer country's assessment that transferring, or signing contracts to transfer waste to South Australia would mean that real options for waste disposition (i.e. as better future information becomes available on approaches and costs) are lost; and
- Assessment of economic impact of the investment and jobs lost by the customer country in accepting the Project approach.

In relation to the assumptions that have been made about market share estimates and potential volumes, NECG identified three issues with the methodology used by the royal commission:

Some 'accessible countries/volumes' are included for customer countries that are unlikely to participate in a commercial arrangement;

The simple market share (percent of total market) approach combines various independent factors (e.g., probability of future nuclear generating capacity and the spent fuel expected to be produced, and timing of availability of wastes, competition by other repositories or repository alternatives, alternative uses of waste); and

The complexity of addressing the large range of political, operational, contractual, regulatory and technical issues arising from such a broad market approach (e.g., different fuel vendor shapes, burn-up rates, storage requirements and storage containers) does not seem to be adequately recognised.

The NECG report also highlighted other concerns in relation to the market share assumptions, but I will not detail all of those. In relation to some concerns NECG raised about the cost estimates, they certainly indicated that the contingency for increases in costs that were incorporated in the royal commission's work they believe were not likely to be consistent with what the reality would be, that is, the cost blowouts in terms of a project like this over a long period of time were likely to be significantly higher than the 25 per cent contingency, which had been included in the report.

These witnesses noted the experience of overseas nuclear waste repositories with respect to large cost overruns and questioned why such cost increases would not apply in South Australia, where the scale of a proposed operation is so much larger. I think we have to bear in mind that this proposal in South Australia was significantly bigger than any other project that existed around the world that the committee looked at. We were talking about being the international repository for nuclear waste for around the world, and the size and scope of the proposal in South Australia was significantly larger than many of the other proposals, which, in essence, only managed the nuclear waste from their own country.

In relation to one of the most significant issues that I found, which was this issue of how much money (it is listed in the report on page 10—preinvestment expenditure), it essentially puts in simple terms how much money we, the taxpayers, would have to spend before we actually made a final decision to go ahead with having a nuclear waste dump or not.

It was impossible, according to the royal commission, to not spend any money and make the decision, and that was the drop-dead date for either you go ahead or you do not go ahead. They were saying that you actually have to spend some money in looking at this, and then at some stage later you make a decision as to whether you think it is sensible to proceed. Of course, all the money

you have spent up until that stage, if you choose not to proceed, is a sunk cost, is money you have lost, and the taxpayers get no return from that.

The royal commission itself said that the estimates of what they call prefeasibility expenditure were in the order of $571 million in nominal cash flow to the end of year six in the financial model. These prefeasibility expenses included:

- Budget planning and appropriations;
- Establishment and incorporation of commercial bodies with charters consistent with SA legislation;
- Develop and formalise regulatory standards for all facilities and their activities;
- Scoping desk studies on interim storage facility;
- Siting of interim storage facility;
- Interim storage facility design development;
- Interim storage facility Environmental Impact Assessment;
- Licencing of interim storage facility system and site;
- Scoping desk studies for geological disposal facility and intermediate depth repository;
- Scoping desk studies on low-level base facility;
- Siting of low-level waste facility; and
- Design development of a low-level waste facility.

The committee took evidence from around the world, which in some cases argued that that $600 million was an underestimate and that it could be as high as $1 billion that taxpayers in South Australia would spend before you would make a decision, potentially, not go ahead. If I can reinforce that: the proposition that Premier Weatherill was putting to us was that we would spend $600 million to $1 billion on looking at a nuclear waste dump for South Australia and possibly decide at that stage not to proceed, and the taxpayers would have lost $600 million or $1 billion without any return at all, because the project would not proceed.

To be fair, the NECG consultancy did come back, because they heard the concerns that I and other members were expressing about this, and they did suggest that there was the potential for testing the market in a different way earlier and not having to spend $600 million to $1 billion before reaching the drop-dead date in terms of where we would head. There was nothing more than there was an alternative and a lot of work would need to be done and a lot of money would be spent, I guess, in terms of having a look at what that alternative approach might be.

For me, I was concerned, having read the NECG report, that there was a significant potential for massive cost overruns, as has occurred overseas, that some of the benefits that were being claimed on price and market share were, in my view, hugely optimistic in terms of the economic model. With my shadow treasurer's hat on, I swung, and swung significantly, from the viewpoint of this being something worth considering to it being something about which I went to our party room and our leader and argued strongly that we should say, 'This doesn't make economic sense. There is no silver bullet, and this isn't the appropriate silver bullet.'

The findings of the member for Stuart and myself, in our minority statement in terms of the economic and financial section, are as follows:

> Evidence given to the Committee raised significant doubt about the revenue and cost estimates upon which the Royal Commission relied. This evidence included the possibility that more than $600 million might have to be spent before a final decision would be taken as to whether or not to proceed with the project.
>
> Major projects in the nuclear industry worldwide have a history of major cost over runs and long delays in completion.
>
> Federal laws and regulations would require extensive review and agreement and there is not bipartisan agreement to do so.

Recommendations

In view of the significant financial risks to the State and the lack of bipartisan Federal support for a legal and regulatory regime for the construction and operation of an international waste storage facility for spent nuclear fuel in South Australia, the South Australian Government should not commit any further public funds to pursuing the proposal.

We had findings under the broad headings of Social Consent and Safety and Technical Aspects. I do not intend to go over those. They are there in the report for members to see. I wanted to highlight for myself and for my party that the major issue for us was that the economic and financial aspects did not stack up, even though we might have wished them otherwise to have stacked up.

In concluding, what I want to say is, as I have said on a previous occasion—I think in the Appropriation Bill debate—that I think there is a stark choice at the next state election between a Weatherill Labor Party and a Marshall Liberal Party as alternative governments. The report from the member for Newland and the member for Elder and the position of the Premier is that the reason he is not proceeding with the nuclear waste dump in South Australia is that, he argues, the South Australian Liberal Party does not support it and has not provided the bipartisan support.

The clear inference of that is that Premier Weatherill, if a Labor government is re-elected, is committed to a nuclear waste dump for South Australia, if they can convince an opposition in the future to provide bipartisan support for a nuclear waste dump. That is the position of Premier Weatherill and the Labor government.

The Liberal Party's position is starkly opposed to that. We do not support and will not support a nuclear waste dump, even if there were bipartisan support offered by a Labor opposition to the proposal for a nuclear waste dump in South Australia. We have looked at the economic and financial aspects of the legislation and the proposal. We do not believe that they stack up, and as I said, I know as the paired member in seats like Colton, there is a very strong view from people I have spoken to in Colton that they are fearful of Premier Weatherill and the Labor government's position to continue to persist with a toxic nuclear fuel waste dump for South Australia. That is the position of the Weatherill Labor government. If they can get the support of an opposition party, then they will head down that path again as they sought to do during this parliamentary session.

The only way one can guarantee that there will not be a toxic nuclear waste dump in South Australia is not to support a Weatherill Labor government because it is not just the Premier. Senior ministers like minister Malinauskas in this house, minister Maher and minister Hunter have all publicly supported the Premier in relation to this policy position. They have nailed their colours to the mast. They are strong advocates of South Australia being a nuclear waste dump. Let's put it on the record: they can argue that case, we will argue the case that we should not be, and we do not think the economics and the finances stack up. It is for those reasons and those reasons principally that we could not support the project and we will continue to oppose such a project for South Australia in the future.

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

Bills

LOCAL GOVERNMENT (FIXED CHARGES) AMENDMENT BILL

Introduction and First Reading

The Hon. J.A. DARLEY (17:43): Obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

Second Reading

The Hon. J.A. DARLEY (17:44): I move:

That this bill be now read a second time.

This bill seeks to amend the Local Government Act so that councils will not be able to charge a minimum rate for an individual living unit in a retirement village. Currently the act provides that a fixed charge cannot be charged against individual sites in caravan parks, residential parks and marinas. This bill will see retirement villages added to this list.

Like the properties that are already included in the Local Government Act, individual living units are small portions of a whole, namely the retirement village. Retirement villages are often on one title, with residents being given a licence to occupy by way of a contract. Councils provide no services within the retirement villages; street lighting, rubbish removal, road maintenance and verge maintenance are all the responsibility of the residents or the village owners, depending on the contract.

I know the issue of council rates has long been a bugbear for the South Australian Retirement Villages Residents Association (SARVRA), who have campaigned for reduced council rates in recognition of their unique circumstances. It seems unfair to charge a unit in a retirement village the same rates as a comparable residential unit which is not in the village when residential units receive so many more services from council.

I am not saying that retirement villages should pay nothing for their council rates, as residents still have access to many of the facilities that council offer. Much like caravan parks, residential parks and marinas, councils will still be able to attribute rates to a retirement village as a whole. It will then be up to the village management to determine how this cost is to be apportioned to individual units.

Retirement villages house some of our community's most vulnerable people. These people have worked their entire life, and do not deserve to be unfairly treated. I commend the bill to the chamber.

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

FAMILY RELATIONSHIPS (SURROGACY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2017.)

The Hon. T.A. FRANKS (17:47): I rise on behalf of the Greens to support the Family Relationships (Surrogacy) Amendment Bill 2017, and thank the Hon. John Dawkins, on behalf of those many constituents he serves, for his persistence in the face of extreme adversity. This bill, of course, follows on from the honourable member's previous bills but I note, in particular, the Family Relationships (Surrogacy) Amendment Bill 2014, which was assented to on 16 July 2015 but which is yet to come into operation. It is extraordinary, the glacial pace at which our wheels of government are moving on this issue.

I understand the Attorney-General only commenced consultation on the regulations for that 2014 bill, assented to in July 2015, more than 12 months after the bill passed. Around this time I understand that the Hon. John Dawkins met with the Attorney-General and was supported by minister Hunter to push for swifter implementation—indeed, I am not sure that you could get slower implementation. In September 2017, just a few short weeks ago, there was a further meeting with the Attorney-General who, according to the *Hansard* of the second reading bill debate, advised the Hon. John Dawkins that:

> the act had not commenced due to his perception—

that being the Attorney-General's perception—

> of the administrative burden he felt it put on himself and his department to establish and administer the altruistic surrogacy and surrogate register.

There was no mention, of course, of the undue burden this put on those people waiting for this legislation to come into effect—indeed, 27 months seems a tad long. The Attorney also purportedly believed that other aspects of the act were too difficult to implement because of different surrogacy agreements that were prevented by the act and inconsistencies in international agreements and the statutes regarding surrogacy in this state.

As per the Attorney-General's desires, this bill is now drafted, based on the New South Wales legislation. It removes the requirement that the Attorney-General establishes and maintains an altruistic surrogacy and surrogate register. It also removes the requirement for the state to establish a surrogacy framework that is compliant with international law agreements and standards.

The bill maintains current prohibitions to require that no payment is made for a surrogacy arrangement, but allows for reasonable expenses and costs to be reimbursed and imposes the requirement that the parties obtain legal advice on the agreement and a lawyer's certificate requiring the same. To ensure clarity, the bill also ensures that the definition of infertility covers women who can conceive naturally but are unable to carry the child or cases where it is dangerous to for them to carry the child. These women and families have been waiting long enough to become families. The Greens do not intend to delay those families any further in having the benefits of a law passed many years ago. With that, we commend the bill.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (17:50): I rise to support and speak in favour of the bill before us today. In doing so, I would like to take the opportunity to acknowledge my friend and colleague, the Hon. John Dawkins, who has been a long-term champion of this legislation in relation to our state surrogacy laws. So, I do pay tribute to the Hon. John Dawkins and his work to progress our laws to help those members of our community who are unable to conceive or unable to carry a pregnancy to full term.

This bill provides for practical amendments to the Family Relationships Act 1975 and related amendments to the Assisted Reproductive Treatment Act 1988 and the Births, Deaths and Marriages Registration Act 1996. I want to praise the Attorney-General in the other place for his reasonable requests for workable legislation. I am incredibly pleased that the honourable Attorney and the Hon. John Dawkins have been able to get together and work out the proposition that we have before us today, which will ultimately deliver for us in this parliament and, more importantly, for those South Australians who require access to this sort of medical treatment.

It has been long overdue, and some of us have expressed frustration at that, but I believe we have now arrived at a point where we can see the intent that the Hon. Mr Dawkins has tried to drive through the legislation finally being delivered. I am grateful for that.

As I said, the bill aims to allow for lawful surrogacy agreements prescribed as being between a woman (being the surrogate mother) and two other persons (being the commissioning parents). I think the honourable members understand that there is going to be some sensible level of reimbursement for the costs of the surrogate parent, and I think that is a good thing. Of course, the bill, consistent with other legislation we have dealt with, does not allow for commercial surrogacy arrangements. However, as I said, it does allow for reasonable reimbursement of costs to the surrogate mother.

These amendments provide for a more stable legal framework for agreements to be drawn up for parties to an altruistic surrogacy arrangement and a framework that the Attorney-General believes is doable. I am incredibly pleased that we have come to this point. Again, I just want to sum up by thanking the Hon. John Dawkins for his patience, and his resilience, in pushing this agenda. I want to thank the Attorney-General for coming to the party and applying his expertise to a piece of legislation that he believes will now be workable. I commend the bill to the house for imminent passage.

The Hon. S.G. WADE (17:53): I am going to speak very briefly to commend the Hon. John Dawkins for his dogged advocacy on behalf of childless couples and also commend the Hon. Ian Hunter for providing support to the member as he approached the Attorney. I am not satisfied that the government has addressed this issue with due speed, but I think the cooperation between the two members has facilitated progress, which is to be welcomed.

The Hon. K.L. VINCENT (17:54): I simply want to place on the record my support for the bill and, in particular, acknowledge that this has been an area of great passion and interest for the Hon. Mr Dawkins for many years. I congratulate him on finally reaching the point where we have this legislation ready to pass.

I would also like to acknowledge the work of the Hon. Ian Hunter and the Attorney-General in the other place, because I think that it is through working together and using different perspectives that we really create comprehensive change. I know that in parliaments we tend to spend more of our time arguing and debating with each other, but it is when we can sit down, find the common

ground and work through using those diverse perspectives that we create the change that is worthwhile in the end.

As has already been said, this bill allows for fair and equitable access to surrogacy services for those who wish to have biological children but are unable to conceive or carry a pregnancy to full term. This is of course something that can be very heartbreaking and difficult for a number of reasons, so anything to assist with what is a very painful experience is something I think should be commended.

The bill also allows for reasonable financial costs associated with the pregnancy to be covered. It needs to be made very clear that this is very different from commercial surrogacy. This is simply for the reimbursement of costs strictly associated with the pregnancy as opposed to any financial gain to the surrogate themselves. I think having that distinction made is very important and is something that the Hon. Mr Dawkins and all members involved need to be congratulated for. Again, acknowledging that the Hon. Mr Dawkins has been fighting the good fight on this issue for a long time, I would like to congratulate him on reaching this point and lend my support to the bill.

The Hon. J.S.L. DAWKINS (17:56): I will be brief. I think it is important that we conclude this bill as early as we can. I told members of the House of Assembly that I had great hopes that we would get it down to them earlier rather than later today. I very much appreciate the support from the speakers, the Hon. Tammy Franks, the Hon. Ian Hunter, the Hon. Stephen Wade and the Hon. Kelly Vincent, but also the support on this issue from many others in this house and the other house and, I must say, in the community.

It has been a long haul. I think, in essence, this is the fifth incarnation of surrogacy legislation that I have had in this place. When Kerry Faggotter first came to see me with these issues, her son Ethan was one year old. He is now going to secondary school, so it has been a long haul—a longer haul than we would like.

I again reiterate my thanks to the Hon. Mr Hunter for assisting me earlier this year in trying to get some cogs turning that were not turning at all at that stage. While they have not turned as quickly as either of us would have liked since then, we certainly have got to a position. This bill does not go quite as far as I would like in creating optimal conditions for South Australians to have a surrogacy in South Australia, but it is certainly one that I am obviously happy to support.

I appreciate the fact that the Attorney-General has indicated he will handle the bill in the House of Assembly, and I am very hopeful that accommodation can be made to put the bill through in government time, certainly to make sure it goes through before the end of the year. With those words, I thank everybody for their great support for this issue and commend the bill to the house.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. J.S.L. DAWKINS (18:01): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Sitting suspended from 18:02 to 19:47.

PUBLIC SECTOR (FUNCTIONS AND RESOURCES AUDIT) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 27 September 2017.)

The Hon. R.I. LUCAS (19:48): I rise to speak to the second reading of the Public Sector (Functions and Resources Audit) Amendment Bill. As the Hon. Mr Darley indicated, this is a follow-up bill from his Statutes Amendment (Public Sector Audit) Bill which we discussed some time ago. As

the Hon. Mr Darley outlined in his second reading explanation, he listened to the points of view that were put during the second reading debate of that particular bill and he has come back with a renewed approach, new enthusiasm and vigour, which I see on a fortnightly basis at the Budget and Finance Committee when the honourable member raises with each chief executive officer the notion of whether or not they have conducted an operational audit of their agency and, if they have, what the results of that audit might have been.

I think it is fair to say, without putting words in the Hon. Mr Darley's mouth, that there have been one or two who have said they have done some work in relation to the operational audit; most are still struggling to understand the true import of what the Hon. Mr Darley has been talking about. Put simply, as I outlined when we debated the companion bill earlier, I have enormous sympathy for the principle the Hon. Mr Darley has prosecuted during the Budget and Finance Bill debate.

As I understand his principle (and he can correct me if I am wrong) it is essentially saying that, rather than when one is confronted with perennial budget savings tasks, as agencies are, just taking a bit off the top of every particular function, actually conducting an operational audit to decide whether there is still a need for this particular function and, if there is not, is there a higher priority function that the resources can be diverted from one particular program or project to another particular program or project within whatever the budget allocation that has been provided to the chief executive has been.

Put colloquially, it has been, rather than the salami approach, where you take a shaving off each particular part of your agency, you actually have a root and branch review or an operational audit of what it is that you do. So, the principle, as I indicated when we debated the companion bill earlier, I am enormously sympathetic to and supportive of. I raised concerns with the drafting of the last bill: this one certainly is an improved version.

As I indicated in a private discussion with the Hon. Mr Darley, I still have some concerns with the drafting of this bill, and I will outline those concerns, but in outlining our concerns I indicate that certainly the Liberal Party will be supporting the second reading of the bill. However, if the Hon. Mr Darley does want to proceed to a final vote at the third reading, we will not support the bill at the third reading, if that is the intention of the honourable member. We will certainly support the second reading to further explore the issues in the committee stages.

As I have indicated privately to the Hon. Mr Darley, my personal view is that, if you have a government that is prepared to enact the principles of root and branch reviews or operational audits under the control of the minister, and ultimately under the control of the cabinet, the Treasurer and the Premier, that is the best way to ensure that this occurs. I have an aversion to locking things into a legislative or statutory requirement.

I understand, if I was the Hon. Mr Darley, that his concern might be that maybe one or both parties (and he can express that view), unless it is legislatively required, will never ever do it. As an Independent member, or a minor party member as he is, he is perfectly entitled to hold that particular position. However, I would say that the Hon. Mr Darley has certainly worked with me assiduously for many years now in the Legislative Council and for a number of years on the Budget and Finance Committee; I think he certainly knows what my views are, and would be, should we be in the fortunate position of being in government post-March of next year.

The problem with the earlier bill, which he has addressed in this bill, was that, essentially, the CEO was going to conduct the operational audit, and whatever he or she found then had to be actioned. I said, 'Well, hold on, ministers and governments should be governing, not CEOs,' and he has sought to address that in this drafting, and has significantly improved the drafting from that perspective. However, my personal preference is not to require this by statute or by legislative change.

However, if we were to go down the path, the view that I have, and that my party shares with me, is that when one looks at proposed new section 80A, subclause (3), the subclause essentially says that:

(1) A Minister—

which is the appropriate way—

must, as soon as practicable after the commencement of this section, conduct a review of—

(a) the functions undertaken by each administrative unit for which the Minister is responsible…in order to identify areas in which budget savings may be made or areas in which budget deficiencies exist.

(2) A report on each review conducted under this section must be laid before both Houses of Parliament within 6 months after the commencement of this section.

What I will say in relation to subclauses (1) and (2) is that it sounds a long time, but it is an enormously tight time frame for, say, SA Health, which is spending $5 billion plus of an $18 billion budget. In essence, everything in terms of that operational review will have to be completed, conducted, processed by the minister and whomever else in government, and then tabled within six months after the commencement of the section.

I guess there is some flexibility in terms of when the government would actually proclaim the start of this particular section, but let's assume that is there and once it is in it will be six months after the ministers have been appointed, or if there is a change of government or a change of ministry, I would assume is the intention. That is another question, actually, whether that is actioned in the legislation as to what happens on an ongoing basis or whether this is just a once-off function and resources audit. That is a question that the Hon. Mr Darley can address in further consideration of the bill. The subclause (3) is the one that says:

(3) If a report has been prepared by a Minister under this section, the Minister and the Chief Executive of the administrative unit…must ensure that any budget reductions applied to the administrative unit are applied in accordance with the findings in the report.

I understand the point that the honourable member has made, but let me take the member and the chamber through a practical example. Soon after the election, the minister, he or she, conducts this operational audit. By and large, probably the minister is going to get the CEO to do the work and then recommend to the minister, and the minister then, appropriately, is the person who would sign off on the results of the operational audit.

What happens in terms of cabinet government and what the implications of the drafting of this is, is if, for example, Treasury has said, 'You have to save $10 million,' or whatever it is, then the decision rests with that minister's report that has been made public, because this requirement is that that report has to be made public within six months. Whatever that minister, he or she, decides is what is made public, and this requires that any budget saving has to be done in accordance with that.

Circumstances change, but the simplest example is this: there have been many examples that I am aware of, both when we were in government and now that we are in opposition, where cabinet overrides an individual minister. That is, a minister thinks, 'Okay, if I have to make a saving, this is what I am going to get rid of,' or 'I will stop this particular program.' The CEO might have recommended it, and the minister agrees to it.

If and when there is a whole of government consideration, whether it is actually by cabinet or, probably more likely, a cabinet subcommittee, then the cabinet subcommittee or the cabinet says, 'Hold on, you've got rocks in your head, minister. You think that you're going to implement that particular change and we're going to sign off on that as a government and as a cabinet. There is no way in the world. You go back and you are going to have to implement the saving in some different way. You are going to have to keep that particular program, because the government has made a decision'—or in a lot of these circumstances it might just be the Premier who has made the decision—'that that particular program is just too important not to be kept, and just because you as an individual and the chief executive officer recommended that that is where the budget saving comes, we the government are not going to allow you to do that.'

The dilemma with statutorily trying to lock all the doors in this particular way is that sort of option is not available. Good government, good cabinet government, has to allow that sort of collegial cabinet decision-making where ultimately the government (the cabinet) takes a decision in terms of where perhaps a big cut might occur. When you are talking about smaller cuts and smaller programs, at the margin those sorts of issues might not have political significance for the government of the day, but a big program and a big cut might.

