LEGISLATIVE COUNCIL

Thursday, 16 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 and question time to be taken into consideration at 2.15pm.

Motion carried.

Bills

LINEAR PARKS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debated on second reading.

(Continued from 27 September 2017.)

The Hon. J.M.A. LENSINK (11:33): I rise to make some remarks in relation to this piece of legislation. The Linear Parks Act has heretofore only been applied to what we understand to be the Linear Park, which is along the Torrens, but does provide for other linear parks to be created.

The bill, as I understand it, is one of improving administrative efficiency, from the point of view of the government at least, to harmonise the range of parcels into one park and therefore create a single regime by which they may be created, rather than utilising the various acts in which the parcels may be currently held.

I note from the government's second reading explanation that they have an aspirational plan of creating additional corridors at Gawler River, Little Para River, Dry Creek, Sturt River, Field River, Christie Creek, Onkaparinga River, Pedler Creek and Port Willunga Creek. They also state in the second reading that the minister will be granted the same powers that local councils enjoy with respect to local government roads.

Linear parks are certainly a great recreational facility for our communities, so anything that assists in their development is to be welcomed. However, the Liberal Party does have some concerns in light of the goings on with Coast Park, in particular Tennyson Dunes and the activities of the Charles Sturt council, which had undertaken some proper consultation before the council election. Under the previous council, they did some proper consultation and came up with a particular proposal that had the support of the community, which was then changed after the election. The local residents took the council to court and their complaints were upheld. I think that particular process has been completely unsatisfactory, and shame on the council for its behaviour in that matter.

From that, we have had specific concerns that this may be used as a means to get around the proper consultation process. I certainly was not disavowed of that view following the briefing that I had with the government that local communities could have their wishes overridden by these particular changes to the legislation. So, I am pleased to see that some amendments have been included, I think at the instigation of the Hon. Mark Parnell but drafted in the name of the minister. I certainly think that is a great improvement to the bill.

The passage of the bill will allow the government to create these parcels of new linear parks with adjoining parcels of land. Overall, we believe this is a positive move, with some reservations that local communities do need to have their wishes taken into consideration. Therefore, we welcome the amendments that have been tabled and we will certainly be supporting those. With those remarks, I commend the bill to the house.

The Hon. J.A. DARLEY (11:37): I understand this bill is to streamline the process by which the government is able to establish linear parks. I have no issue with this and am generally supportive of linear parks. However, I have been contacted by the Coastal Ecology Protection Group, who are extremely concerned at the effect this bill would have should a linear park be established along the coastline and particularly the effect it will have on sand dunes.

Sand dunes are an important part of the ecology of the environment. We have seen instances where they have been interfered with and it has had a detrimental effect in regard to shifting sands. Whilst I appreciate that the government has filed amendments which provide for public notification of any proposed linear parks and gives the community an opportunity to provide their views, this does not seem to go far enough to address the concerns that have been raised with me.

Of particular concern to me is the fact that there does not seem to be a requirement for an environmental impact study to be undertaken before a linear park is constructed. I would like to hear from the minister as to why they have chosen not to include this in the bill. It seems peculiar that such a provision is not made in such a bill, especially when it has the potential to destroy sand dunes that have been in existence since the English settlement.

Whilst the government amendments allow for community consultation, we all know that it is entirely at the government's discretion as to whether submissions are taken on board or not. I could not see an avenue for aggrieved persons to pursue, should they be unhappy with the government's decision. I am happy to be corrected by the minister on this, but if no such appeal mechanism exists, I would like information as to why the government did not think this was necessary. I reserve my position on the bill until the third reading and look forward to hearing more from the government.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (11:39): I would like to thank the honourable members who have spoken in this debate. I am pretty sure I am closing it now. I would like to reiterate some of the key elements of the bill for honourable members who may not have been following it quite so closely. The purpose of the bill is to establish, maintain and preserve linear parks as world-class assets to be used and enjoyed as public parks for the benefit of present and future generations; to promote the use and enjoyment of linear parks by members of the local community and others; and to promote healthy active lifestyles by facilitating the use of linear parks for exercise and other outdoor activities.

The bill provides another tool for the creation of linear parks on land corridors, similar to the bill we already have in statute on linear parks. Part of the explanation for the Hon. Mr Darley's question is that we are not seeking to do anything different to the current legislation, so why would we put extra protections in this legislation when the current legislation, which relates mainly to the River Torrens but potentially to others, does not need, and no-one has called for, any amendments?