I have to say, though, there are some cuts that have been canvassed at varying stages. The favourite cut of South Australia Police commissioners over the years have proffered when they have been told by ministers and governments that they have to meet budget savings is that they say, 'Okay, yes, we will make the budget savings. We will get rid of the police band and the police greys.'

The Hon. M.C. Parnell: Not the greys.

The Hon. R.I. LUCAS: Yes, the police band and the police greys, and—

The Hon. K.J. Maher: The member for Hartley, he is the only one who wants to do that.

The Hon. R.I. LUCAS: No, the—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: I am talking about police commissioners, because the strategic decision—

Members interjecting:

The Hon. R.I. LUCAS: Come on, team. The strategic decision that—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: It is going to be a long night if the Leader of the Government is going to play games and interject all the time, okay?

The PRESIDENT: It is going to be a very long night. That's right.

The Hon. R.I. LUCAS: The strategic decision that police commissioners or chief executives can take is, 'We will put up the budget cut or the budget saving which is going to cause the maximum political damage and there will be the least public support for. We know that the premier and the government of the day will reject those particular savings.' I have been there, I have done that in the last Liberal government when budget savings were suggested, and the most politically sensitive savings from a public viewpoint are the ones that are offered up knowing that the government of the day would shy away from that particular savings task. It is for those reasons, as I said.

My personal preference is that we do not lock all doors in relation to how we manage good government, financial management and competence, and what you would hope to have is a good government with good ministers who are prepared to do the sorts of things the Hon. Mr Darley is suggesting. I know his frustration is that he has been at the Budget and Finance Committee and he has seen that this is not occurring and, therefore, he wants to lock it away.

As someone who, hopefully after March 2018, at least has a chance of being on the other side of the political fence in terms of government and opposition, I am not as attracted to locking those particular doors and removing the flexibility to ultimately have cabinet and government decision-making as opposed to the actual individual decisions of a minister in every particular circumstance. They are the detailed concerns that I have with the current drafting of the legislation.

I say it is a quantum improvement from the previous one which I was trenchantly critical of, so our position, for the benefit of the honourable member, is that we will support the second reading to allow further consideration and discussion. However, if the honourable member wishes for this to be finally voted on at the third reading tonight, we would not be voting for the bill at the third reading.

The Hon. J.A. DARLEY (20:03): First of all, I would like to thank the Hon. Gail Gago and the Hon. Rob Lucas for their contributions. I have taken note of the comments made by the Hon. Rob Lucas and what I suggest we do is take the second reading vote and then I will move an adjournment.

Bill read a second time.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (REGULATED TREES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 9 August 2017.)

The Hon. J.M.A. LENSINK (20:05): I rise to make some comments in relation to this bill, brought to this place by the Hon. Mark Parnell. I note that in his contribution he referred to the origins of it as arising from the very unsatisfactory situation at the Glenside site, where the developer removed some 83 trees from that site, against the wishes of the local community.

For the record, and just to back up the story a little bit, if you like, the Liberal Party has remained opposed to the chosen government development for the Glenside site. We believe very strongly that the remaining open space would continue to be valuable to people with mental health problems, particularly those suffering from acute problems who would benefit from the green space and positive impact that would have on their healing. That has been our long stated, oftentimes repeated position in relation to that. Nevertheless, we were unable to prevent that from happening.

This particular matter was raised at the Environment, Resources and Development Committee of the parliament in February, at which we had several witnesses, including the member for Unley, who now represents that area, who again articulated that it was the Liberal Party's position that we were opposed to it and that we were concerned that the trees were to be removed. In terms of the sequence of events, the member for Unley expressed particular concern that the development plans were to remove the trees prior to the particular development that was to replace them having been properly articulated. His argument, if you like, was that perhaps it should be done in stages so that the local community could continue to enjoy the benefit of the significant and regulated trees that were there.

What the proponent of this bill is putting to us, if I read it correctly, and he will no doubt correct me if I have not got this correct, is that in order for significant and regulated trees to be removed the particular development must be articulated for that site, which we think is a sensible proposal and therefore we will be supporting this particular measure.

The Hon. J.E. HANSON (20:09): This issue has been the subject of considerable debate and the government believes we have the balance right as it stands, so we will not be supporting this particular bill.

The Hon. M.C. PARNELL (20:09): To sum up the debate, let me say at the outset that I suggested to the Leader of the Government that unless we had the government position on the record I would have no choice but to divide on the matter because I would not know where the numbers lie. Then I was pleasantly surprised by the contribution of the Hon. Michelle Lensink, whose summary of the situation was, I think, quite accurate and whose support of the bill I appreciate.

I am not going to go back over all the grounds, but basically the bill is saying that if you are going to consider chopping down significant trees—the Hon. Michelle Lensink used the word 'stages', and that is a good way of talking about it, stages—do not allow that to happen until you know exactly what is going to replace them. That is the Glenside situation. Over 80 significant and regulated trees were not only approved to be chopped down but are now actually chopped down—I was there a week or so ago and they are gone—but there has not even been an application lodged to build anything on the site in their place.

That is a colossally inefficient way to do things. The worst case scenario is that if the bottom falls out of the apartment market or, for whatever reason, that development does not go ahead, then those trees have been lost in vain. The Hon. Michelle Lensink understands that, and that is why I am pleased she has supported the bill.

Effectively the government's position is that they do not like it. There are no reasons offered other than they think they have the balance right. I do not think they have the balance right, because my bill does not say that the trees cannot be chopped down, it just says that there needs to be a good reason to chop them down and that reason is because there is something to replace them. Of course there is an exception if they are dangerous, of course they have to go if they are dangerous. The Hon. Dennis Hood and I do not always agree on trees, but I will agree with him on that: if the tree is dangerous it is going, if it is going to fall on people it is gone. However, the idea of chopping them down and then maybe, one day in the future, lodging a development application for buildings is an incredibly silly way to proceed.

Whilst I indicated to the government that I would have to divide, I am now in a difficult position because I do not know where the rest of the crossbench lies on this. I think I might have the numbers, that is just my gut reaction, and, as members know, it is a fairly safe course of action given that the government is not going to support it in the lower house and so they are offering to support it now. That is a good thing, so we will proceed with this bill tonight and I am hoping that it will pass on the voices.

I thank the Hon. Michelle Lensink for her contribution and for her party's support. I am disappointed that the government will not see fit to support it.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. M.C. PARNELL (20:14): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (PUBLIC MONEY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 21 June 2017.)

The Hon. D.G.E. HOOD (20:15): I rise to speak on the Nuclear Waste Storage Facility (Prohibition) (Public Money) Amendment Bill and indicate that the Australian Conservatives will not be supporting the bill. I am sure that is no surprise to anyone here. I also indicate, to members' pleasure, that I will be speaking for a very brief period on this bill. I thought that would be widely supported. The Australian Conservatives believe that the findings of the royal commission are a reasonable starting point for discussion for South Australia to host a commercial spent fuel repository. We believe that at least the option for further investigation into these matters should at least remain open. I do not intend, as I said, to give a substantial contribution on this bill, as I spoke at length on the benefits of a nuclear fuel repository in South Australia in the last sitting week.

That being said, I would like to take the opportunity to refresh the chamber's memory very briefly as to the significant economic benefits the Nuclear Fuel Cycle Royal Commission has indicated South Australia could receive if they hosted a spent fuel repository. These figures are compelling, in our view, and should not be ignored or dismissed. The royal commission found that an interim waste storage and disposal facility had the potential to add some $5.6 billion per year in revenue to the state over the first 30 years. The extra $5 billion or thereabouts in annual revenue equates to almost one-twentieth of South Australia's gross state product of approximately $97 billion per annum.

There is currently more than 390,000 tons of spent rods and nuclear waste in temporary storage around the world, with the number of spent rods said to double over the next few years. Accordingly, the spent fuel repository has the potential to be highly profitable because of strong demand from other countries which, for various reasons, cannot store spent fuel. If these figures are not compelling, the estimated 1,500 to 4,500 jobs that can be created in the establishment phase and some 600 jobs in the operation phase once the facility operations begin certainly are, in our view.

The integrated waste storage and disposal facility has the potential to generate more than $100 billion in excess in expenditure over the life of the 120-year project. That equates to a 4.7 per cent growth to gross state product, or some $6.7 billion by 2029-30. The gross state income would increase by $3,000 per person, according to these figures, which is approximately a 5 per cent increase on current figures. In real terms, that brings a potential increase in employment of some 9,600 jobs by 2029-30. So I will say, to be fair, that I appreciate that these figures are not tested, but

we are quoting directly from the report, as that is the most comprehensive work that has been done in this area.

There are some unknowns, of course, in relation to hosting a spent nuclear fuel repository, such as storage options and the price and the volume risks. We accept that these are not absolutely determined at this time. However, these concerns can be appropriately managed, we believe, which, of course, would come through further investigation and consultation. That is why we are not saying that we should definitely proceed with this project, we are merely saying that we should keep the option open. In light of the potential state benefits, these unknown situations prove why leaving the option open for further public inquiry is so important.

The Australian Conservatives believe these figures are significant and the potential benefit to South Australia is too great to be ignored. We welcome leaving the act as it is currently drafted, and that is to leave the possibility of eschewing it at least open, as we believe further inquiry into the potential for a nuclear repository should occur in the future. As such, we will not be able to support this bill tonight. Again, I would like to stress our position: we are not saying that we should proceed with a nuclear waste repository in South Australia; we are merely saying we should leave the door open to further inquiry.

The Hon. K.L. VINCENT (20:19): I place on the record that I support the bill.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (20:20): This bill will reverse the changes made to the Nuclear Waste Storage Facility (Prohibition) Act in 2016, which will allow public moneys to be used for consultation on the merits of a nuclear waste storage facility in South Australia. Following the release of the Nuclear Fuel Cycle Royal Commission's report, the government embarked on the biggest consultation program ever undertaken in this state. There are valuable learnings to be taken from both the report and the community consultation process.

However, there is no pathway forward to pursue a nuclear waste storage and disposal facility, as bipartisan support was withdrawn by the opposition. The government will support this bill subject to an amendment that I will move and speak to during the committee stage.

The Hon. R.I. LUCAS (20:21): I rise on behalf of Liberal members to speak to the second reading. I wanted to speak after the Hon. Mr Malinauskas because we have only today seen the amendment that he has proposed on behalf of the government to the legislation. I have to say that our party room has not had an opportunity to debate or discuss the amendment that is going to be moved by the honourable minister on behalf of the government members.

As I outlined in an earlier debate today, there is a stark difference in South Australia that has just been confirmed by minister Malinauskas between the Labor government and the Liberal opposition in relation to a toxic nuclear waste dump in South Australia. As I said in that earlier contribution, Premier Weatherill has been the strongest advocate but, not too far behind him, minister Malinauskas, minister Hunter and minister Maher in this chamber have all been outspoken and public advocates for having a toxic nuclear waste dump here in South Australia.

That is not a future that I support or the Liberal Party supports. We will be campaigning on this issue between now and March next year. Minister Malinauskas, and I thank him for this, has just confirmed what Premier Weatherill has been saying; that is, the government still, the Labor Party still, have a view that we should have a toxic nuclear waste dump in South Australia. The only reason they are not proceeding with it is that there is a lack of 'bipartisan support', to quote the minister, for the proposal proceeding.

Minister Malinauskas's position, as he just outlined it, Premier Weatherill's position, is quite clear: if at any stage the Liberal Party in South Australia was to come on board with Premier Weatherill, minister Malinauskas, minister Hunter and minister Maher and support a toxic nuclear waste dump future for the state, then they will be off to the races. They will be wanting to proceed down that particular path.

Our position is starkly different. We just do not support a toxic nuclear waste dump future for South Australia. As I outlined earlier, we believe the fool's gold of the claimed economic and financial nirvana that Premier Weatherill and minister Malinauskas, minister Maher and others have been

trying to sell to the people of South Australia in relation to a toxic nuclear waste dump in South Australia has been exposed. The work of the select committee, the work of the Nuclear Economics Consulting Group that did detailed work for the committee, as I outlined earlier, has demonstrated that the numbers that the Premier and others have been using are indeed rubbery. Our position is that it does not make financial or economic sense to say that the future of South Australia should be a future with a toxic nuclear waste dump somewhere in South Australia.

As I indicated earlier, as the paired member in the electorate of Colton, where there are a large number of people who are environmentally conscious, we put to them Premier Weatherill and minister Malinauskas's position: 'Do you realise that they actually want a nuclear waste dump in South Australia? The only thing that is holding them back is that they cannot get bipartisan support.'

They do not say, 'We do not think this is a goer.' They do not say, 'We are not going to do it, whether or not there is support from the other party.' What they say is, 'We would like to do this, but the only reason we will not do it is because of a lack of bipartisan support.' I thank minister Malinauskas for nailing his colours again to the mast as a person who sees himself as a future mover and shaker within the Labor Party in South Australia; that he is, together with his Premier, a fearless and outspoken advocate for a toxic nuclear waste dump in South Australia as a future for South Australia.

Our vision for South Australia does not go down that particular path. We do not see a future for South Australia that is relying on the spruiking and political salesmanship of the financial and economic figures that have been put together to try to convince South Australians that there is some future in having a toxic nuclear waste dump in South Australia.

Our position is that we are quite happy to lock the doors in relation to a toxic nuclear waste dump. The minister did not really explain his amendment, but, to be fair to him, he said he would explain it in the committee stages. I read it very quickly and it appears to be to allow some limited future consultation with other jurisdictions, which I assume principally might be the federal jurisdiction, but the minister can explain that. It may well be that it relates to whatever cooperation needs to be done in relation to a federal low-level waste dump. As the citizens' forum, or whatever it was called, demonstrated—

An honourable member: Jury.

The Hon. R.I. LUCAS: —the citizens' jury, I should say, that the Premier conducted, most people in South Australia are really appalled at the prospect of South Australia having a toxic nuclear waste dump, taking every other country's nuclear waste, transporting it to South Australia and us being a garbage dump for nuclear waste in South Australia. But I think most people do accept that in most of our big hospitals we have very low-level nuclear waste—radioactive gloves and those sorts of things of a health and research nature—which are buried in basements, underneath stairwells, etc., in our big hospitals and some of our research institutions.

The Hon. J.S.L. Dawkins: Out at Roseworthy campus.

The Hon. R.I. LUCAS: Out at Roseworthy campus, my colleague says. We accept that there are a significant number of sites where that occurs in South Australia and it does make sense to sensibly dispose of that in one well-managed and secure location. There is no way of conducting a well-run hospital and a well-run research institution without having some low-level radioactive waste.

The concern we did have with the drafting of the Hon. Mr Parnell's proposal was whether or not it actually might, in essence, even prevent sensible discussion and work that might need to be done in cooperation with the federal government in that particular area. As I read the Minister for Health's amendment, it would appear that it is seeking to address that, and if it does that then that would make sense from our viewpoint.

I can only speak personally. I had a very quick conversation with the shadow minister, Dan van Holst Pellekaan. I hasten to say that our party room has not discussed the minister's amendment, but I suspect that there are good prospects for the minister's amendment getting up, and, if the minister's amendment gets up, therefore the bill getting up as well.

We will observe that. We will not be dividing and voting against the amendment if it is as we read it. It would seem to go closer to the position that the Liberal parliamentary party room outlined, and so we will stay politically agnostic in relation to it, but it does seem, on the surface, to make sense. If it is as I suspect the minister will outline, personally I will be comfortable with that but I cannot commit my party to it without, obviously, having had a party room discussion on it. We are prepared to support the second reading to see where this amendment goes, listen to the minister's argument on it and then see where the bill goes to the third reading.

The Hon. M.C. PARNELL (20:30): I would like to thank the Hon. Dennis Hood, the Hon. Kelly Vincent, the Hon. Rob Lucas and the Hon. Peter Malinauskas for their contributions. I am pleased that it is looking as if this bill will pass. I will address the government's proposed amendment briefly when we get to it in committee, but I will say, in relation to the Hon. Rob Lucas's contribution, that I think his understanding is pretty well right as to the effect of the amendment and what it is intended to do.

The honourable member referred to what was, I think, unfortunately a parallel debate about a very different type of nuclear waste facility. I say unfortunately because those of us who were involved with the high-level international used fuel nuclear waste debate often found that the people we were talking to were confused in relation to the parallel process of the federal government trying to find somewhere to put intermediate and low-level waste that is of domestic origin—and it was confusing for many people. I am glad that, having dumped the major dump, having dumped the international dump, there is now only really the one project that is on the book.

This bill does draw a line under the spending of money for the purposes of public consultation—some might say spruiking—of the international nuclear waste dump. We do not know the final figure. I have seen various guesses and it is probably at least $14 million but it is hard to tell; we do not have all the figures in. However, it was certainly well over $10 million and it could even be pushing $20 million. The Greens' view is that that is money down the drain.

We knew from day one, we knew from the day that the royal commission was announced, that this was all about the dump. It was always about it. The government tried valiantly to convince South Australians that it was the best thing since sliced bread and that it would be the salvation of the state economy and it would make us all fabulously wealthy beyond measure—and the public did not buy it. The joint committee did not buy it either and, as a result, the project is now dead in the water.

So, restoring the act to the position that it was in before 2016 makes a lot of sense, and it does give some comfort to the public who are worried that it might come back; that in the next term of parliament or the one after it might come back. Well, it might and, if it does, let it come back to parliament first. Let it come back to parliament and parliament can decide if this is a worthwhile use of public funds to again advocate for an international nuclear waste dump. I do not see it coming back at all in the near future or even the medium future. The dump is dead in the water. We are drawing a line under it in relation to public funding but certainly we do now have the prospect of a commonwealth-sponsored radioactive waste dump. It has different characteristics and there are also serious concerns about it.

The only thing I would say, again in response to the Hon. Rob Lucas, is that whilst all the talk is about the gloves and the masks in hospitals, there are two things that the member missed out on. Firstly, that is not the main game; the main game is processed used fuel rods from Lucas Heights—that is the main game. It is the intermediate-level waste currently stored at Lucas Heights. That is what this is really about.

Secondly, he said that it (and I am paraphrasing) makes sense to have a central repository for the medical waste. Well, I do not accept that, actually. The jury is not out. They have not actually done the work. What we know is that with most medical waste, the radioactive isotopes are short-lived. I mean, you do not want to be pumping things into people's bodies, for example, that are long-lived, They are short-lived radioactive isotopes. Most of the medical nuclear waste goes to the tip. It is stored for a short period and then it is taken to the tip. That is where most of it ends up.

The government has not made the case for a central repository; they have not made a case for the Flinders Ranges being the right location, or for Kimba. Certainly, I want to make sure the

government can participate fully in that debate, and I will have a bit more to say when we actually get to the government's amendment, but for now I am pleased that the bill looks like progressing through parliament tonight.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Health–1]—

Page 2, line 13—After 'subsection (2)' insert 'and substitute:'

(2) Subsection (1) does not prohibit the appropriation, expenditure or advancement to a person of public money for the purpose of financing the maintenance or sharing of information or to enable the State to engage with other jurisdictions.

The amendment replaces current section 13(2) and states that the ban in section 13(1) on public money being appropriated, expended or advanced will 'not prohibit the appropriation, expenditure or advancement to a person of public money for the purpose of financing the maintenance or sharing of information or to enable the State to engage with other jurisdictions'.

The amendment ensures that integrity of information is maintained over time and that records are accessible; that government is able to share information and be responsive to the community and stakeholders, including in other jurisdictions; that consideration is given to the diversity of perspectives within the community and their needs; and that public value will continue to be delivered from the nuclear fuel cycle royal commission and community consultation process and outcomes.

The Hon. M.C. PARNELL: I rise to say that the Greens will support the amendment. I just need to expand a little more on what the minister said, because at face value people could look at these words and think that these are tricky words and that these words could be a different way of saying 'public consultation', which is what was in the original provision that I am seeking to strike out, so we do need to explore those words a little bit.

The words are 'that public money for the purpose of financing the maintenance or sharing of information'. The way it was put to me by the Deputy Premier was similar to the terms in which the minister has just put it now, that there is information that has been collected over many years, it is stored, there is a requirement to make it accessible to the community under freedom of information and under various other mechanisms, and inevitably some money will need to be spent keeping that information, making it accessible, and that was the intent, as it was put to me, of the government's amendment.

The second part refers to enabling the state to engage with other jurisdictions. As the Hon. Rob Lucas said, the idea of a national intermediate and low-level nuclear waste dump is a matter that involves discussion between jurisdictions, and it would not make sense to say that, by virtue of South Australia's law, it is not possible for South Australia to engage in those conversations—of course you need to.

My hope is that the courage will return to the government that former Premier Mike Rann had, where his version of engaging with other jurisdictions on nuclear waste dumps was to take them to court and to rail in the community about how South Australia was not going to be the nation's nuclear waste dumping ground. That is a fine form of engagement, and it is a form of engagement I would hate to see banned by my bill, so this amendment does in fact allow for this engagement. I can see that you can interpret these words to say that the government could take a different position; I am happy to take the government at its word on this.

I have always said, from day one, that the nation's domestic nuclear waste is our responsibility—I have never shirked from that fact. That does not mean that a central repository is the answer, and it does not mean that the Flinders Ranges is the answer or that Kimba is the answer.

It just means that it is our responsibility and we need to work very hard to get the best outcome. It does not mean a central repository, but the state government will need to engage in that debate on behalf of South Australian citizens.

It seems to me that this form of words is fit for that purpose, but at the end of the day what this parliament is doing overall is ruling a line under the wasteful spending that has been conducted to date and making sure that the government cannot come back with a project like this international nuclear waste dump and spruik it to the community, in my view under the guise of consultation, without first coming back to parliament. We have drawn that line. This minor modification of the Greens' bill is for other purposes, and I am happy to accept the government at its word that that is what it needs these amendments for.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. M.C. PARNELL (20:41): I move:

That this bill be now read a third time.

Bill read a third time and passed.

GAMING MACHINES (PROHIBITION OF EFTPOS FACILITIES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 21 June 2017.)

The Hon. T.A. FRANKS (20:42): The Greens rise to support the bill put here by the Hon. John Darley. This is an issue of the prohibition of EFTPOS facilities in gaming rooms, which has been discussed at some length several times in several incarnations, once in a government bill and at least once in a private member's bill. The Greens agree that the precedent has been one that only South Australia has undertaken, that we have gone the wrong way on this and that stepping back is the appropriate measure to reduce gaming harm in this state.

The Hon. K.L. VINCENT (20:43): The Dignity Party also supports the Hon. Mr Darley's bill and we would like to thank him for the constructive work that he has done with us and other crossbenchers on this important issue of removing easy access to EFTPOS facilities in gambling venues. Supporting gambling is deficit policy. Gambling addiction, particularly poker machine gambling addiction, has destroyed the lives of many South Australians. Consistent with the Dignity Party's position not to support nor condone the Labor government and Liberal opposition's own addictions to gambling revenue, we will be supporting this sensible measure to remove easy access to EFTPOS facilities in gambling venues as one step forward to addressing the scourge of gambling in our community.

The Hon. R.I. LUCAS (20:44): I rise on behalf of Liberal members to indicate that we will not be supporting the bill. As the Hon. Ms Franks indicated, I think we have had two occasions in the last two years when this issue has been addressed. In 2015, the state Labor government actually introduced this amendment and did so, on my recollection—but I guess the Hon. Mr Hanson will have the detail, as he speaks on behalf of the government members—as a result of a review that was conducted by a committee that included people from the hotels and clubs industry but also representatives from the welfare sector.

The government's position in 2015 supporting this particular change was that that particular committee had recommended the change. I repeat: it was a committee that included, so we were told, hotel and club representatives and a representative from the welfare sector—that is, someone representing problems concerning problem gamblers.

We were told by the government, and the reason we supported it at the time, that that committee supported this change on the basis that there would at least be human interaction because

of an EFTPOS machine as opposed to an ATM and that trained staff within the gaming section of the venue were trained to recognise people who might be having problems with gambling. If someone kept coming back to an EFTPOS machine looking for more money, there was at least the chance that the trained staff person would recognise the potential problem gambler and initiate the protocols which they were required to do.

If the problem gambler leaves the venue, goes to the ATM just outside the door of the gaming part of the venue—so it could still be in the hotel—the government's argument to us was that there was no human interaction in that interaction with an ATM and, therefore, the government proposed the amendment. The Liberal Party supported it in 2015 as a result of the government-initiated legislative change. In 2016 I think the Hon. Mr Darley introduced a bill making a number of changes, one of which was this issue. The government members and Liberal members opposed that particular change at that particular time. Our position, given that the arguments remain the same in 2017 as they were in 2016 and 2015 in our viewpoint, is that for those reasons we will not be supporting the legislation.

The Hon. J.M. GAZZOLA (20:47): Probably as the most experienced member to speak on this, the bill proposes to amend the Gaming Machines Act 1992 to remove the ability for customers to obtain cash from EFTPOS facilities located within the gaming area of a licensed premises. Members may recall that the government embarked on an extensive gambling reform and administrative reduction agenda in 2013 and 2015 which attempted to reduce and avoid problematic gambling behaviour while not inadvertently lowering the enjoyment derived by most customers who play gaming machines responsibly.

As a result of that gambling reform, gaming venues have been able to provide EFTPOS facilities to customers in the gaming area of a licensed venue since 1 January 2016. Having EFTPOS facilities available in gaming areas means that customers wishing to obtain cash have face-to-face interaction with an employee who has benefitted from recognised training. This training is required under the Gaming Machines Act 1992 and addresses gaming operations; responsible gambling; problem gambling identification, including automated risk monitoring; and pre-commitment.

An advanced level of training is also undertaken by gaming managers and includes low-level intervention and referral to gambling help services. An EFTPOS facility located outside the gaming area is not necessarily operated by a person with recognised training nor are they in a position to observe behaviour in the gaming area. This could result in a situation where some problem gambling risk factors cannot be observed by those trained to identify and respond to them.

While having an EFTPOS facility in a gaming area may seem counterintuitive from a responsible gambling perspective, the government is of the view that having an EFTPOS facility in the gaming area which is operated by a person who has been trained and is able to observe the behaviour of customers in the gaming area will result in a better outcome. For these reasons, I ask that honourable members oppose this bill.

Second reading negatived.

Motions

JOINT COMMITTEE ON MATTERS RELATING TO ELDER ABUSE

Adjourned debate on motion of Hon. S.G. Wade:

1. That it be an instruction to the Joint Committee on Matters Relating to Elder Abuse in South Australia that its terms of reference be amended by leaving out at the end of paragraph (j) the word 'and' and paragraph (k) and inserting the following new paragraphs—

   '(k) occurrences of elder abuse at the Oakden Older Persons Mental Health Service;

   (l) the effectiveness and accountability of the management of the Oakden Older Persons Mental Health Service, including the management of Northern Adelaide Local Health Network, SA Health, parliamentary secretaries and ministers, in the prevention of and responding to elder abuse;

   (m) the effectiveness of the Principal Community Visitor, the Chief Psychiatrist, the Public Advocate, the Coroner's Court, the Mental Health Commissioner and the Health and Community Services Complaints Commissioner in highlighting and responding to issues

in relation to the Oakden Older Persons Mental Health Service and policy and practice of SA Health and the Northern Adelaide Local Health Network in responding to concerns raised;

(n) the policy, practice and training on the reporting of elder abuse in the Northern Adelaide Local Health Network and SA Health and its relationship to the Safety Learning System, reporting of possible criminal acts to police and protocols of alerts to the minister;

(o) the policy, practice, training and reporting of elder abuse and the effectiveness of responses to elder abuse in the Oakden Older Persons Mental Health Service; and

(p) any other related matter.'

2. That a message be sent to the House of Assembly transmitting the foregoing and requesting its concurrence thereto.

(Continued from 10 May 2017.)

The Hon. S.G. WADE (20:50): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

SAFEWORK SA, WORKPLACE FATALITIES

Adjourned debate on motion of Hon. T.A. Franks:

That the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation inquire into and report on SafeWork SA prosecutions into South Australian workplace fatalities since 2010, with particular reference to the death of Jorge Castillo-Riffo.

(Continued from 12 April 2017.)

The Hon. R.I. LUCAS (20:51): I am disappointed that the government is not going to speak on this particular issue. I was interested to hear what the government's position would be, given the various statements the Premier has made on the steps of Parliament House and in various other fora in relation this issue—

The Hon. T.A. Franks: Indeed.

The Hon. R.I. LUCAS: Indeed, and in various other fora. I notice that the Hon. Mr Ngo was listed to speak but is now not speaking so—

The Hon. D.W. Ridgway: No show.

The Hon. R.I. LUCAS: No show. Let me then address the motion that has been moved by the Hon. Tammy Franks. The details of a number of workplace fatalities have been highlighted not only by the Hon. Ms Franks but also by SafeWork SA and, indeed, by grieving and affected families of injured workers on a number of worksites in recent years. The Hon. Ms Franks' motion does refer to one particular fatality, but her motion refers to fatalities generally.

The CFMEU and others held a rally outside Parliament House in April 2017, and Premier Weatherill stated there would be a review into the failure of all these SafeWork SA prosecutions in the case of all the workers who had died in recent years in South Australian workplaces. There was a review conducted; SafeWork SA conducted its own review, and then there was some debate and argument about whether or not it would be released. Ultimately some recommendations were released, but I am sure the Hon. Ms Franks is in a position to inform the council as to whether or not the full report has ever been released. I have to say that I am not actually aware of that.

The report was explicit in noting that it looked at process issues, procedural issues, rather than reviewing the individual circumstances of particular cases. I do not believe that is the impression that people who attended the rally outside Parliament House had when the Premier indicated there would be a review. As I was not there, the Hon. Ms Franks and others are probably in a better position to know what impression the Premier gave to grieving families, the union representatives and others as to what the review would cover and whether that was different to what actually occurred in the end or not.

The review made a number of findings; we have been told there are 18 recommendations. Again, the government has indicated that there has been a steering group formed to oversee the implementation of those recommendations. This recommendation is that the standing committee of the parliament, which has purview of these particular areas, would have a look at this particular issue. The precise wording is:

> …that the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation inquire into a report on SafeWork SA prosecutions in South Australia…

So, the standing committee of the parliament that has responsibility in these particular areas would have a look at these particular issues. Our party room has discussed this issue, and we are not prepared to support the motion. In doing so, we indicate that we do not believe that it will be possible for a parliamentary committee to retry or rehear individual cases. Clearly, people who give evidence to the committee will be able to talk about individual cases within a summary or a report of how the process has either worked or failed, what the strengths or weaknesses of a particular process were, and where things might be improved.

Certainly, in supporting the motion, our Liberal members—and I am not sure what their current work commitments are, to be frank, but I know they have been doing a lot of work in a couple of particular areas they are about to report on—would be approaching it from the viewpoint of trying to see where the deficiencies (if there are deficiencies; let us go in with an open mind) were in the system and to get a fuller explanation as to why certain prosecutions did not proceed. Once the details are provided, there might be very good, strong legal arguments as to why sensible, competent people decided that there was little prospect of a successful prosecution.

We certainly take the view that every workplace injury or death is not only regrettable but much more than that: one needs to look at the lessons that might be learnt from what went wrong. If someone has been negligent, the full force of the law should be brought to bear. That is certainly our viewpoint, anyway. We go into it with an open mind that says that because a worker is injured it does not necessarily mean that somebody—an employer, in particular—has been deliberately negligent, or has constructed a set of circumstances, or has been indifferent to the working arrangements of individual workers on their worksite.

There might be very well-intentioned workers who have genuinely sought to do all they can, and you can have a genuine accident or, equally, you can have actions taken by individual workers that are contrary to the established workplace safety guidelines. All those options are possible. It is clearly possible that some employers are negligent and have not done what they should have done, but it is also possible that some workers might not have done what they should have done in terms of workplace safety procedures. In the middle, it is also possible that everyone has done the best job that they could have been expected to do, but that in the end there has been an accident—one of those one-in-a-million accidents—that ultimately no-one was going to be able to prevent.

That is our view as a party. We are open to the notion that whatever we can do to improve workplace safety is a good thing. No-one wants to see a worker injured or killed. No-one wants to see a grieving family lose a loved one. That is certainly the perspective that we bring to the debate, but we also bring to the debate the fact that there can be many reasons and explanations for workplace injuries and deaths.

We need to be open to accepting that it is possible that there are varying reasons for workplace injuries and, on occasions, varying either individuals or industry groups who might be culpable or responsible for a workplace injury or, even worse, a workplace death. I conclude on behalf of members by saying we will support the motion, but our members will approach any particular view, if it is successful—passed and referred to the committee—from the perspective that we are not going into it to retry or rehear particular individual cases.

We want to look at the processes that can be informed by the details of individual cases, that can be informed by what went wrong with individual cases, that can be informed by working out why, in the end, certain prosecutions did not proceed and getting a legal explanation as to why the view was that it would never be successful. I think if the committee can do some work down that path, we will all be better informed, and we can then all have a fresh look at whether or not procedures and guidelines need to be changed, practices need to be changed or individuals need to be changed

within the agency, or indeed whether workplace safety legislation needs to be changed, which is the responsibility of this parliament.

The Hon. J.E. HANSON (21:02): I support the motion that the parliamentary committee upon which I sit—the Occupational Safety, Rehabilitation and Compensation Committee—inquire into and report on SafeWork SA prosecutions into South Australian fatalities since 2010 with particular reference to the death of Jorge Castillo-Riffo. On 11 April 2017, the day before this motion was moved, the Premier announced, as the Hon. Mr Lucas has outlined, a coronial inquest into the death of Mr Castillo-Riffo and a review into the failure of prosecutions involving the death of workers.

A review into the investigation of prosecution arrangements within SafeWork SA for offences under the Work Health and Safety Act 2012 (SA) was conducted by a senior prosecutor from the Office of the Director of Public Prosecutions, and this was finalised in June 2017. The Coroner is to consider the matter of Mr Castillo-Riffo.

Prosecutions under the WHS Act are amongst the most complex types of prosecutions that can be brought. Notwithstanding the complexities, there is room for improvement in the current arrangements for the investigation and prosecution of offences against the WHS Act. The review made 18 recommendations for change, which are available on the SafeWork SA website. A steering committee chaired by SafeWork SA's executive director has been established to implement recommended changes.

While it may be viewed as duplicative of the parliamentary committee to now undertake an additional review, given the complexities in this area, the government is happy, and I am more than happy, to support this reference to the committee, as any constructive outcomes that contribute to improvement in this area are welcome. I look forward to bipartisan support for those recommendations.

The Hon. T.A. FRANKS (21:04): I would like to thank those speakers who have made a contribution this evening to this debate, and welcome the government's support for this referral, reminding them it is not just the case of Jorge Castillo-Riffo but indeed those fatalities that SafeWork has undertaken to investigate since 2010. The recommendations of the most recent review have not been released in totality. Indeed, only what you would call the executive summary is available to the public, much to the disgust of many who believe that they would be receiving far more information than has so far been released.

An InDaily article referred to this particular matter, referring to, as the Hon. Rob Lucas quite rightly notes, that time the Premier Jay Weatherill made an intervention on the steps of this parliament, back in April this year, with regard to the dispute between SafeWork SA and grieving families where he undertook to order a review of a string of failed prosecutions; indeed, the culmination of the petitions that were sent to the Premier that resulted in that particular April rally. After the rally, Pam Gurner-Hall, Jorge's window, wrote to those who had signed a petition, saying:

> Last Tuesday I stood on the steps of parliament and listened with tears in my eyes as the South Australian Premier joined our rally to announce:
>
> - A coroner's inquest into Jorge's death.
> - A review of SafeWork's failure to prosecute employers over workplace deaths.
> - A review of South Australia's OHS laws and their capacity to protect workers.

That was the understanding of both the petition and the rally of what the Premier had promised to do. As I say, that has not yet come to full fruition, but it does appear that much of the work has been done and it is simply bringing that work to the light of day so that it may be given that wonderful thing called transparency that will restore some trust in the processes in here.

With those few words, I thank those members who have supported and made a contribution and look forward to this referral bringing positive change into our work health and safety practices and indeed seeing far fewer deaths in the future in the state.

Motion carried.

Bills

CONSTITUTION (COUNCIL MEMBER CONTESTING ELECTION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 March 2017.)

The Hon. T.T. NGO (21:08): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

Motions

MOLINARA SOCIAL AND SPORTS CLUB

The Hon. J.S. LEE (21:08): I move:

That this council—

1. Acknowledges that 2017 marks the 45th anniversary celebration of the Molinara Social and Sports Club in South Australia;

2. Pays tribute to community leaders and volunteers of the club for their long-term commitment to support the Italian migrants' community residing in South Australia; and

3. Highlights the history, achievements and contributions of the Molinara Social and Sports Club.

Today is a great honour to move the motion standing in my name in parliament to congratulate the Molinara Cultural and Community Club, formerly known as the Molinara Social and Sports Club, on their 45th anniversary celebration this year. In speaking to this motion, I would like to firstly place on the record special acknowledgement of the current management committee of the Molinara club for their hard work and enormous contribution to South Australia.

The community-minded individuals currently on the committee are: President, John Baldino; Vice-President, Anziani Convener; Treasurer, John Girolamo; Secretary, Sonia Kuliwaba; Vice-Secretary, Sonia Romeo; committee members, Matthew Baldino, Nick Boffa, Donato Baldino and Tony Fazzini; kitchen manager, Nick Menechella; bar manager, Rob Baldino; and building and assets manager, Joe Menechella.

I have found the President of the Molinara club, John Baldino, to be a true gentleman, with great passion for his community. John and his family and all the committee members are very proud of their Italian heritage and have worked diligently with others to build a strong foundation for the Molinara club. John has been exceptionally helpful in providing my office with substantial details about the club and the history of the Molinarese migration to Australia. I wish to thank John for his generous assistance to gather useful and important materials for this motion.

The Molinara club has been run solely with volunteers since its establishment. Current and past committee members all work as volunteers. They are all wonderful custodians of the club. Day to day, year to year, these volunteers ensure all matters are handled to their best ability and always act in the best interests of the community. All of them deserve to be congratulated on their fantastic contributions and today being recognised in the Parliament of South Australia.

During one of my visits to the Molinara club, I was fortunate to be presented with a book that outlined the history and journey of the members of the Molinara club. The book captured the history of a southern Italian community in South Australia, from 1927 to 2007. The book is edited by Don Longo, with the title *Terra lasci, terra trovi: from Molinara to Adelaide*. I would like to quote a statement published on the back of the book because those words, I believe, will set the scene for this motion. The statements I am about to read out capture the emotions and feelings immigrants experienced when they left Molinara. I quote:

> To leave a country is a hard decision, especially when it is forced by economic necessity. To find a new country can also be difficult; it requires not only adopting the new land, but adapting to it. The people from Molinara who came to Adelaide have managed that transition, enriching their new land while preserving their traditional customs.

Like many post World War II migrants, many Molinaresi migrated to Australia to seek better economic stability for their families and to find a location which offered a sense of safety, especially after the 1962 earthquake that devastated the town.

The first Molinaresi to migrate to Australia was Rocco Luigi Cirocco. He arrived in August 1927. Then in 1948, the first group of Molinaresi arrived in Adelaide to find jobs, establish new homes and adapt to a new way of life in South Australia. As we have heard over and over again, similar stories are found in other migrant communities. People have a strong and natural tendency to gravitate towards people from the same home town.

There was a strong desire and need to connect with the larger Molinaresi community beyond occasions like weddings and the annual Feast Day of St Rocco, therefore the community wanted to focus on developing programs that could continue to highlight and educate children about the traditions, values and customs of Molinara.

The founding of the Molinara organisation was unique. It was the first organisation to be formed by immigrants from one village community of southern Italy. The objective behind the foundation of the organisation was to ensure the traditions and customs of their native homeland were maintained. In a sense, the founding committee wanted to recreate in South Australia the village life that they had left behind in Italy.

The Molinaresi have a reputation of being people of action, rather than words. They have worked hard to build comfortable lives for themselves and to build their community in South Australia. As I get to know the community better and better, I certainly recognise these wonderful qualities and I can readily see the type of community services that they deliver.

With the success of the Molinara Social and Sports Club amongst its members, the club was finally able to achieve their dream and vision and establish their own clubrooms. On 2 July 1973, the club purchased a property at Windsor Gardens where the clubrooms now stand. The club finally had a home.

Recently, the clubrooms went through a large renovation, upgrading the facilities in order to maintain the atmosphere and presence of the Molinara community in the north-eastern suburbs of Adelaide. The upgrading of the club makes it a truly marvellous club with modern facilities, giving it a lovely atmosphere which is appreciated by the entire South Australian community.

There have been nine past presidents in the last 45 years. I would like to express my sincere gratitude for these nine past presidents. The first president of the club was Joseph Baldino, who was elected in 1971 as founding president. Since then, there have been nine other past presidents providing valuable leadership: Joe Emanuele 1973-74; Rocco Galluccio 1974-75; Nicola Cirocco 1975-77, and then continued from 1980 to 1983 and then came back again from 1993 to 1996; Donato Callisto served as president from 1977 to 1980 and then came back again as president from 1984 to 1986; Mario Spagnoletti from 1986 to 1988; Donato Cirocco from 1988 to 1990; Bill Cirocco 1996 to 1998; and John Girolamo from 1998 to 2015. John Girolamo has been the longest serving president and he has done it for 17 years. Congratulations to everybody for their distinguished service to the club.

Since its inception the club has been committed to giving back to the community. Earlier this year, I attended the Italian Earthquake Appeal fundraising dinner with the wonderful member for Morialta Mr John Gardner in the other place and Senator Anne Ruston. The hardworking Liberal candidate for Torrens Therese Kenny was there also to support and help the communities in Italy to rebuild after the earthquake.

Working in conjunction with a children's charity group, I recently hosted a fundraising dinner with Pulse Promotions to support the talented youth group the Beat Breakers from the Pure Funk Dance Studio. It was a pleasure to support these 12 energetic students from diverse cultural backgrounds. I am very proud of their achievements. They currently hold the title as back-to-back state youth champions in hip-hop dance competitions. The Molinara club played an integral role in assisting with the fundraising dinner for the children's dance group and I wish to acknowledge the president and everyone at the Molinara club for making the event a great success.

The Molinara club has always been an active participant in the community. It has participated in parades, food stalls and exhibitions at various Italian festivals held in Adelaide. In particular, they always have a strong presence at the Adelaide Italian Festival, the Carnevale. They have been involved with the Italian festivals since 1976.

Within the Molinara club a number of members actually reached milestone birthdays. They are very blessed. Many of these good people celebrated their 100 year birthdays. This includes Lucia Baldino, the first Molinarese born to actually reach 100 years of age in Australia, on 2 March 1994; Di Incoronata Callisto also reached her 100 year birthday on 30 April 2005; Francesco Saverio Cirocco achieved her 100 year birthday on 13 September 2004; Maria Baldino also had her 100 year birthday on 7 October 2010; and Cosimo Cirocco had a 100 year birthday on 13 February 2016.

So, I hope that this longevity will carry through throughout the Molinara club. In closing, it is a great honour to move this motion to acknowledge that 2017 marks the 45th anniversary of the celebration of the Molinara club in South Australia. I am delighted to have this opportunity to pay tribute to community leaders and volunteers of the club for their long-term commitment to support the Italian migrants' community residing in South Australia, and I thank them for their contribution socially and economically in making South Australia a wonderful multicultural state. I commend the motion to the council.

Debate adjourned on motion of Hon. J.E. Hanson.

FILIPINO SETTLEMENT COORDINATING COUNCIL OF SOUTH AUSTRALIA

The Hon. J.S. LEE (21:22): I move:

That this council—

1. Congratulates the Filipino Settlement Coordinating Council of South Australia (FSCCSA) on their work and contribution to the Filipino community of South Australia;

2. Pays tribute to the achievements made by the various Filipino community associations and community leaders based in South Australia; and

3. Acknowledges 120 years of Filipino settlement in Australia and the 70th anniversary of diplomatic relations between Australia and the Philippines.

It is a great honour to rise today to move private members' motion No. 55 standing in my name, to acknowledge 120 years of Filipino settlement in Australia, and to congratulate the Filipino Settlement Coordinating Council of South Australia, and many other Filipino community organisations for their contributions to South Australia.

The Philippines is one of Australia's longest standing bilateral relationships. We have shared interests and values, supported by strong people-to-people links. The number of Filipinos living in Australia is fast approaching 300,000, with the Philippines the fourth largest source of migrants in Australia. At the 2016 census data, just less than 13,000 people born in the Philippines are living in South Australia, with 15,890 South Australians reported to have Filipino ancestry.

There are also over 10,000 Filipino students enrolled in Australian universities and vocational institutions. Australia and the Philippines marks 70 years of bilateral relations in 2016. Formal relations commenced with the opening of Australia's first Consulate-General office in Manila in May 1946.

Australia and the Philippines have a long history of bilateral collaboration. Australia, as a long-standing friend and neighbour of the Philippines, will continue to be a committed partner in the pursuit of sustainable development in the Philippines.

South Australia's Filipinos are strong contributors to our society, and this will continue to grow as more and more Filipino migrants look towards South Australia as their new home. South Australia has a strong representation of the Filipino community, and the state has benefited greatly from the contribution made by the Filipino community in the development of our state.

As the shadow parliamentary secretary for multicultural affairs, I have been very fortunate to have the opportunity to work with the community closely, and I treasure the warm friendships I have with many wonderful community leaders and members. One of those special friendships I have is

with Aida Garcia. Aida is a very hardworking and prominent Filipino community leader. Aida Garcia was a founding member and inaugural chair of the Filipino Settlement Coordinating Council of SA and national president of the Filipino Communities Council of Australia, which is the peak umbrella organisation of all Filipino communities in Australia.