As the Hon. Michelle Lensink pointed out, it is intended to provide a seamless management protocol of multiple adjoined land parcels, particularly when those parcels are a mixture of Crown land, government minister land, local government land or indeed even private land, as is the case with the Field River, for example.

The Hon. J.M.A. Lensink: I thought private land was excluded.

The Hon. I.K. HUNTER: We need to talk to the private landowners, but this gives us an ability, if we have an agreement with a private landowner, for the government to then expend public funding to provide works that would create facilities for a linear park; essentially, that is what it does. Why would the government otherwise spend taxpayer money on improving private land if there was no resolution of the land use?

If a linear park is decided for a particular area, we need to consolidate the land parcels that are in government, local government or some form of government control. Also, if it involves private

land and we do not want to compulsorily acquire or otherwise acquire that private land, it gives us an ability to provide facilities to the community with some sense of security for that taxpayer investment in the facilities along the linear park route.

The creation of a linear park would mean there was only one process for consultation. I think that is probably the key here in relation to the Hon. Michelle Lensink's concerns about consultation undertaken by the City of Charles Sturt in relation to the Tennyson coast park, which I think the court found had some failings. The government will be moving amendments to clarify and address these concerns that were raised by honourable members regarding the consultation requirement. There was never any suggestion of discarding local community views, so we are very happy to put those amendments into the legislation to clarify that.

I suppose, to take the Hon. Michelle Lensink's discussion point even further, if the government was not confident in the ability of the local government to conduct processes of consultation appropriately and in accordance with their own requirements in terms of process then there could be a benefit in the government taking over the consultation process and ensuring it is done in accordance with the requirements of the legislation and any other processes that are in place. That would only be the case, I suppose, with councils that either did not want to, could not or perhaps have a history of not being able to run their own consultation processes in accordance with their own regulations. With that, I welcome the support for the legislation and I look forward to an interesting committee stage.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 4 passed.

New clause 4A.

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

Amendment No 1 [SusEnvCons–1]—

Page 3, after line 3—After clause 4 insert:

4A—Amendment of section 3—Interpretation

Clause 3—after the definition of *River Torrens Linear Park Public Lands Plan* insert:

SA planning portal has the same meaning as in the *Planning, Development and Infrastructure Act 2016*;

As is fairly self-evident in our second reading explanation and close, the amendments are to provide for further confidence that community consultation is to take place.

The Hon. J.M.A. LENSINK: I have some questions in relation to this. Can the minister outline what the consultation process involves as the bare minimum obligations on the government?

The Hon. I.K. HUNTER: I think the amendment outlines the bare requirements, as the Hon. Michelle Lensink asked for. A linear park may not be established unless the minister has gone through the steps. Looking at, for example, clause 5, page 3 and amendment No. 2:

(a) has published notice of the proposed linear park (including a proposed plan defining the linear park) on the SA planning portal; and

(b) in relation to a linear park that is proposed to include land owned by, or under the care, control or management of, a council—has given written notice of the proposed linear park to the council; and

(c) has given consideration to any submission made in response to a notice under this subsection within a period (of between 3 and 6 weeks) specified by the Minister in the relevant notice.

They are the bare minimum—or minima, I should say—and that is outlined in amendment No. 2, and that is not unusual, as far as I understand it. Whilst I am on my feet, can I say that, in relation to the Hon. Mr Darley's question, linear parks do not override planning considerations or Coast Protection Board requirements, so if these include environmental reports they will need to be done as per usual.

My advice is that there is no ability for this legislation to override the normal planning considerations or normal Coast Protection Board requirements for developments generally.

The Hon. J.M.A. LENSINK: I thank the honourable minister for that response. Is he able to provide what the existing consultation requirements would be without the actual bill being passed? What would happen under existing obligations?

The Hon. I.K. HUNTER: My advice is that the existing obligations under the linear parks are not present. There are none. This is actually an escalation of the requirements to give some form of notice. There are requirements in the current legislation, but they are requirements that pertain to me, apparently. They do not pertain to public consultation. My advice is that the existing legislation does not have those requirements that we are inserting by amendment today in this bill.

The Hon. J.M.A. LENSINK: That is all I have on this particular clause. I do have some other questions, but I might do that once we have passed these amendments.