Aida has been, and continues to be, a strong advocate for the Filipino community. A practising lawyer and a registered migration agent, with her remarkable community contribution and work, Aida was awarded as one of the top 100 most influential Filipino women in the world by the Filipina Women's Network in 2014. This prestigious award recognises Filipino women who are influencing the face of leadership in the global workplace, and those of you who have had the pleasure of working with Aida will agree with me that Aida is a capable, energetic leader with great compassion for her community.

Aida's passion and commitment to the Filipino community in South Australia led her to be the founding chair of the Filipino Settlement Coordinating Council of South Australia, which is known as the state peak body by the Filipino Communities Council of Australia representing all Filipino organisations in South Australia. The establishment of the Settlement Coordinating Council occurred in 2003. Aida was elected as the founding chairperson and served in that position from 2003 to 2007. Other presidents who came forward to take on the leadership roles include: Joe Borlagdan, 2007 to 2009; Vickey Davey, 2009 to 2012; Maylin Superio, 2012 to 2013; Ben Hur Winter, 2013 to 2015; and the current president, Cynthia Caird, 2015 to 2017. Cynthia has been successfully re-elected for 2017 to 2019.

Since 2003, the coordinating council has developed a strong connection with all Filipino organisations in South Australia, with the ambition to focus on advancing and assisting the community. The coordinating council supports a total of 27 Filipino membership organisations in the metropolitan and regional areas of South Australia. These 27 Filipino organisations are the heart and soul of the Filipino community, and each organisation represents a focus on different services and issues that are required within that community. These include a number of social and welfare associations, schools, sporting groups and radio programs, as well as cultural organisations.

For instance, the Timpuyog Dagiti Ilocano of SA celebrated their 23rd anniversary this year and the colourful Sampaguita Dance Group, which has always been a part of every major Filipino festival and major event, celebrated their 20th anniversary this year. Each Filipino organisation provides a unique service, and I wish to thank each and every association for their representation and commitment to serve the Filipino community locally and disadvantaged communities back in the Philippines.

For example, in 2013, the Philippines were devastated by Typhoon Yolanda, and the coordinating council, working with the Filipino Communities Council of Australia, put together the South Australian Philippines Typhoon Appeal and other fundraisers to assist with the ongoing relief and recovery missions for affected communities in the Philippines.

The Filipino community is a very active and vibrant community that enriches the multicultural landscape of South Australia. In addition to many other events throughout the year, the Hon. Michelle Lensink and I have had the pleasure of attending Philippines Independence Day in the past, and in recent times the Philippines Fiesta has become a very popular festival and a great showcase for Filipino culture and traditions for all to enjoy. I would like to congratulate Cynthia Caird, the fiesta director, and her team for their outstanding organisation of the festival.

Last year, my parliamentary colleagues the member for Morialta (John Gardner MP) and member for Adelaide (Rachel Sanderson MP), both very hardworking members for their constituencies, and I attended the Philippines Fiesta in Victoria Square. It was packed with traditional Filipino dance performances as well as modern hip-hop dance by various groups, including children from diverse backgrounds. As a proud grandmother, one of my granddaughters performed in the dance that day. They did exceptionally well. I am looking forward to enjoying the festivities once again this year on this coming Saturday.

The success and longevity of the Filipino Settlement Coordinating Council of South Australia would not have achieved its success without a hardworking and outstanding committee. I would like to acknowledge and congratulate past and present presidents and committee members on their

wonderful contributions. As a not-for-profit organisation that assists members with settlement, welfare and integration of Filipino individuals, families and new arrivals to South Australia, they are doing a marvellous job.

The current committee members I would like to place on the record are: Cynthia Caird, President/Chairperson; Ben-Hur Winter, Deputy Chairperson; Letty De La Cerna, Secretary; Marilyn Lynn, Assistant Secretary; Carlota Mendoza, Treasurer; Gerry Mendoza, Assistant Treasurer; Cynthia Vallejo, Business Manager; Cholly Winter, Press Relations Officer; Aida Garcia, Founding Chair/Adviser; Joe Borlagdan, Adviser; and Joy Goodridge, Auditor.

As a peak organisation supported by a wide network, the council strives to advance the social, economic and cultural life of the community through multiculturalism and social harmony. Through the hard work and dedication of committee members and volunteers, they deliver much-needed services and programs for the Filipino community in South Australia. I place my sincere thanks on the public record for these individuals and their families.

An organisation like this is really a big home to the community. Members become friends and over a period of time they become extended family members. The community share their highs and lows and their migrant stories here in South Australia which tie them together. They look towards each for love and support, and during sad times members offer a shoulder to cry on or a blanket of comfort by the whole community.

This support and love was fully displayed several months ago when Antonette McColl, one of the well-known community members of the Filipino community, lost her 12-year-old son, Scott, in a tragic house fire in Netherby. Antonette's husband, Donald, tried desperately to save their son but lost the battle because the fire was too ferocious. The Filipino community came together to offer assistance, prayers, support and comfort to the devastated McColl family. Scott will always be remembered by his family and everyone as a beautiful boy with great affection. Rest in peace, Scott. We will always hold the McColl family in our kind thoughts and prayers.

The sharing of sorrows, the community spirit and friendship extended to members of the community during difficult times demonstrated the strength of the Filipino community. The contributions made by Filipino migrants to South Australia is significant, not only from a social and cultural point of view but also economically. The economic contribution of the Filipino community comes from all walks of life and across different professions.

There are many achievers out there and I want to use this opportunity to highlight two individuals of Filipino heritage who have been identified as business leaders in South Australia. Many honourable members may already be familiar with the achievements of Mr Rudy Gomez. Mr Gomez is a Filipino-born mining magnate living in South Australia. He came over from the Philippines in the 1950s via the Colombo Plan.

In 2005, Rudy discovered the Carrapateena copper mine located in South Australia's Far North region. He significantly changed South Australia's mining sector, and sold the Carrapateena mine to OZ Minerals in 2011. As a successful business leader Rudy has strived to better the Filipino community through his ongoing support and commitment, and he has been a great role model.

The other business leader I would like to highlight is my dear friend Carmen Garcia, the proud daughter of Aida Garcia. Carmen is a highly skilled, multilingual and successful young mother of two. She was the former CEO of Multicultural Youth SA, and stood as a proud Liberal candidate for the federal seat of Adelaide. She currently runs an Australia-wide consultancy business and is committed to building and supporting the not-for-profit sector.

Her work in the community has been recognised with several community service awards, including the South Australian Young Achiever Award for Community Service in 2004 as well as Governor's Multicultural Awards. She was the 2014 South Australian Filipino Achiever of the Year and, more recently, Carmen was awarded the Telstra SA Business Women's Award in the category of Purpose and Social Enterprise in October this year. I would like to convey my heartfelt congratulations to Carmen Garcia and wish her all the best in her endeavours.

As honourable members can see, the South Australian Filipino community is an influential and community-minded group that makes a great contribution to South Australia. In closing I would

like to congratulate the Filipino community and acknowledge the 120 years of Filipino settlement in Australia, as well as the 70th anniversary of diplomatic relations between Australia and the Philippines. I commend this motion to the chamber.

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

NATIONAL DISABILITY AWARDS

Adjourned debate on motion of Hon. K.L. Vincent:

That this council notes the work of Peter Wilson and the Determined2 team, and—

1. Acknowledges the benefits of the Immersion Therapy Program developed and delivered in South Australia;

2. Congratulates Peter Wilson on being the joint winner of the Excellence in Inclusive Service Delivery Award at the 10th National Disability Awards.

(Continued from 1 March 2017.)

The Hon. J.M.A. LENSINK (21:37): I would like to support this motion from the Hon. Kelly (aka Superfish) Vincent commending Mr Peter Wilson and his immersion therapy program, known as Determined2, his team of staff and his family for this particular program. I would also like to add my comments to the many accolades he is receiving for his program.

I guess it is very hard to upstage the Hon. Ms Vincent in her contribution. She has actually been a participant in that particular program, and I think the first I became aware of that was when I saw some of her pictures on social media where she was wearing a scuba diving mask underwater. I thought it looked as though she was having a bit of fun, and clearly she was.

When I became the shadow minister for human services my predecessor in this portfolio looking after disabilities on behalf of the Liberal Party, Dr Duncan McFetridge, advised me that Mr Wilson was someone I should talk to for the innovative work he was doing.

He has a very interesting history; he has quite remarkable life experience in terms of having been very seriously injured at work in 2007, with a very significant impairment of some 47 per cent total body impairment. He had a very difficult time and attempted a return to work and also attempted a business venture, and those things, sadly, were not to come to pass.

Because of changes to the legislation for injured workers in 2015, he was able to put his dream into action and combine several things that he loved to start a new program to benefit people with disabilities, in many cases some people who have very profound disabilities. He had a lot of support from his case workers and case managers in his injured situation. He also obtained some support from a specialist at the Royal Adelaide Hospital, Dr Wilkinson, who has been very supportive of what he is doing and has enabled him to develop world-first medical standards under his guidelines as the director of hyperbaric medicine at the Royal Adelaide Hospital.

In 2015, Determined2 was born with a pilot period of different individuals with varying levels of disability to trial the program and receive medical clearances in ways that they would not have otherwise done before. I had assumed when I first met him and had seen the pictures that it was a form of hydrotherapy, given my background, but, as the Hon. Ms Vincent said in her contribution very eloquently: it is not just part of the cure culture. It is more than therapy because it is actually about people having fun.

In the context of the NDIS and where I think the thinking on services and programs for people with disabilities is, that is a really important initiative in terms of it not being all about those sorts of boring things where the therapist designs a program of weights and those sorts of things. It is called immersion therapy. As the Hon. Ms Vincent said in her contribution, it is not a diving program—they do not teach diving—but people are enabled to move freely underwater because they have the scuba equipment and the staff who work with them engaging in much more playful kind of activities.

Some people with some very profound disabilities are able to move underwater in ways that they would not be able to on dry land. That has certainly contributed to significant improvements in physicality and functionality for a number of the participants. Given the late hour, I would direct people, if they are interested in more information, to a range of fantastic testimonials on the

Determined2 website. The team are very active on social media and their program has been expanded. It is often at the Adelaide Aquatic Centre, but it also operates out of the Hampstead centre and the Thebarton Aquatic Centre and is doing more and more work at Port Lincoln. With those brief words, I commend this motion to the house.

The Hon. K.L. VINCENT (21:43): I would like to thank all contributors to the debate, particularly the Hon. Ms Lensink. I know she has developed a good working relationship with Peter Wilson over time and is as passionate as I am about promoting and defending this important service. Given the hour and also the fact that I spoke at length about the importance of motion therapy and the achievements of Determined2 in introducing this motion, I do not intend to go over it again, except to say that this is the kind of innovation that we need in this state.

I think, as the Hon. Ms Lensink argued with the rollout of the NDIS, this is the direction in which therapeutic support services really need to head. I am very pleased that we are leading the way in that in South Australia with the motion therapy program. I am also pleased to inform the chamber that, since I spoke to introduce this motion, just a few days ago on 23 October, Peter Wilson, on behalf of Determined2, put out a media release stating that Determined2 has just been announced as a finalist in the South Australian Community Achievement Awards.

This program really is going from strength to strength, so anything we can do in this parliament to recognise and promote that so that this great South Australian initiative and innovation can continue to grow is welcomed by me. My thanks to Mr Wilson, his wife Amy Wilson, and all the staff and members of Determined2 for their participation and hard work. I commend the motion to the chamber.

Motion carried.

Bills

STATUTES AMENDMENT (PUBLIC SECTOR AUDIT) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 9 March 2016.)

The Hon. J.A. DARLEY (21:46): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

Parliamentary Committees

JOINT COMMITTEE ON MATTERS RELATING TO ELDER ABUSE

Private Members Business, Order of the Day, No. 121: consideration of message No. 222 from the House of Assembly.

The Hon. J.M.A. LENSINK (21:47): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

Bills

BUDGET MEASURES BILL 2017

Committee Stage

In committee (resumed on motion).

Clause 2.

The Hon. K.J. MAHER: I might use this opportunity to get on the record a couple of questions that we were left with after we started the committee stage this morning. The Hon. Rob Lucas had questions about when the commonwealth act came into operation and particularly,

effectively, the head of power for the collection of the first two quarters at the end of that second-quarter period. I am advised that the commonwealth's Major Bank Levy Act 2017 received assent on 23 June 2017 with commencement on the following day.

Section 4(1) of that act states that the levy is imposed on an authorised deposit taking institution for a quarter starting on or after 1 July 2017. In terms of the specific question about the ability for those first two quarters to be collected at the end of that second quarter, I am advised that, pursuant to an extract from the explanatory memorandum to the major bank levy circulated by Treasurer Scott Morrison, section 1.52 states:

> However, as a transitional rule, in relation to the major bank levy that an ADI [Authorised Deposit-taking Institution] is liable to pay for the quarter ending on 30 September 2017, the due date for payment will be deferred by a quarter. [Treasury Laws Amendment Bill, Schedule 1, sub-item 23(2)]

The Hon. R.I. LUCAS: I thank the minister for that explanation. That explains the delay of the first quarter of the Commonwealth Bank levy to be collected at the end of the second quarter period. Whereabouts therefore in this legislation, in the state act, does it in essence say, 'Okay, that was in the explanatory memorandum and we will do the same thing here for the collection of the state bank tax levy'?

The Hon. K.J. MAHER: My advice is that that could be taken from clause 8—Payment of levy:

> State major bank levy for a quarter of a financial year is payable to the Commissioner on or before the day on which Commonwealth major bank levy for that quarter is due and payable under the Commonwealth law.

The Hon. R.I. LUCAS: I move:

Amendment No 1 [Lucas–1]—

Page 4, lines 4 to 22 [clause 2(2) to (6) inclusive]—Delete subclauses (2) to (6) inclusive and substitute:

(2) Schedule 1 Part 3 clause 14 will be taken to have come into operation on 1 July 2016.

(3) The following provisions will be taken to have come into operation on 22 June 2017:

- (a) Schedule 1 Part 1 (other than clause 11 which comes into operation in accordance with subsection (1));
- (b) Schedule 1 Part 2;
- (c) Schedule 1 Part 5.

(4) The following provisions will be taken to have come into operation on 1 July 2017:

- (a) Schedule 1 Part 3 (other than clause 14 which comes into operation in accordance with subsection (2));
- (b) Schedule 1 Part 6.

(5) The following provisions will come into operation on a day to be fixed by proclamation:

- (a) Schedule 1 Part 4;
- (b) Schedule 1 Part 8.

We now approach the substance of the debate in relation to the Budget Measures Bill. I suggest at the outset, I am not sure whether the Leader of the Government on behalf of the government members agreed with the process issue or not, but I have a series of two pages of amendments drafted by parliamentary counsel on file, seven individual amendments. My advice from parliamentary counsel is that they are a package.

My proposition is that we have a test case debate vote on the first amendment. If that is successful, then I would propose to treat the remaining six amendments as, in essence, consequential. Certainly from my viewpoint I would not want to re-enact the debate in relation to the first test debate.

The Hon. K.J. MAHER: I can suggest that we are almost in the agreement and will meet the honourable member halfway. There will be some debate over this first amendment obviously. We will obviously be voting no as a government. Depending which way the vote will go, I foreshadow that, whichever way it goes, I expect there will be a division on that.

What we would propose to do, I think there are another six or seven amendments after that. Depending on the way that vote goes, we will not call a division on each of those, but we will quickly move through those without further debate and just vote on the voices, following the will of the house on that. We agree to the extent that we treat it as a test clause for the rest, but rather than move them all as a whole package, if we move them individually and allow the voices to accept what the initial division has shown us.

The Hon. R.I. LUCAS: I think that is essentially agreement between the government and the opposition anyway as to a sensible process for managing this particular debate.

In moving this particular amendment, it is one of a package, but I intend to debate the arguments for and against the bank tax. The substantive provisions are actually in later amendments. This is in essence a consequential amendment, but it actually comes first. But we will have the substantive debate here and certainly from our viewpoint we will not re-enact the debate on the subsequent amendments.

I do not propose to speak at length in moving this particular amendment. I will briefly summarise the Liberal Party's position. I have outlined at some length at the second reading our arguments for the removal of the bank tax from this particular Budget Measures Bill and the reasons why we will be voting against it. I will summarise our position in two parts. The first part is that we think the bank tax is bad for South Australia, it is bad for the South Australian economy, it is bad for South Australian jobs, it is bad for South Australian investment, and we can see no redeeming feature for it at all.

Also, in relation to that, we just do not accept the argument of the Treasurer and the government that South Australian families and businesses will not pay for the imposition of a bank tax in South Australia. When we get to clause 13 later on I have some specific questions in relation to that because that is the particular provision where the Treasurer said, 'Don't worry; we have a clause in there that says that the levy shall not be paid by customers.' Well, excuse me for not bursting my sides laughing at that particular provision.

The brutal reality for anyone who understands the operations of financial institutions is that if a $100 million tax is whacked on the financial institution in one form or another, someone else is going to end up paying in one way or another. The Hon. Robert Brokenshire highlighted issues in relation to investments, superannuation and shareholders, etc. I will not repeat the arguments he put on the public record.

If one looks at things like line fees for businesses: anyone who understands how banks operate—for example, over recent years, given the acknowledged greater business profile risk in the Whyalla community up until the recent decisions—for a business in an economic environment like the Whyalla community and an equivalent business in a community like Adelaide, the banks were making different judgements in relation to line fees for businesses operating in those particular areas. There was a greater degree of risk from the business viewpoint of the bank or the financial institution in relation to businesses operating in that particular area.

These are not headline fees or charges which are promoted on television; they are individual commercial decisions made by bankers in relation to businesses and how they operate. There are various other decisions. Anyone who has been involved in a business and has had to borrow money from a bank and negotiate with a bank will know that it is not just line fees, it is, in essence, the security and a whole range of other issues that businesses have to argue about in terms.

If you are in a humming economy and things are doing really well, there are different commercial judgements the banks will make with you as opposed to if you are in a community where it looks like the whole world is going to fall in, potentially, over the next couple of years, then different commercial judgements are made. There are all those sorts of decisions that are taken. In relation to mortgages, for example, there is the headline variable rate which is advertised by banks in relation to mortgages.

I do not know what the numbers are but reasonable numbers of customers get percentage reductions off the standard rate. You go along to your bank and the bank says, 'You have been a fabulous customer of ours. We will take half a per cent off the usual rate in terms of the home

mortgage', or whatever it is. That is an individual commercial decision that banks take on a regular basis: the advertised rate is this but the actual rate is being offered to who knows how many customers. There is nothing that can occur which will basically say, 'Okay, you were offering those sorts of discounts at this level prior to the imposition of the bank tax, and afterwards that has changed completely to, "We are not going to offer those same level of discounts."'

So, the cheek, or maybe the lack of understanding and the incompetence of the Treasurer, who actually thinks that by passing a proposed two-line provision in this that, magically, there will be no increase in costs for South Australian families or businesses or anyone else in South Australia, is, frankly, laughable in relation to this. The bottom line is that the bank tax will slug families and businesses in South Australia.

The second issue, in summary, relates to the extraordinary and untrue claims that have been made by the Treasurer, the Leader of the Government and the others that, in some way, what the Liberal Party is proposing here is unprecedented, never occurred before or since 1857, etc. As I highlighted in my lengthy second reading contribution, the hypocrisy of the Treasurer and the Labor Party knows no bounds.

In 1996, in this chamber, the Labor Party in opposition moved amendments to a money bill on gaming machines, which forced the then Liberal government to spend millions of dollars in particular funds out of gaming machine collections—a suggested amendment, which is what this is, moved to a money bill in the Legislative Council—and the government of the day accepted that the only way they were going to be able to get through their increase in gaming machine taxation was to negotiate a deal with the minor parties and with the Labor opposition. That amendment was moved by Labor members in this chamber to a money bill.

Last year, in 2016, the same bill, the Budget Measures Bill, the Leader of the Government himself moved amendments to the Budget Measures Bill. In 2015 the Labor Party in this chamber moved amendments to the Budget Measures Bill. Some of them were suggested amendments; some were just straight-forward amendments, but they were, nevertheless, amendments to the budget measures bills, moved by the Labor Party themselves.

As I highlighted, they did it in 2010; they did it in 2003; so the hypocrisy of the Treasurer, the hypocrisy of government ministers and others to say, 'Shock, horror, this is unprecedented, it's never been done before': their own leader in this chamber moved amendments last year to the same bill. They moved amendments the year before to the same bill. In 2010, they moved amendments to the bill. In 2003, they moved amendments to the bill, and they were just amendments that they moved.

As I highlighted in the second reading contribution, on a number of occasions amendments were moved by Liberal members and minor party and Independent members to the budget measures bills. The biosecurity levy was removed; police and court cost provisions were removed. In a number of cases and examples in this chamber, members, who have been sitting here for periods up to 16 years, would have seen for themselves that the budget measures bills have been amended by opposition members, by Independent or minor party members but, more particularly, by Labor Party government members themselves moving suggested amendments to money bills, budget bills, clauses in the budget measures bills, which had to be done by way of suggested amendments, and went down to the House of Assembly.

The rank hypocrisy of the Treasurer and the Leader of the Government in relation to these issues, as I said, knows no bounds. I do not have a problem with them saying, 'Look, we don't think you should do this,' and all those sorts of things, but don't run this line that we have never done it, don't run this line that it's never happened before.

You can argue the toss if you like that it shouldn't happen, it shouldn't be done, or whatever it is, but don't argue the toss that it has never been done before and that, 'We, the Labor Party, have never done it, we come to this debate as saints, and we come to this debate as never having soiled our hands in relation to a budget measures bill,' when, as I said, in 1996 they stood in this chamber, they amended a money bill from opposition against the Liberal government, they forced the Liberal government, with the support of minor parties and others to say, 'If you want this money bill through on gaming machine taxes, you're going to have to spend more of that money you collect in these particular areas.'

Worthy areas, I am sure: sport and recreation, charitable and social welfare, and community development funds, which had been established. I am not arguing about that. The government of the day had suggested a certain sum of money, but the Labor Party said, 'No, we are not prepared to accept it. If you want this through, you are going to have to amend it. You are going to have to put more millions into each of these particular funds.'

The government of the day had to negotiate its position and accept the reality that there are two chambers in this democracy; there is a Legislative Council. There is a situation where the government of the day, for the last 30 years or so, has never controlled the Legislative Council, and you get on with the reality of life rather than bellyaching about it, just because, as I said, the Treasurer of the day jumps up and down and says, 'You're going to pass this bill on Tuesday, because we say you will.'

One of these days the Treasurer of the state might recognise (or learn to count) that he has seven members in this chamber and there are actually 14 non-Labor members in this chamber. It does not matter what he says in terms of, 'You will do this on this particular day by this particular time,' that is not the way it is done or the way it is going to be conducted.

The reality is, again contrary to the claims that the Treasurer has been making, that all the Liberal Party is asking and seeking the support of the Legislative Council for is to vote against, by the mechanism of suggested amendments, the bank tax. We will be voting for the payroll tax concessions. We will be voting for all of the concessions (about three separate areas of concessions) for off-the-plan apartments and we are not going to be opposing the foreign investor tax provisions that have been incorporated into the legislation.

It is our proposition that we will pass the Budget Measures Bill. We are not going to block the bill in this chamber. We will pass the Budget Measures Bill, but we will have voted against the bank tax by way of suggested amendments and we will send the bill down by tomorrow to the House of Assembly to say to them, exactly as this chamber did in relation to the car park tax, exactly as the Leader of the Government did last year when he moved amendments in this chamber to the bill to say, 'We have amended this bill and we want you in the House of Assembly to take a mature response and to accept the amendments that the Legislative Council has made to the bill.'

We are doing no more, no less, than the government did last year and the year before and the Labor opposition did in 1996 in relation to a money bill. For those reasons, we strongly urge members in this chamber to support this particular amendment as the test amendment to vote against the bank tax as a measure to start the economic recovery for the state by stopping the imposition of a very bad tax on the people of South Australia.

The Hon. K.J. MAHER: The government is opposed to these amendments. I mentioned this before, but let's be very clear about what we are considering here tonight. If these amendments get up and this bill is blocked, it sets a precedent that will be acted upon by future Labor oppositions. There is no part of any budget that will be safe from vandalism by a future Labor opposition should this particular amendment get up and this bill be blocked.

Let's be very clear. Let's be clear about what we are doing here. Budgets must be viewed as a whole. The Hon. Rob Lucas knows that. He is being disingenuous and deceitful to suggest, 'Oh, we are happy with every other bit of it except for this one major component of the budget.' He knows that it does not work that way. A budget is a carefully crafted piece of work. You cannot rip pieces out and expect every other piece to be maintained as it is. The revenue raising measures, including the major bank levy, work in tandem with spending measures that stimulate the economy.

There are more than 3,200 employers in this state who are now benefiting from the lower payroll taxes of small businesses that is included in this Budget Measures Bill. If the bill does not pass, the bill that balances revenue with spending measures, then tens of thousands of small businesses will be told they have to pay more tax just because the Hon. Rob Lucas wants to favour the interests of major banks over the interest of small business owners in this state.

The council in agreeing to this will say it backs the big banks and the big bankers on their multimillion-dollar salary packages ahead of plumbers, electricians, concrete layers, small shopkeepers, farmers and the mums and dads running small businesses in this state, and many

more. That is the choice that we are facing tonight. Also, losing the incentives contained in this bill will mean that hundreds of apartment buyers who have committed to a new dwelling since the budget was introduced to parliament will lose out. Many of these are young people buying their first home, young people making the biggest financial commitment of their lives, young people who want to live and work in SA but who will now be told by the Hon. Rob Lucas that they do not matter.

They are young people who will be told that they do not deserve any assistance because the Hon. Rob Lucas and members of this council think big banks are more deserving of their support. For a very cheap stunt, this will mean that there will be many of these measures that will not be able to occur. It is completely disingenuous to suggest we will rip out this revenue measure and not have any corresponding effect on measures that stimulate the economy or spending measures. It is rank hypocrisy from the Hon. Rob Lucas. He knows better, otherwise he is completely and utterly ignorant which you would hope is not the case from someone who is has been on the Treasury benches before.

Make no mistake, as I said at the outset, if this precedent is set that an opposition feels at liberty to pick large pieces of the budget apart, that will be something that Labor in opposition will remember and take full advantage of and no part of a budget will be safe. On that note, I might like to read a quote from a member of the South Australian parliament about the budget:

> The government of the day is the government of the day and they have the right to set the budget. They have the right to decide how the money will be spent. Her Majesty's Loyal Opposition has the right to understand, to question and to challenge that budget but not prevent it, unlike in America where, for instance, in most states the Governor, unlike our Governor who is basically a figurehead representing the Crown, is separately elected and has the right to veto the budget. We have no right as an opposition to do that.

That was former Liberal leader the member for Heysen, Isobel Redmond, and she is right.

The Hon. M.C. PARNELL: I do not intend to reagitate all the arguments in relation to the—

Members interjecting:

The Hon. M.C. PARNELL: As tempting as it is, I am not going to reagitate. I just want to take up the invitation of the Hon. Rob Lucas, which I think was seconded by the minister, and that is let's treat this amendment as a test for a package of amendments. The Greens' position is quite simple. We support the bank tax. We think the banks can afford to pay a fairer share towards the services that South Australians need and as a result of that position, we will not be supporting the opposition amendments.

The Hon. R.L. BROKENSHIRE: On clause 2 and relevant to the Hon. Rob Lucas's amendment and test amendment, I ask the minister first of all with respect to the bank tax, was this bank tax idea conceived in the Treasurer's office or did Treasury recommend that this bank tax occur?

The Hon. K.J. MAHER: I have no information in relation to that. Of course, in the development of policies I suspect as usual it is a combination of many areas of ideas that are put forward.

The Hon. R.L. BROKENSHIRE: On the clause, I have done quite a bit of work and had some legal advice. I have already read with interest the federal budget's bank tax bill and also I have read with interest the Chairman of the ACCC, Mr Rod Sims, who put out a statement saying that there was no way that they could stop the banks from passing on the bank tax. But what the ACCC would be doing would be watching very closely what happened. It is sort of a veiled threat to the banks a bit like the bullying and harassment charge we have just endured from the Leader of Government Business who basically says he will take his bat and ball and go home. Well, we have more responsibility than that in our party.

My first question is can the minister absolutely, categorically guarantee to this chamber that his government can stop the bank tax from being indirectly passed on to every mum and dad, every pensioner, farmer, small business person, large business person? Can he categorically, absolutely, legally guarantee to this chamber that he can stop the bank from indirectly passing on the tax?

The Hon. K.J. MAHER: What we do in here is make laws, and clause 13 states that a levy is not to be paid by customers. That is a law we make.

The Hon. R.L. BROKENSHIRE: This is really important. I have just had 29 business people in Parliament House for dinner, and I have spoken to those business people about this bank tax. Those business people are not fools; they are actually trying to make a living and grow their businesses in this state, and we had discussions about how some of them are going reasonably well and how some of them are doing it very tough.

The first thing they freaked out about was electricity prices. I will give the example of an olive grove processor down on the Fleurieu Peninsula in the new electorate of Mawson, the new Mawson boundaries. His electricity bill as an olive processor has just gone from $20,000 a year to $90,000 a year. I said, 'Well, go and blame Nick Xenophon, the Greens and the Labor Party because they chased each other for the green flags on green energy at all costs.' They understand that, and I talked about it in more detail as well, because I want to be very open with these business people.

The next thing was the bank tax. These business people, some of whom have been in business for 35 years, said that this tax will be passed on. So I am duty-bound, on behalf of those 29 and on behalf of all the other mums and dads and pensioners and everyone else, to establish whether the minister can categorically guarantee—and I do not want the nonsense from your Treasury advisers or from you, minister, I want the truth—whether Treasury and this government can categorically guarantee that this will not be indirectly passed on: yes or no.

The Hon. K.J. MAHER: As I said, we make the laws, and I have read out the section in the act. I do want to make this comment, though, for those 20-odd business people you talked about tonight. I can absolutely assure them that if they are one of the 3,200 employers who would have benefited from the payroll tax, for anyone who votes for this we will make sure all those people know that you got rid of their payroll tax by taking away the revenue measure associated with that.

We will also make sure that if any of those business people have anyone in their family who would benefit from the first homeowner's grant that will be done away with as a result of this, that they know what your views are, what the Hon. Rob Lucas's views are, what the views of Steven Marshall, as leader of the opposition, are about removing these benefits for South Australians. I can absolutely assure you that we will let them know that is what you have done.

The Hon. R.L. BROKENSHIRE: You can harass and bully me as much as you like, minister, but rest assured that first and foremost the Australian Conservatives are not blocking your bill. The only party that will block the bill is the Labor Party. They are the only party that will block the bill. We are arguing that one small part be extracted—and we are going to support these amendments because we want to see it go down to the other house. It is one small part; the rest of it they can have.

I want to say this. I do not know whether the minister lives in cuckoo land or whether he is actually a real minister when it comes to managing business and growth, but most of the small businesses in this state, the engine room of this state, do not pay payroll tax. The people who are in this olive processing plant in the new electorate of Mawson are mum and dad and a bit of part-time labour. What they do have, like the rest of us in business, is a mortgage, and they are concerned about the fact that will be passed on.

Before I go on any further I ask that rather than the minister selectively quoting that clause that he read out ,for the benefit of this chamber, the two specific sentences in the clause.

The ACTING CHAIR (Hon. D.G.E. Hood): Before you respond, minister, can I just remind the chamber to direct their comments through the Chair and not at individuals.

The Hon. K.J. MAHER: I thank the honourable member for his question. Clause 13 provides:

State major bank levy payable by an ADI—

an authorised deposit-taking institution—

under this Act cannot be directly recovered from customers of the ADI and must be paid out of profits or other funds of the ADI.

The Hon. R.L. BROKENSHIRE: So, therefore my question is on behalf of all the people who will be affected by this: unless we are going to turn into a totalitarian government situation, the

word is 'directly' not 'indirectly'. Unless we are going to become a communist state and government, where you actually go line by line through everyone's books and through every bank's books, the fact is that you cannot stop it from being passed on. For once, be honest with the people. Treasury knows that it cannot be stopped. I have a lot more respect for Rod Sims than I would ever have for Treasury, who are happy to help the government flog everything off in this state. That is what the Treasury is prepared to do: flog the lot; support the government on that.

The reality is that we are not going to get an honest answer from the minister on this, but the truth is that this will be passed on, and this will hurt. For those reasons, on behalf of all South Australians we will support these amendments, but I want to reiterate again that we are not blocking the budget bill. We did not block the Appropriation Bill, and we will never block the budget bill. That is not our job and we do not have the capacity to block it. The only people who can block the bill are a majority of people in the lower house, which is clearly the government. So let us get the facts on the table and get some truth into it. We will be supporting it because the majority of South Australians are scared of this tax.

I have one other question relevant to the tax. You picked four or five big banks. I am advised that HomeStart, the government's bank for housing, is actually one of the larger lenders in the state. Why did you not put HomeStart in there?

The Hon. K.J. MAHER: I thank the honourable member for his question. It is because we are mirroring what the federal government is doing—the government of the same stripe as that party to which the honourable member used to belong. What the federal government is doing is what we are mirroring.

The Hon. R.L. BROKENSHIRE: I ask the minister: if this gets through, what is there to stop a future Labor government, or a future Liberal government for that matter, from actually expanding out from beyond the five that the federal government have in there and taking it through to Bendigo Bank, the Rural Bank, all the little credit unions and the Police Credit Union? What is to stop, once this goes into place, amendments that actually open it up to every lending institution in South Australia?

The Hon. K.J. MAHER: A federal Liberal government could put a new tax on all dairy farmers, that is true. That is something a future state Liberal government could do—they can do anything by legislation. If this were to be changed, it would require a whole new architecture to be developed by the state. What is being done here is that we are using the architecture that exists for the federal government's bank levy for the state one.

The Hon. J.A. DARLEY: I indicate that I will be supporting all the opposition's amendments.

The ACTING CHAIR (Hon. D.G.E. Hood): Can I confirm with the Hon. Mr Lucas that he has moved his amendment.

The Hon. R.I. LUCAS: I have.

The ACTING CHAIR (Hon. D.G.E. Hood): The question before the chamber—and remember, this is a suggested amendment—is that it be a suggestion to the House of Assembly to amend clause 2 by leaving out subclauses 2 to 6 and inserting new subclauses 2 to 5, as proposed by the Hon. Mr Lucas. If you support the amendment, you will vote yes.

The committee divided on the suggested amendment:

Ayes 11
Noes..... 10
Majority..... 1

AYES

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

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hanson, J.E.	Hunter, I.K.	Maher, K.J. (teller)
Malinauskas, P.	Ngo, T.T.	Parnell, M.C.
Vincent, K.L.		

Suggested amendment thus carried; clause as suggested to be amended passed.

Clause 3.

The Hon. R.I. LUCAS: I move:

Amendment No 2 [Lucas–1]—

Page 4, line 24—Delete 'a Schedule' and substitute 'Schedule 1'

This is consequential on the vote we have just taken.

Suggested amendment carried; clause as suggested to be amended passed.

Clauses 4 to 14.

The Hon. R.I. LUCAS: I move:

Amendment No 3 [Lucas–1]—

Page 4, line 26 to clause 14, page 7, line 13 [clauses 4 to 14 inclusive]—Delete clauses 4 to 14 inclusive

This is consequential on the first test vote that we took earlier this evening.

Suggested amendment carried; clauses negatived.

Schedule 1.

The Hon. R.I. LUCAS: I move:

Amendment No 4 [Lucas–1]—

Page 7, lines 14 to 21—Delete Schedule 1

This is consequential on the earlier vote we have taken.

Suggested amendment carried; schedule negatived.

Schedule 2.

The Hon. R.I. LUCAS: I move:

Amendment No 5 [Lucas–1]—

Page 7, line 22 [Heading to Schedule 2]—Delete the heading and substitute 'Schedule 1—Budget Measures'

This is also consequential on the earlier vote we took.

Suggested amendment carried; new heading inserted.

The Hon. R.I. LUCAS: Could we just hold for a tick?

The CHAIR: Yes.

The Hon. R.I. LUCAS: Mr Chairman, the amendments we have just passed now, the last one was on page 7, line 22, amendment 5, that's correct?

The CHAIR: Yes, that's right.

The Hon. R.I. LUCAS: I seek your guidance. If it is appropriate now, I do have some issues in relation to other aspects of the legislation that relate to the foreign investor tax, payroll tax and various other issues that were raised by the senior tax lawyer, which we raised and which the government and the minister have provided responses to.

On my reading, it would be appropriate to go through those particular clauses now before we eventually arrive at my amendments nos 6 and 7, which are the final consequential amendments on the bank tax levy. Is that all right?

The CHAIR: Yes.

The Hon. R.I. LUCAS: I could move to page 14, part 2, clause 13. For the benefit of the minister's advisers, it is amendments to the Land Tax Act. The issue that the tax lawyer raised, and that we received the minister's response to, is that, the tax lawyer has raised the issue that in relation to the current drafting of the Land Tax Act the concept of 'owner' is clear throughout all of the provisions in the Land Tax Act but, for some reason the drafting of these particular amendments, either parliamentary counsel or the government has introduced the concept of 'current owner'.

The suggestion that has come from the tax lawyer is: why has the government chosen to go down this path? It would make sense to use consistent language through the whole of the Land Tax Act and just use the terminology which is understood. It has been established in past practice and precedent in court cases, which is 'owner', rather than of introducing the new concept, whatever it is, of a 'current owner' as opposed to an 'owner'.

The government's response was that this was a drafting preference of parliamentary counsel. It really does not answer the question, it just says the parliamentary counsel decided it would put 'current owner' there rather than 'owner'. I am actually looking for an explanation as to why the government has decided to stick fat with the description of 'current owner' as opposed to the provision, which is used through the remainder of the land had tax, so I am advised, of owner?

The Hon. K.J. MAHER: My advice is that the benefit of that provision be bestowed on the person who bought it during that period, not any subsequent purchaser of it; hence the drafting 'current owner'.

The Hon. R.I. LUCAS: The minister is arguing, based on advice, I accept, that there is a different intended definition of 'current owner' as opposed to 'owner' used in other provisions of the act; that is, the lawyers are to interpret this differently to other provisions in the land tax legislation where the term 'owner' is used that is in a different context to what is intended here in terms of 'current owner'.

The Hon. K.J. MAHER: My advice is that it is specific to that clause, using the term 'current owner'.

The Hon. R.I. LUCAS: We will need to agree to disagree, and I think the tax lawyer agrees to disagree on that particular issue. I will move to clause 15, which is the amendment to the Payroll Tax Act. A series of questions were put to the government, but specifically I seek a response to: the tax lawyer provided a particular example where he said in clause 27 of his advice, for the benefit of advisers:

> The proposed amendment (clause 15(3)(2b)(b) appears to mean that if the designated person usually requires such services for a period of less than 180 days but in fact utilises a person to supply such services for more than 180 days in one year then such services would attract payroll tax. This will be the case even if it occurs by inadvertence. It appears to undermine the concept underpinning section 32(b)(ii) of what is ordinarily required.

Is it the government's advice that the tax lawyer's interpretation of those provisions is correct?

The Hon. K.J. MAHER: I think what the honourable member is saying is correct. If you are over 180 days you are over 180 days and it attracts payroll tax.

The Hon. R.I. LUCAS: Does the government's advice agree with the tax lawyer when he says it appears to undermine the concept underpinning section 32(b)(ii) of what is ordinarily required?

The Hon. K.J. MAHER: My advice is that the government's view is that, no, it does not. We agree with the first part in terms of: if it is 180 days, it is 180 days and does attract it, but we do not agree then with the second part and the follow-on from that.

The Hon. R.I. LUCAS: My next questions are in relation to clauses 19 and 20, part 4 of the legislation, which relates to the Stamp Duties Act provisions. The tax lawyer's advice is summarised in his paragraphs 30 to 32, but I refer in particular to his questions in relation to paragraph 32. I will quote it again:

The proposed provisions in clause 20 contemplates the Commissioner issuing a certificate to a person on application. It is unclear whether that will be limited to persons who were parties to the instrument and their agents or other persons who may subsequently be interested. Section 77 of the TAA prohibits disclosure of taxpayer information and section 78 enumerates particular exceptions to that. Section 79 permits certain limited general disclosure. Nothing in section 78 permits the disclosure contemplated by clause 20…

My question is: do the government's advisers agree with the tax lawyer's position when he asserts that nothing in section 78 permits the disclosure contemplated by clause 20 of this bill?

The Hon. K.J. MAHER: My advice is, very frankly, yes we agree that is what it does.

The Hon. R.I. LUCAS: If you agree that that is what it does, then how does the disclosure contemplated by clause 20 actually occur? If clause 20 is saying that you can disclose certain information, the tax lawyer is saying that section 78 of the TAA (Tax Administration Act) does not allow you to do it. So, if you have two pieces of legislation in direct conflict, one says you can disclose certain information, the tax lawyer says the Tax Administration Act, section 78, says you can't, you say you agree with the tax lawyer's view: are you not therefore conceding that there is an inherent conflict between clause 20 of this legislation and section 78 of the Tax Administration Act?

Whilst the minister's advisers are contemplating that, the further advice from the tax lawyer, his suggested fix or solution, which I did place on the public record, was:

In the circumstance it is suggested that section 78 of the Tax Administration Act be amended to specifically permit disclosure of such information to third parties on request. It is being amended by the bill for other purposes (see clause 31) if the instrument is not to otherwise be endorsed with the necessary stamping information.

So he is saying that there is this conflict, which the government's advisers say there is, and he is saying, 'Well, if there is this conflict and you do want to have disclosure under clause 20 of this bill, why not therefore in the same bill amend section 78 of the TAA, the Tax Administration Act?' I think that act is opened up in the Budget Measures Bill—it was opened up in the first part of schedule 1. So, this particular Budget Measures Bill actually does open up the Tax Administration Act. What he is saying is that you have this conflict, your advisers acknowledge there is this conflict, why not tidy up the conflict by amending section 78 of the Tax Administration Act?

The Hon. K.J. MAHER: I think I may have said this as part of my second reading speech, but I think the advice that I have in relation to that is that the proposed section 3E(3) of the Stamp Duties Act will allow the Commissioner of State Taxation to include—I will get to those provisions.

I will not restate everything that was put on the record in the second reading speech. Suffice to say that, before the example of where the honourable member is talking about a potential conflict, it is the view, I am advised, that generally speaking it would only be in limited circumstances of the example, when we are talking about instruments to do with the LTO and disclosure, and in the limited circumstances that a third party may be interested in applying for a copy of a certificate, for example, for disputes before a court or tribunal, the current permitted disclosure provisions in the TAA are sufficient to allow disclosure of such information with the consent of the affected person or a person acting on their behalf.

The Hon. R.I. LUCAS: That is a useful segue to my next question. I accept that clearly the government does not want to resolve what the tax lawyer has identified from his viewpoint as an inherent conflict between clause 20 of the bill and section 78 of the Tax Administration Act. In that response that the minister has just quoted, he says there could be:

…disclosure of such information with the consent of the effected person or person acting on their behalf.

What happens if the affected person or person acting on their behalf does not consent?

The Hon. K.J. MAHER: My advice is that that remains consistent with current provisions and, as the honourable member says, could only be released upon consent.

The Hon. R.I. LUCAS: It could only be released what?

The Hon. K.J. MAHER: Upon consent.

The Hon. R.I. LUCAS: And I think that is indeed part of the point that the tax lawyer is taking. The government's advisers are saying, 'Well okay, if someone agrees, they can release it,' but the tax lawyer is identifying the inherent conflict between clause 20 of the bill and section 78 of

the Tax Administration Act. I have raised the issues on behalf of the tax lawyer. The government is aware of those issues and in its judgement—based on advice, I accept—has decided not to agree to make amendments in relation to those provisions. Nevertheless, the issues have been raised. We hope they do not cause grief at some stage in terms of a future legal action.

I note in relation to the further advice the minister provided to issues raised in paragraph 33 of the tax lawyer's advice, and I acknowledge that the government says there:

> RevenueSA will continue to consult and give consideration to including further information on the certificate as required. This may include the amount of duty paid and the number of instruments stamped (i.e. original and copies) as suggested by the tax lawyer.

I acknowledge that RevenueSA, if I can read between the lines, does acknowledge that there is some sense in what the tax lawyer is suggesting there. They have acknowledged that they will continue to at least further consider the possibility of providing further information on the certificate, as has been highlighted by the submission from the tax lawyer.

If I can move on to the foreign stamp duty surcharge clauses, 22, 26 and 27. The first issue the tax lawyer has raised is in relation to clause 22, residential land. He is talking about the land use codes provided by the Valuer-General. He said:

> There is no right to object to such code as may be assigned by the Valuer-General, yet such codes are being increasingly used. There should be a right to object to such land use codes. This should be addressed by adding a right to object to them in the Valuation of Land Act 1971.

The government's response to that, based on advice, was:

> I am advised that, whilst there are no formal rights available in the Valuation of Land Act 1971 to challenge the land use code assigned by the Valuer-General, the Valuer-General will review land use codes on request. The Commissioner also maintains a discretion to determine what he considers is the predominant use of the land.
>
> I am further advised that the Commissioner and the Valuer-General have had preliminary discussions about the issue raised and are committed to considering the issue in greater detail.

My question to the Leader of the Government is: are the preliminary discussions about this issue between the Commissioner of Taxation and the Valuer-General discussions that precede the tax lawyer's advice to the parliament a little over two weeks ago? Have these preliminary discussions only occurred as a result of the issues raised by the tax lawyer, or are these longstanding issues that have been discussed between the commissioner and the Valuer-General?