The Hon. M.C. PARNELL: I put on the record that the Greens are very supportive of this amendment. When we had our briefing with the government, we pointed out that it was a major omission in the bill that there was no process for public consultation. The arrangement, as I understand it, was that the government said, 'We are grateful for having that pointed out.' They moved the amendment. The deal was that if the government did not move it, we would, but I am more than happy that the government has now done it.

I think it has strengthened the bill and made it clear that people have the right to put in a submission and, most importantly, that the minister must give consideration to any submissions that are made and they must do that before they have made a decision. So, I think it is a sensible amendment, and it just goes to show the value of the upper house in taking legislation and scrutinising it and fixing it up. I think this is a good outcome.

The Hon. I.K. HUNTER: I should probably not speak when I am winning, but I just have to reinforce the meme that sometimes pops up on my Facebook feed: the Greens take credit for everything. Had the Hon. Mark Parnell not jumped to his feet, all that credit would have fallen to me. I thank him terribly for doing so.

New clause inserted.

Clause 5.

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

Amendment No 2 [SusEnvCons–1]—

Page 3, lines 11 to 14 [clause 5(4) and (5)]—Delete subclauses (4) and (5) and substitute:

(4) Section 4(2)—delete subsection (2) and substitute:

(2) However, a linear park must not be established unless the Minister—

(a) has published notice of the proposed linear park (including a proposed plan defining the linear park) on the SA planning portal; and

(b) in relation to a linear park that is proposed to include land owned by, or under the care, control or management of, a council—has given written notice of the proposed linear park to the council; and

(c) has given consideration to any submission made in response to a notice under this subsection within a period (of between 3 and 6 weeks) specified by the Minister in the relevant notice.

Amendment No 3 [SusEnvCons–1]—

Page 3, after line 16—After subclause (6) insert:

(6a) Section 4(4)(b)—delete paragraph (b) and substitute:

(b) a variation to a linear park may not be made unless the Minister—

(i) has published notice of the proposed variation (including a proposed variation plan) on the SA planning portal; and

(ii) has given written notice of the proposed variation to any council that would be affected by the variation; and

(iii) has given consideration to any submission made in response to a notice under this paragraph within a period (of between 3 and 6 weeks) specified by the Minister in the relevant notice; and

I move both amendments. They are not, strictly speaking, consequential on the first, but they are part and parcel of the whole explanation I gave for the last amendment, so I will not say anything further. They undertake the provisions of consultation, which both the Hon. Mark Parnell and I take credit for.

Amendments carried; clause as amended passed.

Clause 6.

The Hon. J.M.A. LENSINK: I was interested in the minister's remarks in his summing-up in relation to private property. It was my understanding that neither the Linear Parks Act nor these amendments had an impact on private property. Could he perhaps expand on what he is referring to?

The Hon. I.K. HUNTER: You are quite right, this bill will not apply to private property unless there is an agreement entered into through an MOU of some sort or a determination that the property become owned by the Crown, the local government or the government. It is not, strictly speaking, our desire to go out and buy up large swathes of land because that costs money that we could put into improvements, but where there is land adjoining government-controlled land, be it state government or local government, where there would be a significant benefit to the community, it can be arranged.

For example, the Heysen Trail goes through government land and private land, so we have an agreement with landowners, in this instance, to take the trail through their private land. We will be in a similar position to be able to do this, but this bill itself does not give us any powers over private land. That will have to be negotiated separately in our normal processes.

Clause and title passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (11:53): I move:

That this bill be now read a third time.

Bill read a third time and passed.

FINES ENFORCEMENT AND DEBT RECOVERY BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 November 2017.)

The Hon. A.L. McLACHLAN (11:54): I rise to speak to the Fines Enforcement and Debt Recovery Bill 2017. I speak on behalf of the Liberal opposition and indicate that we will be supporting the second reading of the bill. The bill amends various acts in order to consolidate and refine the enforcement and recovery of fines and expiation fees. In introducing this bill in the other place, the Attorney-General stated:

…the positive impacts that will arise as a result of the civil debt recovery provisions in the bill include achieving efficiencies by centralising the work currently undertaken in multiple agencies to recover debts owed to government and achieving economies of scale in contractual arrangements with commercial debt collectors.

I now turn to the tabled bill. A new fines enforcement unit was established and commenced operating in 2014. This followed the passing of legislation in 2013. Following the initial period of operation, a number of proposals have been made addressing potential improvements. Initial suggestions were

made by the fines enforcement recovery officer, SAPOL and the Magistrates Court. This bill seeks to implement a number of those recommendations.

One of the major reforms within the bill is the establishment of a new process for the collection of civil debt. It is proposed that the current fines enforcement and recovery officer will become the chief recovery officer and that the role will be expanded to enable the same to collect civil debt that is owed to the government. The government has claimed that the chief recovery officer is best placed to consolidate the whole-of-debt recovery efforts. This will enable the chief recovery officer to collect civil debt that is referred to it by public authorities.

We have been advised that this will be on an opt-in basis. At a recent briefing the opposition was advised that the SA Ambulance Service, Housing SA, the Courts Administration Authority, TAFE and the Department for Education are expected to opt in for this service. Pursuant to the bill the chief recovery officer will only be able to collect debts within the monetary limits of the Magistrates Court: $100,000 or less. Debtors will be able to enter into voluntary agreements with the chief recovery officer to offset their debts by performing community service or attending intervention and treatment programs, such as for substance abuse or gambling addiction. The Liberal Party welcomes this particular area of reform.

The bill will also provide the relevant authority with the discretion to withdraw an expiation notice if offenders suffer from a cognitive impairment. The Liberal Party is also pleased to see this particular measure incorporated into the bill.

The bill, if passed, will provide the chief recovery officer with a wide range of powers to enforce payment of fees. These include, by way of example, the seizure of numberplates of vehicles, which is more cost-effective than having to clamp and tow a vehicle but still renders a car unable to be driven; the power to put a charge on land; seizure and sale of assets; garnishment; and suspension of a driver's licence.

Since the bill was tabled in the other place the government has undertaken consultation with relevant stakeholders. Following the consultation period the government has filed two sets of amendments. Some are substantial and the others are consequential or technical. I note some of the tabled amendments, amendments Nos 1 and 113, seek to address the issue raised in current legal proceedings in the Supreme Court, on which I understand that judgement is reserved.

I have a question which I would like answered in the second reading summing-up in relation to the impact of this legislation, should it pass or not pass, on that judgement. My query is that if the applicant is successful in the judgement and the bill has not either passed through the two chambers or been proclaimed and is therefore not in effect, will the terms of that judgement still be honoured or will they not be impacted should the bill subsequently pass?

If the bill has passed and been proclaimed and the judgement comes in after, what is the effect of the bill on that particular judgement? In essence, my query is about the various scenarios around passage of the bill, its being put into effect and the judgement. If it is the case that this particular applicant, if I could use that term, has obviously litigated and is waiting for a judge to give judgement, and this bill, upon passage, comes into effect and then the judgement arrives and it impacts the ability to effect that judgement, will the government consider, or has it made a decision, to show some compassion to that individual and comply with the terms of judgement, even on a voluntary basis?

It is my understanding that that is the actual case and the judgement that I am referring to brought to light the administrative issue that has called into question thousands of fines collected by the government unit. The bill and the subsequent government amendments seek to address this and validate the practices surrounding the provision of information to the fines enforcement recovery officer by issuing authorities currently seeking to enforce expiation notices. Again, we are in the unusual situation that the trial, as I understand it—and I stand to be corrected by the minister handling the bill—has concluded, other than they are waiting for judgement.

I alert the chamber and honourable members that we will be opposing amendments Nos 31 and 72 in set 1, which was filed on 25 October by the government. Amendment No. 31 seeks to provide explicitly that a public sector agency must provide to the chief recovery officer, on request, a photograph of the alleged offender or debtor. This will avoid a prohibition under the Motor Vehicles

Act against the provision of driver's licence photos for use in the recovery in order to assist with the identification of a debtor. The Liberal Party does not support this proposal, especially given that it is not available to other agencies when seeking to enforce a debt.

Amendment No. 72, which finds disfavour with the Liberal Party, is one which seeks to insert a definition of debt for the purposes of civil debt recovery provisions which would enable the definition to be enlarged by regulations if and when desired. The Liberal Party has formed the view that it does not support this proposal. It is our view that the definition should be and remain clearly defined in the body of the act. We will be supporting the remainder of the government's amendments.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

STATUTES AMENDMENT (DRINK AND DRUG DRIVING) BILL

Final Stages

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council.