The Hon. K.J. MAHER: I am advised that we think that the discussions, although we are not entirely sure when, started before the point of the mysterious tax lawyer's advice.

The Hon. R.I. LUCAS: I do not think he is mysterious. He is well-known to the commissioner of taxation and the government. It is just that I have chosen not to put his name on the public record. I think he does a service to the parliament through his advice. The government, to be fair, has also not put his name on the public record. As I highlighted in the second reading, on a number of occasions previously the government has amended bills on the basis of advice that he has provided. If I can continue with the tax lawyer's advice, he then starts talking about the particular definitions in these particular provisions and he says in his paragraph 43:

> As will be highlighted, these definitions create significant issues in the case of property the subject of a changing use or involving a mixed development (e.g. deemed residential land currently unused but is acquired for the purpose of a development of commercial premises on the ground and lower floors and residential use in the upper floors.)

Can I clarify something? There is advice provided in four paragraphs after that, but just assist me in terms of understanding that advice. In the example the tax lawyer has given there, that is a mixed development deemed residential land currently unused but is acquired for the purpose of a development of commercial premises on the ground and lower floors and residential use in the upper floors. Is it the government's intentions with the foreign investor tax that they would be taxed?

The Hon. K.J. MAHER: My advice is if it was residential land at the time of the transaction, then yes it would attract that but regardless of a future intention to change away from residential to, say, commercial.

The Hon. R.I. LUCAS: Sorry, if there is a future intention for residential, it would not attract it?

The Hon. K.J. MAHER: It is based on the date of the transaction regardless of future intention to change is my advice.

The Hon. R.I. LUCAS: On that basis then, if there is a future intention for residential it does not matter. It would not attract the tax at the time of the transaction.

The Hon. K.J. MAHER: My advice is yes, if it is commercial, at the time of the transaction regardless of the future intended use, then that is correct.

The Hon. R.I. LUCAS: Clause 22 definitions in relation to foreign persons is obviously a matter of some interest at the national level at the moment. An actual person is a foreign person if the person is not an Australian citizen—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: No, we will come to that. A dual citizen would appear to satisfy the Australian citizen requirements evidently according to this legislation, so the deputy prime minister and a range of others were deemed to be Australian citizens according to this particular legislation. An actual person is a foreign person if the person is not an Australian citizen, the holder of a permanent visa or a New Zealand citizen. So the not small number of British migrants who came to Australia many decades ago and who have chosen to never become Australian citizens would be covered under the holder of a permanent visa-type provisions, would they?

The Hon. K.J. MAHER: I cannot speak for the individual situation of a particular person, I would not want to give that very specific advice on the record, but if they were the holder of the relevant visa then yes, they would be covered by that.

I think the question also referred to dual citizenship. Dual citizenship does not count for a foreign citizen under these provisions so yes, the former deputy prime minister and the former president of the Senate, former senator Fiona Nash and former senator Matt Canavan, and potentially former Senator Nick Xenophon and future member for Hartley Nick Xenophon would not be covered under this as foreign citizens, no.

The Hon. R.I. LUCAS: In paragraph 45 of his advice the tax lawyer says that a corporation is a foreign person if it is incorporated in a jurisdiction that is not an Australian jurisdiction. Can the minister clarify that that includes New Zealand, for example?

The Hon. K.J. MAHER: My advice is that the proposition outlined by the honourable member is correct. It would still be regarded as a foreign corporation even if, say, it included a New Zealand company.

The Hon. R.I. LUCAS: The issue the tax lawyer has raised, which does seem an extraordinary reach—and I understand it is probably what the government intended, but why have they intended it—is that he is saying that a corporation that is incorporated in New Zealand but which is owned wholly by Australian citizens is still to be regarded as a foreign corporation and subject to this foreign investor tax. So you have a company that is wholly owned by Australian citizens but which is incorporated in New Zealand that is going to be treated as a foreign person for these purposes and will therefore attract the tax.

The Hon. K.J. MAHER: That is correct. I think the advice would also be if it were a corporation owned wholly by Australians but incorporated in China or Finland, or was owned partly by an Australian person but was incorporated in Japan or somewhere, it would be regarded as a foreign company.

The Hon. R.I. LUCAS: My question is: if a company is wholly owned by Australian citizens but happens to be incorporated in New Zealand, why would you be treating Australian citizens as foreign investors?

The Hon. K.J. MAHER: My advice is that it is because it is a foreign company. It is consistent with what other jurisdictions have done in relation to their similar regimes for this. Of course, if it were

a corporate entity wholly owned by Australian citizens it would be open for them to have an entity that was incorporated in Australia.

The Hon. R.I. LUCAS: I struggle to understand the logic of a vehicle that is 100 per cent owned by Australian citizens and that those Australian citizens are treated as foreign investors and therefore subject to a foreign investor tax.

An honourable member: It is corporations, not individuals.

The Hon. R.I. LUCAS: Yes, but the Australian citizens are actually Australian citizens. The bogey that is being propagated by the foreign investor tax in other states and South Australia has been that investors from China and other countries are buying up residential land in large chunks and driving up prices, and that has been what has driven the foreign investor-type taxes in other states. This is contrary to the original position of the Treasurer, in which he said he was not going to introduce these sorts of things, but he has now done so.

However, one can understand if, for example, a whole series of New Zealanders or Chinese or Japanese or Indian investors are buying up residential land, but these are Australian citizens who are buying up residential land. If, for whatever reason, they have incorporated their company in New Zealand, they are going to be treated as foreign investors. I am not sure why the vehicle is being treated as what determines whether you are a foreign investor, rather than who controls and owns the particular vehicle. In this case, it is 100 per cent owned by Australians.

I understand the government's position: they want to treat those Australian citizens in that particular circumstance as foreign investors. I guess that will be part of the public debate and argument about this. The tax law, in paragraph 46, goes on to state:

> A corporation is also a foreign person if another person who is a foreign person or a trustee of a foreign trust, or a number of such persons in combination hold 50% or more of the corporation's shares or are entitled to cast, or control the casting of, 50% or more of the maximum number of votes at a general meeting of the corporation. As the emphasis is on voting power rather than economic consequences this provision will be relatively simple to circumvent with foreign persons establishing companies in which they hold the shares entitled to the whole of the economic benefits and sufficient voting control (that is less than 50% but sufficient to block any special resolutions) to prevent the change of such rights.

The tax lawyer is raising something that is not an uncommon device in corporate circles, and that is that clearly shareholders can control directions of companies holding less than 50 per cent of the shares of a particular company. You have 30 per cent or 40 per cent, or whatever it might happen to be, and that might be sufficient for you, in certain circumstances as outlined by a tax lawyer, to actually control the decisions of the particular company. So, what he is identifying is that the government's drafting has, in his view, a very significant potential loophole; that is:

> …this provision will be relatively simple to circumvent with foreign persons establishing companies in which they hold the shares entitled to the whole of the economic benefits and sufficient voting control (that is less than 50% but sufficient to block any special resolutions) to prevent the change of such rights.

So, my question is: do the government's advisers acknowledge that the tax lawyer's advice is correct, and, if that is the case, do they have concerns that this loophole that has been identified by the tax lawyer will be used by clever lawyers and accountants to circumvent the provisions of the government's foreign investor tax?

The Hon. K.J. MAHER: My advice is this is consistent with the way that this scheme operates in other jurisdictions in terms of this particular provision. My advice also is that it is somewhat difficult to try to be specific commenting on an idea that is in the abstract without a specific example, but there would be substantial risk to a person who seeks to put together a situation like this. For the purposes of trying to avoid this, there would be substantial risks in them structuring their affairs in doing that.

The Hon. R.I. LUCAS: I do not see how the minister—based on advice, I accept—can actually argue that. What is substantial risk if the law says that if you hold less than 50 per cent of the corporation shares, a certain set of circumstances ensue; if you hold more than 50 per cent, another set of circumstances ensue? I am sure if the minister is not aware of these sorts of arrangements where shareholders can control a company with less than 50 per cent shareholding, I

would hope the minister's advisers are aware that, in the real world, that occurs not infrequently. That is just the reality of the corporate world.

You do not actually have to have 50 per cent of the shares. Some of the big takeover plays that have been enacted have been done so from a base of much lower than 50 per cent. There is a sweet spot, depending on the particular company that is structured, where control can be grabbed by an individual shareholder or group of shareholders with less than 50 per cent of the share ownership.

I seek clarification from the minister's advice where he says, 'Beware, if you do this, you might get yourself into trouble,' in essence. If the law says you can do this, and that is the law, what the tax lawyer is saying, again, is this will be relatively simple to circumvent with the detail. It is not in the abstract. He actually gives the detail of what you would need to do. You establish a company that has shares entitled to the whole of the economic benefits and sufficient voting control that is less than 50 per cent but sufficient to block any special resolutions.

It is not in the abstract. He said, 'This is all you have to do.' This bloke has been involved in structuring corporate entities, providing advice in terms of tax arguments with the Commissioner of State Taxation and others for a very long period of time. He knows what he is talking about. He is providing advice to say you are asking the parliament to approve a new tax regime that he says has a very significant loophole in it. It is ultimately up to the government as to whether they want to proceed and ignore the advice that he has provided, but I am not sure where the minister is coming from when he says, 'Be careful if you are going to do this because you might get yourself into trouble.'

The Hon. K.J. MAHER: I will not agitate this too long. It is our view that these measures are appropriate, given they are consistent with how the regime operates in the other jurisdictions that have adopted these measures. Certainly, if it became apparent that companies were structuring themselves and taking risks—I take the honourable member's point that there are companies that seek to structure themselves for certain reasons in certain ways—if it became apparent that this was a measure, as the honourable member has suggested from the tax lawyer's advice, then, in the future, the government would not be closed to looking at changing the provisions. But this is consistent with how this drafted elsewhere, and we believe it is appropriate in these circumstances.

The Hon. R.I. LUCAS: All we can do at this stage, given the lateness of the hour, is to prosecute the case, identify the problem and hope that maybe the dilemmas do not exist. The reason for identifying them at this stage is that the government does have the power, if it so wishes, to actually amend the legislation and resolve the problems, rather than waiting for the problems to ensue and then try to close the door after the horse has bolted. But I accept the government is not going to move on that particular issue. In paragraph 47, the tax lawyer identifies as follows:

> A foreign trust is one, where the beneficial interests are fixed, or one where a beneficial interest of 50% or more of the capital of the trust property is held by one or more foreign persons. In the case of a discretionary trust, it is a foreign trust if one or more of the following is a foreign person:
>
> - a trustee;
> - a person who has the power to appoint under the trust;
> - an identified object under the trust; or
> - a person who takes capital of the trust in default.

The tax lawyer goes on to say:

> The last three of those trust nexus provisions have the potential to create real practical issues. One is the power to appoint that is vested in a foreign person, the second is an identified object who is a foreign person and the third is persons who may take the capital of the trust in default.
>
> The first is the power to appoint. Most discretionary trusts have a wide range of powers to appoint, including the power to appoint property, income, a new trustee and a person to be a beneficiary. Most are held by the trustee though occasionally by a third person (e.g. the power to appoint a new trustee). So, if any person with any such power is a foreign person then the trust is a foreign trust without anything more. It is suggested this should be deleted or limited to the person with the power to appoint the trustee.

My question to the minister and the ministers adviser is: does the government's advice agree with the tax lawyer when he says, 'If any person with any such power as a foreign person then the trust is a foreign trust without anything more'?

The Hon. K.J. MAHER: In short, we agree with the proposition that has been put.

The Hon. R.I. LUCAS: The tax lawyer is then saying, in his view, that should be deleted or limited to the person with the power to appoint the trustee. He is saying that the government is proposing to call a whole range of trust arrangements, which are not unlawful; they are clearly lawful trust arrangements which individuals enter into. In certain—he does not use the word but let me use the word—bizarre circumstances, all of a sudden Australian citizens operating in this sort of an arrangement, because one of these persons who has the power to appoint something under the trust—not to actually appoint a trustee; they might be appointing property or income or something like that—is a foreign person, all of a sudden this is going to be treated as a foreign person and therefore subject to the provisions of the foreign investor tax.

You could have all these Australian citizens who, in essence, are part of the trust, but because you have one person who has the power to appoint not the trustee but either property or income by something like that, and that person is a foreign person, then all of the residential investments by that particular entity of Australian citizens will be treated and subject to the foreign investor tax. Is that the government's intention?

The Hon. K.J. MAHER: My advice is yes, that is the intention, but there is a simple way to avoid that: you do not have a foreign person as a trustee or as a person who has the power to appoint the trust and then you are not captured by it.

The Hon. R.I. LUCAS: I accept what the government has just said, but it just seems a bizarre interpretation of what I think is publicly portrayed as a foreign investor tax. As I said, the public perception is that large numbers of either Chinese, Japanese, Indians, Americans, or whoever it might be, are buying up residential property and driving up prices. Yet for a whole range of normal, legal structures and entitlements, the government is intending to catch them all and describe them as foreign investors, even if overwhelmingly they are Australian citizens, but because there is one particular person who has the power to appoint one particular part of a discretionary trust, all of a sudden that whole vehicle is going to be treated as a foreign person and subject to the foreign investor tax.

The concerns have been raised by the tax lawyer; the government obviously is not intent on amending those particular provisions, and I will leave it at that. I will move on to clause 26, the foreign surcharge adjustment provisions. In paragraph 58 of the tax lawyer's advice he states—and obviously prior to that—and the minister's advisers would have seen that highlighted:

> In that situation, the amount of the foreign ownership surcharge is to be reduced by the amount of the foreign ownership surcharge (if any) paid in respect of the transaction by virtue of which the person or trust became a foreign person or foreign trust. The meaning of this provision is particularly difficult to understand, as it is effectively an exclusion or an exclusion coupled with an apportionment. It is suggested that this exclusion on an exclusion be redrafted to simplify it, if possible.

The government's response is that this was a stylistic drafting preference of parliamentary counsel. Can the government offer any other clarity, other than that it was a stylistic drafting preference? Does the government accept that there is any problem with the drafting as identified by the tax lawyer? His suggestion was, 'It is suggested that this exclusion on an exclusion be redrafted to simplify it, if possible.'

The Hon. K.J. MAHER: My advice is that our view is that it is drafted the way it is for the reason that it is clear as it is and, on this occasion, we just disagree with the tax lawyer's view about the stylistic merits of the drafting.

The Hon. R.I. LUCAS: In paragraph 60 the tax lawyer highlights another example:

> A simple example is a resident taxpayer's wholly owned company acquires residential land. The resident taxpayer dies shortly after that acquisition. The shares in the company are transferred to his non resident foreign citizen nephew pursuant to the terms of his will. The proposed section 72(7) will require the payment of the surcharge in this situation. Various other similar normal situations can be described.

Can we clarify: is it the government's advice that that is correct; that in those circumstances the foreign investor surcharge will need to be paid?

The Hon. K.J. MAHER: Your question is that it will need to be paid?

The Hon. R.I. LUCAS: No, he is asserting that. I think your advisers might be saying it might not be paid.

The Hon. K.J. MAHER: My advice is that it will not need to be paid.

The Hon. R.I. LUCAS: Further on, the tax lawyer highlights in paragraph 63 of his advice:

> Whilst the trust refund of the surcharge is available if a foreign trust ceases to be a foreign trust within twelve months, it does not provide for a refund of the duty if the trustee of the foreign trust distributes the land in specie to a resident beneficiary of that trust within that period. Yet the effect is the same, the residential property is acquired by a resident.

My question is: why not? Why has the government chosen to not provide a refund of the duty in those circumstances?

The Hon. K.J. MAHER: My advice is that we believe this strikes an appropriate balance. I think it is in the second reading summing-up speech this morning that it would be prudent on the trustee who was personally liable to pay the foreign owned surcharge to endeavour for the trust to cease being the foreign trust within 12 months and before it distributes the land in order to receive the refund of the foreign ownership surcharge it paid. So, it is prudent for the trust to do these things. We think it strikes the appropriate balance and it is consistent with how the regime operates in other jurisdictions that have introduced it.

The Hon. R.I. LUCAS: In paragraph 74 of the tax lawyer's advice, he raises a simple example of what might occur. In this example he says:

> …an intended migrant to Australia arranges for a relative in Australia to buy a residential property as trustee for the migrant. This is likely to constitute a foreign trust. The migrant arrives within 12 months and the land is transferred to the migrant within that time. A surcharge refund will not be available on such transfer.

Do the minister's advisers agree with that interpretation of the legislation?

The Hon. K.J. MAHER: My advice is if the migrant comes to hold a permanent visa within 12 months that may cease to be a foreign trustee and then entitled to a refund.

The Hon. R.I. LUCAS: Is entitled to a refund?

The Hon. K.J. MAHER: If the trust ceases to be foreign by virtue of the person within 12 months of getting the permanent visa, then, yes, entitled to the refund is my advice.

The Hon. R.I. LUCAS: In the tax lawyer's advice paragraph 67, he concludes—and I will not read all of it—he says:

> It also appears to provide a disincentive for foreign developers to aggregate land for development that does not apply to local developers. Is this intended?

The response from the government is they:

> …recognise there may be some land acquisitions for development that may benefit the state where it would be appropriate to grant ex gratia relief.

So, I think the government acknowledges what the tax lawyer is saying that this may well be a disincentive for people who want to invest in South Australia. It then says:

> It is proposed to publish a ruling setting out factors that will be considered in determining whether ex gratia relief…

Can I ask for an approximate time line. If the legislation passes in the next week or so, whenever that is, how soon after that might a ruling setting out the factors that might be used in determining ex gratia relief be produced?

The Hon. K.J. MAHER: I am advised that there will be consultation with the State Taxes Liaison Group, of which the taxation lawyer is a part, so will be involved in consultation about that. My advice is that it is intended that it will be done as quickly as possible, and certainly I think it is

1 January that these provisions will come into effect if this bill passes, so it is intended to have it done by then or very quickly after that date.

The Hon. R.I. LUCAS: That is the end of my prosecution of the tax lawyer's forensic advice in relation to the administration act, so I am happy to move on to my next amendment No. 6.

Schedule as amended passed.

Schedule 3.

The Hon. R.I. LUCAS: I move:

Amendment No 6 [Lucas–1]—

Page 30, lines 22 to 31—Delete Schedule 3

It is consequential on the earlier test vote that we took earlier this evening.

Suggested amendment carried; schedule negatived.

Title.

The Hon. R.I. LUCAS: I move:

Amendment No 7 [Lucas–1]—Long title—Delete 'enact legislation in relation to the 2017 State Budget so as to impose a levy on major banks operating in the State; and to'

This is consequential on the earlier test vote we took.

Suggested amendment carried; title as suggested to be amended passed.

Bill reported with suggested amendments.

Third 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) (23:27): I move:

That this bill be now read a third time.

Bill read a third time and passed.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT (REVIEW) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (23:28): I move:

That this bill be now read a second time.

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

Leave granted.

In December 2015, the Senate Economic References Committee Inquiry into Insolvency in the Australian Construction Industry found that *'it is a fundamental right of anyone that performs work in accordance with a contract to be paid without delay for the work they have done.'*

When it was enacted in 2009, the *Building and Construction Industry Security of Payments Act 2009* (the Act) was intended to ensure that a person who carries out construction work or who supplies related goods and services, under a building or construction contract is entitled to receive and able to recover progress payments for carrying out that work, or supplying those goods and services.

Under the regime of the Act, a claimant is deemed to be entitled to payment on a claim pursuant to the Act, unless the respondent provides a 'payment schedule' setting out how, or why, payments will be made, or withheld.

- If the claimant is dissatisfied with the payment schedule offered by the respondent, the claimant can take the matter to 'adjudication' via an Authorised Nomination Authority that will appoint an Adjudicator.

- Alternatively, if the respondent simply fails to provide a payment schedule, or provides a payment schedule but fails to pay in accordance with it, then any unpaid part of the claim automatically becomes a debt that is able to be enforced through a Court.

I am now able to advise the government has, through the Office of the Small Business Commissioner, undertaken a comprehensive review of this legislation across two extensive tranches of industry and stakeholder consultation.

As is evidenced by this lengthy consultation and review process, the government is determined to improve this legislation by making the processes under it less ambiguous, more transparent and broadly improving accessibility for participants that encounter issues with payments under building and construction contracts.

As important, will be the improved confidence of industry participants in the process given the serious concerns that had been flagged by the Small Business Commissioner about the ability of some sub-contractors to achieve payment, whilst head-contractors broadly contended that the process is unfair, and in some cases, biased against them.

I expect these amendments within the Bill to contribute to improved operation and efficacy of the updated legislation, in line with the broader industry's consultation and expectations. Indeed a number of the proposals within the Bill simply make common sense such as some simple changes to better clarify the Christmas shutdown period.

I will now briefly advise the House of the review process that has been undertaken.

The State Government was obliged by legislation to commence a review of the Act by December 2014. That review was initiated on behalf of the former Minister for Small Business, by the Small Business Commissioner.

Former District Court Judge, Alan Moss undertook an initial review of the Act and formulated a suite or recommendations in the 'Moss Review'. After considering the 24 submissions received, the Government tabled the Moss Review in the Parliament on 12 May 2015.

However, following on from the collapse of Tagara Builders in June 2016, the Small Business Commissioner instigated another tranche of consultation with industry, industry associations and key stakeholders on 16 specific proposals – a number of which built upon the recommendations made in the Moss Review. That two-month consultation period closed on 19 August 2016 with 37 submissions being received.

Legislative changes

The Bill will execute the following legislative changes to the Act:

- The Bill inserts into the Act new sections 7A – *Administration of Act* and section 7B – *Commissioner's functions.*

Section 7A formally allocates the responsibility for the administration of the Act to the Small Business Commissioner's. Section 7B then sets out the Commissioner's functions under the Act in some detail. This will provide greater transparency of the operation of the adjudication process and assist in educating subcontractors and other building industry participants of the positive outcomes which can be achieved by using the Act.

- Importantly, the Bill inserts penalty provisions against 'persons' (natural or corporate) utilising harassment, intimidation, coercion or otherwise applying undue influence or pressure to a person that is seeking payment under these laws.

Maximum penalties will be – in the case of an individual—$50,000 or imprisonment for 2 years, or both; and for a body corporate—$250,000.

- As recommended by Mr Moss in his Review, the Bill will also insert a provision to enable the Small Business Commissioner to publish adjudications made under the adjudication arrangements of the Act. This will add further transparency to the sometimes opaque payments arrangements that occur in the building and construction sector.

- The Bill clarifies the Christmas shutdown period in section 4 to (as proposed by Master Builders Association) to exclude any day that falls between 22 December in any year and 10 January in the following year. This measure will clarify that period within the building and construction sector, as well as preventing any 'ambush' claims by construction workers on the eve of the traditional industry shut down period.

- The Bill will also reorganise the ANA Authorisation regime that currently applies to the 7 ANAs which are authorised within South Australia. The new regime will place some light-handed rigour and oversight to the 'open-ended' authorisation arrangements that were implemented when the legislation became operational in December 2011. The Bill provides the Commissioner with some greater oversight of the arrangements for both ANAs and the adjudicators that operate under them.