No. 1 Clause 10, page 8, lines 10 to 17 [Clause 10(1), inserted subsection (1)]—

Delete 'attend an assessment clinic for the purpose of submitting to an examination to determine whether or not the applicant is dependent on alcohol unless the applicant satisfies the Registrar, on the basis of the report of an approved assessment provider or such other evidence as the Registrar may require, that the applicant has successfully completed a prescribed alcohol dependency treatment program not more than 60 days before the date of application for the licence' and substitute:

submit to an examination by an approved assessment provider to determine whether or not the applicant is dependent on alcohol

No. 2 Clause 10, page 9, lines 2 to 9 [Clause 10(1), inserted subsection (2)]—

Delete 'attend an assessment clinic for the purpose of submitting to an examination to determine whether or not the applicant is dependent on drugs unless the applicant satisfies the Registrar, on the basis of the report of an approved assessment provider or such other evidence as the Registrar may require, that the applicant has successfully completed a prescribed drug dependency treatment program not more than 60 days before the date of application for the licence' and substitute:

submit to an examination by an approved assessment provider to determine whether or not the applicant is dependent on drugs

No. 3 Clause 10, page 9, lines 18 to 21 [Clause 10(3), inserted subsection (4)]—Delete 'that—

(a) that the applicant has undertaken a sufficient amount of appropriate treatment for dependency on alcohol; and

(b) the applicant is no longer dependent on alcohol.' and substitute:

that the applicant is no longer dependent on alcohol.

No. 4 Clause 10, page 9, lines 27 to 30 [Clause 10(3), inserted subsection (5)]—Delete 'that—

(a) that the applicant has undertaken a sufficient amount of appropriate treatment for dependency on drugs; and

(b) the applicant is no longer dependent on drugs.' and substitute:

that the applicant is no longer dependent on drugs.

No. 5 Clause 10, page 10, lines 32 to 34 [Clause 10, inserted subsection (9)]—Delete subsection (9)

No. 6 Clause 20, page 14—Delete the clause.

No. 7 Clause 34, page 20, after line 40—Insert:

(5) Schedule 1, clause 8(1)—delete 'subclause (2)(a)(ii)' and substitute 'subclause (2)(b)'

(6) Schedule 1, clause 8(2)—delete subclause (2) and substitute:

(2) The results of a drug screening test, oral fluid analysis or blood test under Part 3 Division 5, an admission or statement made by a person relating to such a drug screening test, oral fluid analysis or blood test, or any evidence taken in

proceedings relating to such a drug screening test, oral fluid analysis or blood test (or transcript of such evidence) will not be admissible in evidence against the person who submitted to the drug screening test, oral fluid analysis or blood test in any proceedings other than—

(a) proceedings for—

(i) an offence against this Act; or

(ii) an offence against the *Motor Vehicles Act 1959*; or

(iii) a driving-related offence; or

(iv) an offence against the *Controlled Substances Act 1984*; or

(b) if the test or analysis occurred in connection with the person's involvement in an accident—civil proceedings in connection with death or bodily injury caused by or arising out of the use of a motor vehicle involved in the accident (including proceedings under section 116 or 124A of the *Motor Vehicles Act 1959* for the recovery from the person of money paid or costs incurred by the nominal defendant or an insurer).

Consideration in committee.

The Hon. P. MALINAUSKAS: I move:

That the House of Assembly's amendments be agreed to.

The government supports the amendments that were made within the House of Assembly. I seek leave to table answers to questions from the member for Schubert, taken on notice during the committee stage in the other place, and also table a response to the Hon. Kelly Vincent regarding some queries that she had.

Leave granted.

The Hon. P. MALINAUSKAS: It is extremely disappointing that the opposition has decided to agree with the Hon. Kelly Vincent on the issue of medicinal cannabis. In doing so, we believe the opposition is sending a message to the community that, if you are using cannabis, then you are okay to get behind the wheel of a car. I call upon the opposition to listen to common sense, including the advice of the AMA, and adhere accordingly. I call upon the opposition to support the bill received from the House of Assembly and not insist on amendments that were made in this place, so that we can take positive action on drink and drug driving in South Australia.

The Hon. A.L. McLACHLAN: The Liberal Party intends to insist on its amendments. It has the desire, if it pleases the will of the chamber, to take the bill into deadlock and have a discussion in that forum with members of the House of Assembly to see if agreement can be reached. We would seek to go into deadlock, if it is the will of the chamber, in good faith.