Non Legislative changes

There are three non-legislative measures that are proposed as part of the review of the Act. Briefly, they can be described as follows:

The establishment of an ongoing Education Program to promote the legislation and educate the broader industry

In his review, retired District Court Judge, Mr Alan Moss found that 'There were a number of submissions that subcontractors were unaware of the Act and that Government and industry bodies should do more to promote its use.'

Where any legislation is being changed significantly, it is imperative that those that will be impacted by those laws are educated about the changes by the Government. This is even more the case when a new offence is being enlivened – one that could result in heavy penalties and/ or imprisonment.

The Education Program will need to be ongoing because of the ever-changing nature population of the building and construction industry within the State. At the contractor and sub-contractor levels—the levels where late payment or non-payment most often occurs—there is a significant rate of 'churn' within this industry – the 3rd largest in the State.

New participants enter the building and construction industry all of the time. These might be small start-ups such as a newly qualified tradesman that has set him or herself up as a new contractor. It is these types of businesses that are extremely vulnerable to late payment, non-payment or intimidation and coercion.

It is these businesses that need to access education about their rights to payment for work done and the protections that can be afforded to them by this (amended) legislation.

The role of the Education Officer tasked with delivering this Program will have a much broader role than merely educating the industry on the legislative changes to the Act. This Officer will also:

- engage closely with relevant industry associations (including the Master Builders Association (SA), the Housing Industry Association (SA), the Civil Contractors Federation (SA) and Business SA) to support the delivery of information, education and resources to industry participants;
- conduct regular information sessions for sub-contractors;
- prepare marketing materials including on-line and social media;
- coordinate the investigation of complaints of harassment, intimidation, coercion or otherwise applying undue influence or pressure of a person seeking payment under the Security of Payment laws (as set out in the Bill below) ;
- oversee the operations of ANAs under the proposed new arrangements proposed (also as set out in the Bill below) ; and
- investigate complaints made under the Act, as well as providing advice and support to the Commissioner on complaints that might be made under the proposed new *Building and Construction Industry Code* under the *Fair Trading Act 1987* (as Proposal 1.7).

The Small Business Commissioner will work cooperatively with the Industry Participation Advocate to develop a policy that will effectively impose a 'good behaviour' test for principal contractors who bid for Government projects of $4 million and above for the metropolitan area and $1 million and above for regional areas.

In recent times the Small Business Commissioner has had dealings with one particular subcontractor who has a $3.5 million claim against a large principal contractor in another state.

The question that this subcontractor has constantly asked is, 'why do these people who behave so badly keep getting government contracts in South Australia?'

As part of the development of this Policy, the Small Business Commissioner will consult with relevant government agencies to define this 'good behaviour' test which will be broadly consistent with current Industry Participation Advocate thresholds for local participation assistance.

A *Building and Construction Industry Code* will also be developed under the *Fair Trading Act 1987.* This Code will mirror the 4 existing Industry Codes (Farming, Newsagency, Motor Vehicles and Franchising) that are in place and will provide the Small Business Commissioner with extra powers to compel disputing parties to participate in an alternative dispute resolution, which will include mediation.

Alternative dispute resolution (ADR) gives parties the opportunity to work through disputed issues with the help of a neutral third party. ADR is generally faster and less expensive than going to court.

One of the main benefits of ADR is that the process puts the parties in control (rather than their lawyers or the court) by giving each party an opportunity to tell their side of the story, and have a say in the final decision.

The SBC currently monitors the following industry codes:

- Farming Industry Dispute Resolution Code

- Motor Vehicle Industry Dispute Resolution Code
- Newsagency Industry Dispute Resolution Code
- Franchising Industry Dispute Resolution Code

Each Industry Code promotes the successful resolution of industry related disputes in a streamlined and defined manner. Each Code provides mandatory alternative dispute resolution processes at no or low cost to participants.

The SBC has a variety of powers under each Code to assist in resolving a dispute. Parties can be compelled to:

- attend meetings;
- exchange information;
- answer questions; and
- participate in an alternative dispute resolution processes.

Another Code provision (as contained in existing Codes) is the ability of the SBC to engage a technical expert to help resolve disputes.

There are two levels of penalties for breaches of the four Industry Codes under the *Fair Trading Act 1987*. On one level, the SBC can issue a civil expiation notice for breaches of a particular Code, or alternatively, the SBC may take court action to obtain a civil penalty of up to $50 000 for a corporation or $10 000 for a natural person.

The proposed Building and Construction Industry Code would give the SBC the same powers as the existing Industry Codes, with mandatory requirements for parties to assist and participate.

Having now contributed significant resources into the two tranches of consultation, the retail and commercial leasing sector arguably has a legitimate expectation of the legislation being amended and thereby improved.

I commend this Bill to the house and seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Building and Construction Industry Security of Payment Act 2009*

4—Amendment of section 4—Interpretation

Definitions are inserted for the purposes of the measure.

5—Insertion of sections 7A and 7B

New sections 7A and 7B give the Small Business Commissioner responsibility for the administration of the Act and set out functions.

6—Amendment of section 29—Nominating authorities

Certain amendments to this section insert a new scheme for the Minister to grant persons authority to nominate adjudicators for the purposes of this Act. Authorities will be granted for a term of up to 5 years and on conditions determined by the Minister.

The Minister may limit the number of persons who may be authorised and can revoke an authority in certain circumstances.

Other amendments provide for the Commissioner to obtain copies of adjudication applications or other information from authorised nominating authorities.

7—Insertion of sections 32A and 32B

New section 32A provides for an offence relating to assaulting, threatening or intimidating a person in relation to progress payments.

New section 32B supports the new offence by providing that the conduct and state of mind of an officer, employee or agent of a body corporate acting within the scope of his or her actual, usual or ostensible authority will be imputed to the body corporate.

8—Insertion of section 33A

New section 33A provides that neither the Commissioner nor the Crown incurs any liability for the publication by the Commissioner in good faith of a determination of an adjudicator in relation to an adjudication application (in accordance with the Commissioner's function to publish such adjudications).

9—Repeal of section 36

Section 36 provided for a review of the Act 3 years after it commenced operation. The provision is spent and is being repealed.

Schedule 1—Transitional provisions

1—Revocation of authorisations

In connection with the amendments to section 29 of the Act in clause 6 (above), existing authorisations under that section are revoked. Despite the revocation of authorisations, the transitional provisions allow for authorised nominating authorities to complete determinations of adjudication applications made before the commencement date.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO NO 3) BILL

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) (23:31): 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.

The Statutes Amendment (Attorney-General's Portfolio No 3) Bill 2017 makes miscellaneous amendments to various Acts to address a number of minor outstanding issues in legislation that have been identified by affected agencies and interested parties.

Advance Care Directives Act 2013

Pursuant to section 23 of the *Guardianship and Administration Act 1993*, the Public Advocate may delegate his or her powers or functions by way of written delegation. Subsection 45(12) of the *Advance Care Directives Act* prevents the Public Advocate from delegating his or her powers or functions under subsections 45(5)(a) and (6) of that Act. Subsection 45(12) overrides the Public Advocate's general powers of delegation, resulting in the Governor in Executive Council being required to appoint and Acting Public Advocate on each occasion that the Public Advocate takes leave. This creates unnecessarily complex administrative requirements and was an unintended consequence of the provision. The Bill deletes subsection 45(12) to enable the Public Advocate to administratively delegate his or her full suite of powers or functions under section 23 of the *Guardianship and Administration Act*.

Bail Act 1985

The Bill amends the *Bail Act* to authorise the manager of a youth training centre to witness a bail agreement or a guarantee of bail. This is consistent with the existing authorisation in the Act for the person in charge of a prison to witness these documents. Currently, when a youth is released on bail from a training centre following a successful application via video link, staff at the training centre are required to seek specific authorisation from the court on each occasion in order to witness the youth entering into the bail agreement. It is more appropriate and efficient for the manager of a training centre to have standing authority to witness bail agreements and guarantees of bail.

Construction Industry Long Service Leave Act 1987

The construction industry long service leave scheme allows certain workers to qualify for long service leave based on their service to the industry rather than just one employer. The amendment will bring work that involves the construction, erection, installation, extension, alteration or dismantling of data and communication cabling and security alarm equipment within the operation of the Act. This will mean that workers who undertake these types of work will

have fairer access to entitlements in line with the rest of the construction industry. It is appropriate that the scheme be adapted to reflect the evolution of technology in buildings and structures over time.

The Bill also clarifies the crediting of effective service where a person transitions in or out of the construction industry long service leave scheme. This may occur due to a change of occupation with the same employer or due to changes in coverage of the Act. The amendment makes clear that only service with the employer at the time of transitioning in or out of the scheme is preserved for the purpose of ongoing long service leave accrual with that same employer. The amendment will not otherwise affect the preservation of effective service entitlements when an employee changes to a different employer within the scheme.

Guardianship and Administration Act 1993

An amendment is made to the *Guardianship and Administration Act* to remove the mandatory requirement for the State Coroner to hold an inquest into the death or apparent death by natural causes of a person who is subject to an order under section 32(1)(b) of the *Guardianship and Administration Act*.

The death of a person who is detained under section 32(1)(b) usually relates to an aged person with a mental incapacity who needs to be detained for their own health or safety. The State Coroner has reported that in most cases, under this type of detention, the person dies due to natural causes. An inquest into a death in custody is often a long and drawn out process which, in cases where the person has died or appears to have died due to natural causes, results in unnecessary distress to surviving family members.

A death in these circumstances will remain a 'reportable death' under the *Coroners Act 2003*, meaning that it must be reported to the State Coroner. An inquest is still required to be held if the State Coroner considers it necessary or desirable to do so, or at the direction of the Attorney-General.

The amendment will apply to all deaths by natural causes of persons detained under section 32(1)(b), including deaths that occurred before the commencement of this Bill.

Legal Practitioners Act 1981

The Bill makes minor changes to the *Legal Practitioners Act*.

The definition of 'corresponding law' in section 5 is amended. The existing definition requires a proclamation to declare the corresponding law of another State each time its relevant legislation relating to the regulation of legal practitioners changes. The Bill adopts the definition provided by the Model Legal Profession Bill; a definition which is more efficient and is consistent with other jurisdictions.

The Bill also amends Schedule 3 of the *Legal Practitioners Act* to permit the use of conditional costs agreements in proceedings under the *Migration Act 1954* (Cth). A conditional costs agreement is an agreement between solicitor and client that provides that the payment of some or all of the legal costs in a matter is conditional on the successful outcome of the matter. The use of conditional costs agreements is prohibited for some types of legal matters, such as family law matters, where pursuing a win is not necessarily consistent with the policy objectives of the governing legislation. There is no reason why a successful outcome should not be rigorously pursued in proceedings under the *Migration Act*. It is, however, necessary to protect clients, who can be particularly vulnerable in these cases, from the inclusion of uplift fees. The Bill, therefore, permits the use of conditional costs agreements in matters relating to proceedings under the *Migration Act* but clarifies that the inclusion of uplift fees is not permitted in these cases.

Magistrates Act 1983; Magistrates Court Act 1991; and *Remuneration Act 1990*

An amendment is made to the *Magistrates Act* to abolish the position of Deputy Chief Magistrate. The Chief Magistrate will retain the ability to delegate his or her administrative functions and powers under section 7(3). Consequential amendments are also made to the *Magistrates Court Act* and the *Remuneration Act*.

These amendments will to come into operation on 8 July 2018, after the retirement of the incumbent Deputy Chief Magistrate.

Second-hand Dealers and Pawnbrokers Act 1996

The *Second-hand Dealers and Pawnbrokers Act* contains a negative licensing scheme. This means that a license is not required to carry on a business as a second-hand dealer but it is an offence for a person to carry on such a business if he or she has been disqualified by the Commissioner of Police. An amendment to the Act, which commenced on 1 July 2016, inserted provisions to allow the Commissioner of Police to disqualify a person from carrying on a business as a second-hand dealer without providing reasons for the decision if the decision was made because of information that is classified as criminal intelligence.

The Bill makes consequential amendments to the Act that were overlooked when the 1 July 2016 amendment was passed. The amendments will bring the provisions relating to the disqualification of persons based on criminal intelligence in line with other licensing schemes in the State.

Spent Convictions Act 2009

The Bill amends the *Spent Convictions Act* to clarify the rules relating to the disclosure and use of a conviction that is taken to be immediately spent under section 4(1a) of the Act. The amendment primarily aims to address an anomaly with the current operation of the Act that in some cases prevents employers from taking appropriate action against employees following criminal offending, including where the offence was committed in the course of employment or where the employee poses a serious risk to other staff or the public.

The anomaly arises in cases where a conviction is immediately spent. If the police decide not to charge the person with an offence, or if the person is prosecuted but is ultimately found not guilty, the employer is then able to carry out their own investigations and consider the need for disciplinary action. A public sector employer may be able to obtain the material from the police investigation for this purpose. If, on the other hand, the person pleads or is found guilty of the offence but the court decides not to record a conviction, the employer is unable to obtain any material from police or the court and cannot use its knowledge of the offending to commence an investigation. Neither can the employer rely on the court finding for the purpose of taking disciplinary action.

There have now been several cases where a public sector agency has been effectively barred from taking appropriate action against an employee for criminal conduct committed in the course of their employment following a conviction being immediately spent. In some cases the employee may pose a real risk to public safety, but the risk cannot be investigated by the employer. The anomaly was drawn to the Government's attention in the context of public sector employment, but is not limited to the public sector.

In order to remedy this issue, there must be some restructuring of the legislation. The remedy requires a new exclusion that will apply only to immediately spent convictions, and this is difficult to accommodate within the existing structure of the Act. The amendment to the *Spent Convictions Act* simplifies the rules about the situations in which the protections in Part 3 Division 1 of the Act against disclosure and use of spent convictions will apply. In addition, it includes a regulation-making power to tease out the more complex details about the circumstances in which the protections in Part 3 Division 1 of the Act will apply in the case of an immediately spent conviction.

South Australian Employment Tribunal Act 2014

The Bill amends the *South Australian Employment Tribunal Act* to confer on the Tribunal jurisdiction under the *Workers Compensation Act 1971* and address other consequential matters.

The primary amendment inserts Division 8 into Part 2 of the *South Australian Employment Tribunal Act*. This amendment is necessary to ensure that the Tribunal can exercise jurisdiction under the *Workers Compensation Act 1971.* The need to do so was overlooked during drafting and passage of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016* which expanded the Tribunal's jurisdiction from 1 July 2017.

Notwithstanding its repeal by the *Workers Rehabilitation and Compensation Act 1986*, the 1971 Act continues to apply in respect of an injury that is attributable to a trauma that occurred before the day that the 1971 Act was repealed by the 1986 Act. This is the result of Schedule 1 clause 2(1) of the 1986 Act and this situation was continued under Schedule 9 clause 59(1) of the *Return to Work Act 2014*. Essentially, this means that the Industrial Relations Court retained jurisdiction over 1971 Act matters. However, the Industrial Relations Court was dissolved on 1 July 2017 by section 69(2) of the 2016 Amendment Act. The Government has been advised that there continue to be at least a dozen proceedings commenced under the 1971 Act each year, mostly requests for the sealing of consent orders. However, there is currently one disputed matter under the 1971 Act before a judicial officer. This amendment is necessary to avoid any lacuna in the jurisdiction able to be exercised under the 1971 Act. Such an outcome was not the intended consequence of the expansion of the Tribunal's jurisdiction, and the dissolution of the Industrial Relations Court, by the 2016 Amendment Act. The amendments will be made retrospective to 1 July 2017 and will assign 1971 Act proceedings to the Tribunal in Court Session, which is also known as the South Australian Employment Court.

Young Offenders Act 1993

Part 2 of the *Young Offenders Act* enables diversionary measures to be utilised where a youth commits a minor offence that results in a person suffering loss or damage. As an example, the youth may be required to attend a family conference, where he or she may be required to enter into an undertaking to give an apology or pay compensation to the person.

The existing provisions only allow for these diversionary measures to be utilised where a person has suffered physical or mental injury as a result of an offence committed by a youth. The Act does not permit police or a family conference to require a youth to enter into an undertaking to give an apology or pay compensation to a person who has suffered loss or damage as a result of an offence. This is remedied in the Bill.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—*Advance Care Directives Act 2013*

4—Amendment of section 45—Resolution of disputes by Public Advocate

This clause deletes section 45(12) from the principal Act with the effect of removing a complexity in the legislation around delegations by the Public Advocate.

Part 3—Amendment of *Bail Act 1985*

5—Amendment of section 3—Interpretation

This clause inserts the definition of *training centre* - the term has the same meaning as in the *Young Offenders Act 1993*.

6—Amendment of section 6—Nature of bail agreement

This amendment will ensure that the manager of a youth training centre is authorised to witness bail agreements.

7—Amendment of section 7—Guarantee of bail

This amendment will ensure that the manager of a youth training centre is authorised to witness guarantees of bail.

Part 4—Amendment of *Construction Industry Long Service Leave Act 1987*

8—Amendment of section 4—Interpretation

This amendment expands the definition of *electrical or metal trades work* to include—

- data and communication cabling; and
- security alarm equipment.

9—Amendment of section 15—Crediting effective service under this Act and the Long Service Leave Act

This clause amends section 15 of the principal Act to clarify the parameters of the portability of long service leave for persons moving in and out of different positions with the same employer, 1 of which is construction work. In both cases (ie where a person moves out of construction work and into another position with the employer, and conversely where a person moves into construction work from another position with the employer), portability of long service leave is retained, but only in relation to the work undertaken with that employer.

Part 5—Amendment of *Guardianship and Administration Act 1993*

10—Insertion of section 76A

This clause inserts new section 76A into the principal Act. The new section enables inquests to be held, at the discretion of the State Coroner or the direction of the Attorney-General, into the death or apparent death (whether before or after the commencement of the new section) of a person from natural causes while subject to an order under section 32(1)(b) of the principal Act.

Part 6—Amendment of *Legal Practitioners Act 1981*

11—Amendment of section 5—Interpretation

The definition of *corresponding law* is amended to correspond to the model provision taken from the Legal profession—model laws project Model Bill (Model Provisions).

12—Amendment of Schedule 3—Costs disclosure and adjudication

This clause excludes conditional costs agreements relating to proceedings under the *Migration Act 1958* of the Commonwealth from the ambit of clause 26(1) of Schedule 3 of the principal Act.

Part 7—Amendment of *Magistrates Act 1983*

13—Amendment of section 6—Magistracy

This clause removes the office of Deputy Chief Magistrate from the principal Act.

14—Amendment of section 7—Administration of magistracy

This amendment is consequential on the amendment in clause 13.

15—Amendment of section 13—Remuneration of magistrates

This amendment is consequential on the amendment in clause 13.

Part 8—Amendment of *Magistrates Court Act 1991*

16—Amendment of section 11—Chief Magistrate

This amendment is consequential on the amendment in clause 13.

17—Amendment of section 49—Rules of Court

This amendment is consequential on the amendment in clause 13.

Part 9—Amendment of *Remuneration Act 1990*

18—Amendment of section 13—Determination of remuneration of judges, magistrates and certain others

This amendment is consequential on the amendment in clause 13.

Part 10—Amendment of *Second-hand Dealers and Pawnbrokers Act 1996*

19—Amendment of section 3—Interpretation

This clause inserts provisions relating to criminal intelligence that will make the principal Act consistent with provisions in the *Tattooing Industry Control Act 2015*.

20—Amendment of section 5A—Criminal intelligence

This clause inserts provisions relating to criminal intelligence that will make the principal Act consistent with provisions in the *Tattooing Industry Control Act 2015*.

Part 11—Amendment of *South Australian Employment Tribunal Act 2014*

21—Amendment of section 3—Interpretation

This amendment ensures that the term *relevant Act* when used in the principal Act, will include the principal Act itself.

22—Insertion of Part 2 Division 8

Division 8 is inserted into Part 2 of the principal Act to confer on the Tribunal the same jurisdiction under the *Workers Compensation Act 1971* that was previously conferred on the Industrial Relations Court. This is in consequence of the dissolution of the Industrial Relations Court on 1 July 2017 and the continued application in certain circumstances of the *Workers Compensation Act 1971* (despite its repeal).

23—Amendment of section 93—Regulations

This amendment clarifies that savings or transitional provisions may be made by regulation consequent on the vesting of jurisdiction on the Tribunal under the principal Act.

24—Transitional provisions

The transition of proceedings under the *Workers Compensation Act 1971* from the Industrial Relations Court to the Tribunal is managed under this clause.

Part 12—Amendment of *Spent Convictions Act 2009*

25—Amendment of section 13—Exclusions

Section 13 of the principal Act is amended to remove some of the complexity from the section.

26—Amendment of Schedule 1—Exclusions

New clause a1 is inserted into Schedule 1 of the principal Act, bringing with it some of the provisions from section 13. It also includes a regulation making power enabling exclusions to be disapplied by regulation in the case of certain immediately spent convictions.

Part 13—Amendment of *Young Offenders Act 1993*

27—Amendment of section 3—Objects and statutory policies

The statutory policies are extended to encourage the provision of compensation and restitution, where appropriate, for persons who have suffered loss or damage as a result of offences committed by youths.

28—Amendment of section 4—Interpretation

These amendments clarify that *loss or damage* includes costs and expenses but does not include injury, and that a reference in this Act to a person who has suffered loss or damage includes a reference to a body that has suffered loss or damage.

29—Amendment of section 8—Powers of police officer

The amendments under this clause extend the benefits of section 8 to persons who have suffered loss or damage as a result of an offence.

30—Amendment of section 10—Convening of family conference

The amendments under this clause extend the benefits of section 8 to persons who have suffered loss or damage as a result of an offence.

31—Amendment of section 12—Powers of family conference

The amendments under this clause extend the benefits of section 8 to persons who have suffered loss or damage as a result of an offence.

32—Amendment of section 13—Limitation on publicity

This amendment is consequential.

33—Amendment of section 26—Limitation on Court's power to require bond

This amendment is consequential.

34—Amendment of section 64—Information about youth may be given in certain circumstances

This amendment is consequential.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

WORK HEALTH AND SAFETY (REPRESENTATIVE ASSISTANCE) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

RESEARCH, DEVELOPMENT AND INNOVATION BILL

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) (23:32): 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.

South Australia, with its population, demographics, environmental, social and political conditions, lends itself as a good place to test and pioneer innovative research and development projects.

The nature of many research and development proposals means that there may be legislative or regulatory barriers that act as a disincentive to industry and entrepreneurs to pursue trialling them in South Australia.

The Research, Development and Innovation Bill aims to attract innovative research and development proposals to SA and establish this state as a global leader in research, development and innovation trials. It will position South Australia as the first choice for industries engaged in research, development and innovation.