It appears that the main sticking point with the government is the amendments of the Hon. Kelly Vincent. At this stage, they are a simple defence and not as expressed in the particular manner that the minister has done, which suggests that it is an approval to drive under the influence. Because it is in the nature of a defence, we wish to continue the discussions with the House of Assembly on this matter, so our position has not changed at this point in time.

The Hon. P. MALINAUSKAS: The government does not support the Hon. Andrew McLachlan's amendments. Advice from clinicians is clear that participation in a treatment program does not ensure that a person is not dependent on alcohol or drugs. Repeat drink and drug driving must be assessed as non-dependent before a person is able to obtain a driver's licence. Under existing provisions, that would happen as a part of the application to regain a driver's licence.

Mr Stephan Knoll has said in the other place that the government has a great desire for the drug dependency test to be the be all and end all when it comes to assessing people in relation to their drug-taking behaviour and in relation to them being able to get their licence back. However, Mr Knoll misunderstands the purpose of the dependency assessment. It is not intended to be, as he has said, 'the sole arbiter of whether someone is going to offend again'.

Some people reoffend due to poor decision-making and driving behaviour. It should not be assumed that they are dependent on drugs. The dependency assessment is a way for the Registrar of Motor Vehicles to determine whether a habitual offender has an underlying medical condition that makes them unfit to hold a driver's licence. Where drivers are not dependent on drugs but are committing repeat offences as a result of poor driving behaviour, the higher penalties the government is proposing are intended to act as a deterrent.

Under the existing processes, if a dependency assessment finds that a person is dependent, they must either wait until a favourable assessment is achieved—the minimum time is three months—or satisfy the registrar via other evidence that they are no longer dependent. Requiring the assessment of treatment undergone by the driver, as well as an assessment of whether they are dependent on drugs or not, does not add any value to the register and would be an unnecessary requirement.

Clinicians advise that the amount of treatment required by a client varies immensely, some needing little to no treatment and some not responding to very intensive treatment. The problem is that, with defining a sufficient amount of appropriate treatment, treatment is only sufficient if the person is subsequently found to be non-dependent, so the key is an assessment of the outcome of the treatment.

The assessments investigate both physical and psychological symptoms of alcohol or drug dependency. Blood samples and a urine drug analysis are undertaken for a drug dependency assessment. The mental health symptoms of dependence are assessed using the criteria in the Diagnostic and Statistical Manual of Mental Disorders. This is a widely accepted guideline for the diagnosis of mental health disorders, and is produced by the American Psychiatric Association and used widely in Australia for diagnostic criteria for mental health disorders.

Under current legislation, only the corporate health group is approved by the Minister for Health to provide these dependency assessments. In this bill, the government has adopted a new definition for an improved assessment provider, which will enable someone to seek a dependency assessment from a broader range of qualified practitioners, as defined in the bill.

Mr Stephan Knoll has said in the other place that he wants to give drug drivers greater access to rehabilitation programs. I have already undertaken to provide repeat drug drivers with information about treatment services in South Australia. Drivers will be given this information, and they will be encouraged to contact the government's Alcohol and Drug Information Service. This is a confidential telephone counselling, information and referral service to assist them to gain access to appropriate health services.

The Hon. M.C. PARNELL: Just to assist you, Mr Chairman, in determining where the numbers lie in relation to this issue, the Greens have not received any new information that has convinced us to change our mind from the position we took some time ago, so our position is that we will not support the House of Assembly amendments, and will continue to support the original amendments passed by the Legislative Council. We also support taking this to a deadlock conference. We urge all parties to that conference to approach it in good faith, and see whether it cannot be resolved.

The Hon. K.L. VINCENT: It will come as no surprise to members of the chamber that I am also very happy to enter into a deadlock conference to enable this discussion to continue. I am very concerned—very concerned—about road safety, and that is exactly why I do not want to see people forced to drive under the influence of opiate-based drugs that can have a much stronger impact on impairment to drive than many cannabis products. I do not want people driving under the influence of serious migraines, nausea or chronic pain, which can be very distracting when driving, and that is why we need to find a way to move forward with this.

So, let's move into deadlock, have a nuanced, respectful debate and finally find a way forward for what is a legal medical substance to finally give those people forced to use that substance a respectful way forward. I ask the minister whether he could ascertain whether the information that was sent to the road safety minister in the other place on 10 November, I believe, has been acknowledged. I refer to the research sent from Dr Michael White in this area. Has it been received and read by him?