The government has previously introduced similar legislation, specifically to facilitate on road automated vehicle trials. The *Motor Vehicles (Trials of Automotive Technologies) Amendment Act 2016* commenced on 9 June 2016. Under that legislation, the Minister may publish a notice in the Gazette to authorise the undertaking of an automotive technology (generally referred to as 'driverless cars') trial, and may issue exemptions from the relevant provisions of the *Motor Vehicles Act 1959* and any other laws for purposes related to authorised trials. It is noteworthy that the National Transport Commission has considered the South Australian legislation and suggested that it could be adopted as a model for other jurisdictions.

This Bill creates a legislative framework to facilitate innovative research and development trials beyond the driverless cars example. It will enable government to respond quickly and flexibly, and in appropriate circumstances to remove regulatory barriers in a manner that appropriately balances competing factors.

The Bill provides for a 'research and development declaration' to be made by the Governor, on the recommendation of a Minister. This declaration is a mechanism to temporarily suspend, modify or dis-apply laws that would otherwise prohibit the pursuit of an innovative research and development proposal.

A research and development application may, to the extent that the Governor considers it necessary for the purposes of the project or activity, provide that an Act, or provisions of an Act or other law, does not apply, or applies with specified modifications, in respect of the project or activity. The declaration may also impose conditions or other requirements that apply in respect of the project or activity.

The Governor must not make a research and development declaration unless satisfied that it is appropriate having regard to:

- whether the project or activity is consistent with the objects and purposes of the Act;
- whether the applicant possesses the relevant skills, experience or capacity to give proper effect to the project or activity;
- whether the project or activity is on balance in the public interest; and
- whether any risks identified in respect of the project or activity can be appropriately eliminated or minimised; and
- whether there is a risk of loss, harm, or other detriment to the community if the project or activity does or does not occur.

Further, the Governor must not make a research and development declaration unless the Governor considers that doing so will not give rise to any adverse effects to public health or to the environment. Finally, a research and development declaration may not dis-apply or modify the application of the *Aboriginal Heritage Act 1988*.

These are important considerations which will ensure that a declaration is only made in appropriate circumstances.

The Bill requires the applicant for a declaration to provide a detailed description of the project or activity, and to set out how the disapplication or modification of an Act or law is reasonably necessary for the purposes of the project or activity. The applicant is further required to include an assessment of the potential risks involved in the project or activity, with recommendations as to how any such risks may be eliminated or minimised. The Minister may request further information from the applicant prior to determining whether to make a recommendation to the Governor, including requiring the applicant to provide a report from an independent expert on any matter relevant to the application. Of course, the Minister may also require a public sector agency to provide information to the Minister to assist with making the decision about whether to make a recommendation.

Before making a recommendation to the Governor to make a declaration, the Minister is required to consult with other Ministers if the proposed declaration relates to an Act the administration of which is the responsibility of that other Minister. The Minister is also required to consult with any council the Minister considers would be particularly affected by the proposed declaration. It is also a requirement for the Minister to publish a proposed research and development declaration inviting comment from affected persons.

These requirements will ensure that the Minister is able to take into account all relevant factors, both positive and negative, when deciding whether it is appropriate to recommend that a research and development declaration should be made.

A research and development declaration must be laid before both Houses of Parliament and is subject to disallowance by resolution passed within 5 sitting days after the day on which the declaration is laid before the House.

The operation of a research and development declaration is limited to an initial maximum period of 18 months. There is scope for a further 18 month extension in special circumstances.

The Minister may require reports on the project or activity and the operation of the research and development application. This will enable appropriate monitoring and assessment of the impact of the research and development activity.

There may be situations where recommendations as to law reform measures arise out of the operation or effect of the research and development declaration and the project or activity under the declaration. In these cases, the Bill provides for a Minister to prepare a report to be laid before both Houses of the Parliament on the operation and effect of the research and development declaration.

The Bill will positively impact the South Australian community by providing businesses and entrepreneurs with a pathway to test and pioneer innovative research and development projects or initiatives in South Australia. It will assist in attracting businesses, investment and people to the state. This will flow on to create employment and economic opportunities in South Australia, assist with transitioning the economy and cement South Australia as a global leader in innovation.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides for the short title of the Bill.

2—Commencement

This clause provides for commencement on a day to be fixed by proclamation.

3—Objects and purposes

This clause provides the objects and purposes of the measure which are to—

(a) create and promote opportunities for research, development and innovation in this State by ensuring that the legal and regulatory environment in the State is responsive and adaptable to such opportunities; and

(b) create an innovative approach to the delivery of public sector and private sector services; and

(c) expand and grow existing industries in the State and attract new industries to the State to increase employment and economic opportunities for the State and South Australians; and

(d) position South Australia as the first choice for industries engaged in research, development and innovation in order to secure broad public benefit; and

(e) to ensure that the public interest is protected and served in the making of a research and development declaration.

4—Interpretation

This clause provides defined terms for the purposes of the measure.

Part 2—Research and development declarations

5—Research and development declarations

This clause provides for the making of research and development declarations by the Governor in respect of specified projects or activities. A research and development declaration may be made by the Governor on the recommendation of the Minister if the Governor considers that the making of the declaration is appropriate having regard to—

(a) whether the project or activity is consistent with the objects and purposes of the measure; and

(b) whether the applicant and any related parties possess the relevant skills, experience or capacity to give proper effect to the project or activity; and

(c) whether the project or activity is, on balance, in the public interest; and

(d) whether any risks identified in respect of the project or activity can be appropriately eliminated or minimised; and

(e) whether there is a risk of loss, harm or other detriment to the community if the project or activity does or does not occur.

The Governor must also consider that the making of the declaration will not give rise to any adverse effects to public health or the environment.

A research and development declaration in respect of a project or activity may—

(a) to the extent that the Governor considers necessary for the purposes of the project or activity, provide that an Act, specified provision of an Act, or any other law does not apply, or applies with specified modifications, in respect of the project or activity; and

(b) impose conditions or other requirements that apply in respect of the project or activity.

A research and development declaration may not disapply or modify the application of the *Aboriginal Heritage Act 1988* or a provision of that Act.

6—Application for research and development declaration

This clause provides for applications for research and development declarations to be made to the Minister and such applications must—

(a) provide a detailed description of the relevant project or activity along with an explanation of how the project or activity is appropriate having regard to the matters referred to in clause 5 against which the Governor must assess the project or activity; and

(b) identify, so far as is reasonably practicable, any Act, any provisions of an Act, and any other law that operate to prevent or restrict the project or activity and how the disapplication or modification (subject to conditions or other requirements) of the identified Act, provision of an Act, or other law is reasonably necessary for the purposes of the project or activity; and

(c) include an assessment of potential risks involved in the project or activity with recommendations as to how any such risks may be eliminated or minimised; and

(d) include any other information required by the Minister.

7—Further information

This clause provides that the Minister may require an applicant for a research and development declaration to provide further information as the Minister reasonably requires to determine whether or not to make a recommendation to the Governor about making the declaration, such as a report from an independent expert relating to any matter relevant to the application specified by the Minister.

8—Public sector agency to provide relevant information

This clause provides that the Minister may require a public sector agency (within the meaning of the *Public Sector Act 2009*) to provide information to the Minister that the Minister reasonably requires in deciding whether or not to make a recommendation to the Governor about making a research and development declaration.

9—Consultation

This clause provides for consultation to be undertaken by the Minister in respect of a proposed research and development declaration. Before making a recommendation to the Governor in respect of a proposed research and development declaration, the Minister must consult with—

(a) any another Minister who is responsible for the administration of an Act to which the proposed research and development declaration relates; and

(b) any council the Minister considers would be particularly affected by the proposed research and development declaration such that they should be consulted,

and—

(c) take into account, as the Minister sees fit, comments received from affected persons in response to the publication of the proposed research and development declaration in accordance with the section.

In addition, the Minister must publish a proposed research and development declaration in accordance with the clause and take into account, as the Minister sees fit, comments received from affected persons in response to the publication and the Minister may also, as the Minister sees fit, take into account any comments received from any other persons.

10—Commencement and duration of research and development declaration

This clause provides that a research and development declaration—

(a) operates from the date of publication in the Gazette or such later date as specified in the declaration; and

(b) remains in force for 18 months from that date or such shorter period as specified in the declaration.

However, the Governor may, on the recommendation of the Minister and by notice published in the Gazette, extend the period for which a research and development declaration remains in force (for a maximum additional period of 18 months) if satisfied that special circumstances justify the extension in the particular case.

11—Variation or revocation of research and development declaration

This clause provides that the Governor may, on the recommendation of the Minister and by notice published in the Gazette, vary a research and development declaration. Before making a recommendation for such a variation the Minister must undertake any consultation required under clause 9 as if the proposed variation was a proposed research and development declaration.

This clause also provides that the Governor may revoke a research and development declaration at any time.

12—Disallowance

This clause provides for research and development declarations and variations to such declarations to be laid before both Houses of Parliament after which either House may pass a resolution disallowing the declaration or variation in which case the declaration or variation will cease to have effect. A resolution of a House of Parliament must be passed within 5 sitting days of the laying of the declaration or variation before the House.

Part 3—Reporting

13—Reporting to Minister

This clause provides that the Minister may, at any time during which a research and development declaration remains in force, require a person undertaking a project or activity under the declaration to provide to the Minister a report, containing the particulars required by the Minister, on the project or activity and the operation of the research and development declaration.

14—Reporting to Parliament

This clause provides that the Minister may, at any time, prepare a report on the operation and effect of the research and development declaration and a project or activity undertaken under the research and development declaration. For the purposes of preparing such a report, the Minister may require a person to provide the Minister with information relating to the research and development declaration and the project or activity undertaken under the research and development declaration. The Minister must cause a report prepared under this clause to be laid before both Houses of Parliament within 6 sitting days of the completion of the report.

The clause provides protections for commercial information in that a report under this section must not contain commercial information of a person unless the Minister has first consulted with the person about the inclusion of the information in the report.

Part 4—Miscellaneous

15—Offence

This clause provides that a person who fails to comply with a condition or requirement of a research and development declaration commits an offence. The maximum penalty for a natural person is imprisonment for 4 years and for a body corporate is $120,000.

16—Validity of acts

This clause provides that any act or omission undertaken or made, or purportedly undertaken or made, in good faith by a person or body under a research and development declaration is taken to have been lawfully undertaken or made and such an act or omission is, and remains, lawful and valid despite any Act or law to the contrary.

17—Liability provision

This clause provides that no act or omission undertaken or made, or purportedly undertaken or made, by the Governor, the Minister or any other person engaged in the administration of the measure with a view to exercising or performing a power or function under the measure gives rise to any liability (whether based on a statutory or common law duty to take care or otherwise) against the Governor, the Minister or the Crown.

This clause further provides that a research and development declaration may provide that an act or omission undertaken or made, or purportedly undertaken or made, in good faith by a specified person, or class of persons, under the research and development declaration gives rise to no liability or to limited liability (whether based on a statutory or common law duty to take care or otherwise) against the person or class of persons (as the case requires).

18—Confidentiality of commercial information

This clause provides for the protection of commercial information that is obtained in the course of performing functions or exercising powers under the measure or a research and development declaration.

19—Regulations

This clause provides that the Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, the measure.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

RESIDENTIAL PARKS (MISCELLANEOUS) AMENDMENT BILL

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) (23:33): 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.

Residential Parks in South Australia play an important role in providing affordable housing opportunities to the community, and offering an attractive lifestyle for retirees.

The *Residential Parks Act 2007* (the Act) regulates the relationship between residential park owners and residents who live in residential parks as their principal place of residence. The Act was originally designed to primarily address issues arising from people residing in caravan parks in demountable, moveable and inexpensive structures erected on sites rented from the park owner.

The types of residential parks that have developed since the commencement of the Act are unlike those envisioned by the legislation. Some residential parks in South Australia (SA) offer purely long term living in constructed or manufactured homes, while others are a mix of tourist accommodation and dedicated areas for residential living. The types of dwellings in these parks range from caravans with annexes to transportable and manufactured homes.

Residential Park living in SA is continuing to grow in popularity, as it is in the remainder of Australia. Residential parks can offer residents the security of living in a small community, with cost effective housing, often in a pleasant location. Although there is no official data available, it is estimated that there are currently around 2,600 residential or long stay site residents in SA.

In January 2013 the Holdfast Bay Council advised around 40 residents of the Brighton Caravan Park that they had to vacate to make way for a $3 million redevelopment of the park. Sixteen residents took legal action against the council over their eviction. Some residents had lived at the park for more than ten years and had established themselves within the park community. After nearly 18 months of legal proceedings, the residents withdrew their legal action. As a goodwill gesture, the Holdfast Bay Council offered the residents compensation to assist them in moving to other accommodation. This situation highlighted a number of issues with the existing regulatory framework as it relates to rights and obligations of residents and park owners

As many residential parks in SA offer an attractive lifestyle for retirees, residents often invest in or purchase their home with the intention of residing there throughout their retirement. Many home-owners have an expectation that they will be able to live in the park for as long as they wish, even though their site agreements do not reflect this.

At present, the Act does not prohibit park owners from offering long-term agreements to residents, nor does it obligate them to do so. There are many existing agreements already negotiated and voluntarily entered into by residents and park owners, however there are many residents that either do not have an agreement in place, or have periodic agreements that offer limited protection to residents. This raises a number of issues relating to residents' understanding of their rights and responsibilities, and likewise those of the park owner.

In March 2016, the South Australian Government released a discussion paper which sought to make a number of improvements to the current laws that regulate residential parks. Feedback, comments and submissions on the discussion paper closed in July 2016. Feedback received indicated overwhelmingly that the primary concerns were insecurity of tenure, and the absence or inadequacy of legislative requirements relating to the disclosure of information, safety in parks, and the payment of compensation.

The Bill has been developed in consultation with key stakeholders, including the South Australian Residential Parks Residents Association (SARPRA), SA Parks, State Government agencies and park residents.

The Bill seeks to implement measures to provide a fairer and more transparent system for residential park residents and owners.

This Bill seeks to introduce measures that provide for better disclosure of information in the establishment of residential park agreements. The Bill increases the penalty on park owners if an agreement is not put into writing and requires a signed copy of an agreement, together with a copy of written park rules, to be provided to a resident. The Bill also introduces a 14 day cooling-off period to ensure that prospective residents have sufficient time to properly consider an agreement and obtain advice where necessary.

The Bill also seeks to alleviate concerns held by many residents regarding the security of their tenure. Currently, at the end of a fixed term agreement, if it is not formally terminated at that point, the agreement continues as one for a periodic tenancy only, which can be terminated on 'no specific grounds' with 90 days' notice. Many of these people have invested significant amounts of money in their homes, and deserve to have a greater level of security around their tenure.

The Bill seeks to achieve this by providing for residents of more than five years to have their agreements reviewed at their expiry and reissued on same (or new agreed) terms, unless there is a statutory ground not to do so (for example, misbehaviour). The Bill also contains a new provision that requires park owners to give a resident 90 days' notice prior to the expiry of an agreement if they intend on seeking to change the terms of that agreement going forward.

The Bill also strengthens measures already in the Act that are designed to encourage and maintain harmonious relationships between residents and owners. While residents committees may already be established

under the existing Act, the Bill proposes to mandate residents committees in larger parks where there are more than 20 long-term residents. Residents committees allow for a forum for residents to raise any issues they have and for those issues to be raised with a park owner through a proper process. Owners must consider and respond to issues raised by the committee in writing within a month of being notified.

The Bill also seeks to improve safety measures in parks, for instance by mandating that all parks have a safety evacuation plan in place, that a copy of the plan is provided to all residents, and that it is reviewed annually.

The review has considered the financial and social impacts of current arrangements on residents, prospective residents and park owners and the reforms will continue to provide for affordable housing and flexible lease terms to support the community with affordable living options.

It is expected that new requirements upon park owners that are proposed by the Bill will be offset by providing them with increased security of income for site rentals for agreed periods, whilst maintaining the flexibility for owners to terminate tenure on no specified grounds for agreements under five years.

To support this package of amendments, CBS has undertaken to update and prepare additional plain English supporting resources for owners and residents containing information and advice regarding the rights and obligations of both parties. CBS will also make available from its website examples of best practice site agreements, park rules and disclosure statements. CBS Advice and Conciliation Officers will also be on hand to offer ongoing support.

Residential parks are an essential part of the affordable housing market in South Australia and we need to do all we can to ensure both residents and park owners can move forward with greater confidence and certainty regarding their rights and responsibilities.

This Bill aims to strike a fair balance between protecting the rights of residents and the investment in their homes, and the interests of park owners to support the growth of their parks.

I commend this Bill to the house.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Residential Parks Act 2007*

4—Amendment of section 3—Interpretation

This clause inserts a definition of *personal representative* and defines the concept of a *short term* residential park agreement.

5—Amendment of section 4—Presumption of periodicity in case of fixed short terms

This clause is consequential to the new general definition of *short term* inserted by clause 4.

6—Amendment of section 7—Residents committees

Subclause (1) requires certain park owners (defined in proposed subsection (8)) to ensure that there is a residents committee for the park. The penalty for failure to comply is $1,250 and defences are provided where reasonable steps to comply have been taken. Under the transitional provisions, the park owners will be exempt from the offence provision for 12 months after commencement.

Subclause (2) inserts a new subsection (2a) allowing the Tribunal to make a ruling where there is more than 1 group purporting to be the residents committee for a park.

Subclause (3) requires a park owner to consider representations made by a residents committee and provide a written response. The penalty for failure to comply is $1,250.

7—Amendment of section 10—Residential park agreement to be in writing

This clause provides that a written agreement for a periodic tenancy, or a reissued fixed term tenancy, that has arisen by operation of the Act does not need to be signed (but in the case of a periodic tenancy must include the date, or approximate date, on which the resident was first granted the right to occupy the site (if known)) and also increases a penalty.

8—Amendment of section 11—Copies of written agreements

This clause increases a penalty.

9—Amendment of section 12—Agreements incorporate park rules

This clause requires that a written residential park agreement, or a document recording its terms, signed by a resident includes a copy of the relevant park rules and that residents are notified of any later amendments to park rules. The penalty for failure to comply is $1,250 or an expiation fee of $210.

10—Amendment of section 14—Information to be provided by park owners to residents

This clause requires the specified information to be given to a resident at least 14 days before they enter into the residential park agreement and requires additional information to be provided to the resident. The clause also increases the applicable penalties in the section and adds an offence of knowingly making a statement that is false or misleading in a material particular in information provided under the section.

11—Insertion of Part 3 Division 3

This clause inserts a new Division as follows:

Division 3—Continuation or reissue of certain agreements

17A—Agreement for fixed term continues as periodic agreement if not terminated

The current section 53 is being moved to this proposed new Division.

17B—Certain site agreements to be reissued

A residential park site agreement for a fixed term of 5 years or more (or for a lesser fixed term if the resident has held a right of occupancy for a total period of 5 years or more) will, if it hasn't terminated at or before the end of the fixed term and no notice has been given that a review will be required under proposed subsection (2), be taken to have been reissued on the same terms. Under proposed subsection (2), either party to such an agreement may instead give at least 90 days' notice that they want a change to the terms and, in such a case, there must be a review of the agreement and the agreement must be reissued on the newly agreed terms. The old agreement will continue until the new agreement is reissued.

If a resident under a periodic residential park site agreement has held a right of occupancy for a total period of 5 years or more, the park owner must undertake a review of the agreement and, following the review, the agreement must be reissued for a fixed term agreed with the resident.

A review is not required under the section if the resident notifies the park owner that the resident does not want to occupy the site under a fixed term agreement or if either party has given notice of termination under Division 3 (noting the limitations being imposed on termination for 'no grounds' by other provisions of the measure).

A park owner who refuses or fails to comply with a requirement of the section is guilty of an offence punishable by a fine of $1,250 or an expiation fee of $210.

12—Amendment of section 49—Residential park site agreement—acquisition of park or site

This clause deletes provisions that currently allow the new owner of a residential park to terminate residential park site agreements without specifying a ground of termination.

13—Insertion of section 50A

This clause inserts a new provision as follows:

50A—Sale of dwelling following death of resident

If the personal representative of a deceased resident, or another person who has inherited property of a deceased resident, intends to sell a dwelling that is on the site that was occupied by the deceased, they must inform the park owner of that intention and give the park owner a first option to purchase the dwelling. If no agreement is reached within 28 days, that option will lapse and the dwelling may be sold in the normal way.

14—Amendment of section 52—Termination of residential park agreement

This amendment:

(a) provides that a residential park site agreement for a fixed term does not terminate when a mortgagee takes possession of the rented property under a mortgage (in section 52(d));

(b) makes a minor amendment to ensure consistency of expression (in section 52(da));

(c) limits the provision about termination due to the death of the resident (where no dependents are left in occupation of the property) to residential park tenancy agreements (in section 52(f)); and

(d) clarifies that, except as provided in subsection (1)(f) of the section, a residential park agreement does not terminate on the death of the resident.

15—Repeal of section 53

This section is being moved to new Part 3 Division 3.

16—Insertion of section 70A

This clause inserts a new section as follows:

70A—Termination where change of use or redevelopment

This provision will allow for termination of a residential park site agreement (after a specified notice period) where the residential park will no longer be used as such or where the residential park, or a part of it, is undergoing redevelopment that cannot be completed in a safe and efficient way unless the resident vacates the site. The provision prescribes notice periods and allows for alternative arrangements to be made.

17—Amendment of section 71—Termination where periodic tenancy and no specified ground of termination

This amendment provides that an agreement for a periodic tenancy cannot be terminated for no specified ground if the resident has held a right of occupancy of the rented property for a period of 5 years or more.

18—Amendment of section 72—Termination at end of fixed term

This is consequential to proposed section 17B inserted by clause 11.

19—Insertion of section 73A

This clause inserts a new section as follows:

73A—Harsh or unconscionable termination

If termination of a residential park site agreement is harsh or unconscionable, the resident may apply to the Tribunal for an order or orders.

20—Insertion of section 78A

This clause inserts a new section as follows:

78A—Termination where notice given under section 70A

This provision is consequential to proposed section 70A and allows a resident who has been given a notice of termination by a park owner under that section to terminate at an earlier time without specifying a ground of termination (but with 28 days' notice).

21—Amendment of section 116—General powers of Tribunal to resolve disputes

This clause broadens the Tribunal's power to order a person to make a payment.

22—Amendment of section 134—Commissioner's functions

This clause allows the Commissioner to publish information relating to action taken by the Commissioner to enforce the Act.

23—Insertion of section 138A

This clause inserts a new section as follows:

138A—Park owner must have safety evacuation plan

This provision requires a park owner to have a safety evacuation plan for the park; to provide the plan to residents; and to review the plan annually. The penalty for failure to do so is a fine of $2,500 or an expiation fee of $210.

24—Amendment of section 141—Regulations

This clause amends the regulation making power.

Schedule 1—Transitional provisions

This Schedule contains the transitional provisions relating to the measure.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

ENVIRONMENT PROTECTION (WASTE REFORM) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

STATUTES AMENDMENT (LEADING PRACTICE IN MINING) BILL

Introduction and First Reading

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

At 23:34 the council adjourned until Thursday 2 November 2017 at 14:15.