The Hon. J.A. DARLEY: I have not changed my position on this matter, so I will not support the amendments from the House of Assembly.

The committee divided on the motion:

Ayes 9
Noes..... 12
Majority..... 3

AYES

Brokenshire, R.L.	Gago, G.E.	Gazzola, J.M.
Hanson, J.E.	Hood, D.G.E.	Hunter, I.K.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.

NOES

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

Motion thus negatived.

The following reason for disagreement was adopted:

Because the amendments are not in accordance with the views of the opposition and certain members of the crossbench.

STATUTES AMENDMENT (SENTENCING) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 November 2017.)

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) (12:22): I wish to thank honourable members who have contributed to this debate on what is a relatively straightforward bill. I look forward to the passage of the bill through the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: I indicate that the Liberal Party supports the bill without amendment. I have no questions of the minister at committee stage and I look forward to the passage of the bill continuing through the chamber this afternoon.

Clause passed.

Remaining clauses (2 to 37) and title passed.

Bill reported without amendment.

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) (12:25): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (TERROR SUSPECT DETENTION) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 November 2017.)

The Hon. A.L. McLACHLAN (12:26): I rise to speak to the Statutes Amendment (Terror Suspect Detention) Bill. I speak on behalf of the Liberal opposition and indicate that we will be supporting the second reading of the bill. This bill follows a joint announcement by the Premier, the Attorney-General and the Minister for Police on 13 June outlining the government's plan to strengthen bail and parole laws in order to combat the threat of terrorism.

The announcement followed an Australian governments meeting (COAG), which took place in early June. When introducing the bill in the other place, the Attorney-General said that these reforms were designed to:

> …ensure that South Australian laws pertaining to bail, parole and post-sentence supervision and detention, are adapted to meet the risk posed to our community by terrorist offenders as well as persons who have demonstrated support for—or links to—terrorist activity.

The bill amends the Bail Act 1985, the Correctional Services Act 1982, the Criminal Law (High Risk Offenders) Act 2015 and the Police Act 1998. I will turn briefly to each of these four areas of legislative reform.

In respect of amendments to the Police Act, this bill amends the South Australian Police Act 1998 by inserting new provisions to create a scheme whereby Australian jurisdictions can enter into agreements to receive terrorism notifications from prescribed terrorism intelligence authorities. This will mean that South Australian authorities can be alerted when other jurisdictions become aware that someone has demonstrated support for, or links to, terrorist activity. The Attorney-General indicated when introducing the bill that regulations will be drafted in consultation with other jurisdictions and the South Australian police.

In respect of amendments to the Bail Act, the bill amends section 10 of the Bail Act to add to the list of offenders against whom there is a presumption against bail to include a terror suspect. A terror suspect is defined in the bill as a person who has previously been charged with, or convicted of, a terrorist offence, or who is the subject of a terrorism notification.

The terror offence does not have to relate to the offence for which the bail application is being made. In other words, once you are considered a terror suspect, the presumption against bail will apply to you no matter what manner of criminal offending you are alleged to have committed. However, the usual provisions will apply for the presumption against bail; that is, this presumption can be overcome if the applicant can establish special circumstances that would justify their release on bail.

In respect of amendments to the Correctional Services Act, this act currently permits prisoners who are serving a sentence of less than five years, who have not been convicted of sexual offences, serious firearm offences, personal violence or a parole breach, to be automatically released once they have served the non-parole period of their sentence.

Other prisoners are obliged to apply for parole through the Parole Board process. The bill amends the extant act to ensure that terror suspects will not be automatically released and therefore must apply to the Parole Board for their release into the community. Further, the bill ensures that the presiding member of the board must confirm all decisions relating to terror suspects.

As with the amendments to the Bail Act, the board must not release a terror suspect on parole unless there are special circumstances to justify the same. The same definition of terror suspect as that contained in the amendments to the Bail Act applies. In respect of amendments to the Criminal Law (High Risk Offenders) Act, the bill amends that act so that the state or commonwealth attorney-general can make an application to the Supreme Court for an extended

supervision order of any terror suspect serving a sentence of imprisonment. I note, however, that the offence they are serving prison time for need not be terror related, with the only requirement being that they are a terror suspect.

The same definition of terror suspect as that contained in the proposed changes to the Bail Act and Correctional Services Act applies. The court is required to consider the likelihood of the terror suspect committing a terrorist offence or a serious offence of violence, or otherwise being involved in a terrorist act. As per the current provisions of the Criminal Law (High Risk Offenders) Act, if a person breaches an extended supervision order they will be brought before the Parole Board, which will then consider whether they should remain under supervision or be detained and brought before the Supreme Court. If the matter ends up before the Supreme Court, community safety is the paramount consideration.

In considering an application of this nature, the state or commonwealth attorney-general may be represented by a terrorism intelligence authority that has the right to be heard in any court proceedings. Furthermore, the bill specifies that any terrorism intelligence considered by the court is to be protected.

The Law Society has made a submission, dated 4 August 2017. It will perhaps not be a surprise to many in the chamber that in it the Law Society has raised some serious concerns about the proposed reforms contained in this bill. I intend to briefly quote from their submission, as I think it is important that honourable members reflect on these concerns when debating policy that seeks to dramatically curtail certain civil liberties. In regard to the presumption against bail for terror suspects, the Law Society has highlighted that:

> There need not be - and perhaps even must not be - any causal, relational connection between the charge or offence for which the person has been arrested or remanded in custody and any alleged terrorist activity. Absent the need for such a causal, the label of such a person as a terror suspect may, in some circumstances, constitute a misnomer.

The society also indicated that it does not support the proposal that will prevent terror suspects from automatic release on parole. On this issue, the society stated:

> It is difficult to address this part of the Bill by way of detailed submission where it remains unclear as to why offenders in this category should be treated differently in respect to parole than other offenders.

The submission goes on to state:

> In general parole provides an important opportunity for an offender to be gradually reintegrated into the community and with the incentive that if there are contraventions of the conditions of parole there can be a return to incarceration.

I ask the minister if the government could respond to the issues raised in the Law Society's submission in the summing-up of the second reading. I look forward to receiving responses to the important questions raised by the Law Society.

The government has filed amendments. At this point, we are intending to support the bulk of those amendments, depending on how the debate progresses. However, I alert honourable members that we will be opposing two amendments. The two amendments are Nos 11 and 12 in set 1. These amendments extend the application of the provisions to youth offenders in relation to the Criminal Law (High Risk Offenders) Act. In our view, and I will expand a bit more on this in clause 1, there is no justification for this, other than the government's claim that it is consistent with the other provisions that are set out in the bill.

Whilst it is the government's core intention to be nationally consistent, these provisions do not come out of the discussions at COAG, a related task force or an expert panel, which considered terrorism and provided a report on terrorism and violent extremism from Victoria and whose work was published around September 2017. Perhaps I should just clarify those statements. In essence, in the meeting in June it was not agreed to come up with those provisions. This is of the government's own initiative, and they do not find favour at this point in time with the opposition.

I thought I might leave members with some quotes from an interesting academic journal article from Christopher Michaelsen, entitled 'Balancing civil liberties against national security? A

critique of counterterrorism rhetoric'. In his introduction—and I am selectively quoting, and I encourage members to get access to this 2006 article—he says:

> On one side, the claim is made by those defending incursive counter-measures that liberal democracy itself is targeted as the enemy.

He goes on to say:

> The unprecedented threat to 'our way of life,' therefore, warrants restrictions of civil liberties and human rights. It is imperative to make sure that the very mechanisms protecting the individual from excessive state power do not hamper the government's ability to respond effectively to the threat. Civil liberties and human rights, so the argument runs, are political conveniences for enjoyment in times of peace.

Just to clarify the context of that, that is him expressing the view of advocates for more oppressive measures. He goes on to say:

> They should not, however, constitute restraining yardsticks for government in times of emergency and national danger.

So, that is one side of the ledger. In relation to the other side of the ledger in the debate, he says:

> On the other side, commentators maintain that it is particularly in times of crisis that the liberal democratic state must adhere strictly to its defining principles. Rights would lose all effect if they were easily revocable in situations of crisis. Besides, to believe that depriving citizens of their individual rights and freedoms was necessary to maintain security is to put oneself on the same moral plane as the terrorists, for whom the end justifies the means. Indeed, sacrificing fundamental liberal values such as the respect for the rule of law, civil liberties and human rights would amount to losing the 'war on terrorism without firing a single shot'.

These are matters which I ask members to reflect upon when considering the debate on these provisions in the committee stage. To sum up, the Liberal Party is supportive of the bill passing the second reading and looks forward to the committee stage. It is minded to support those matters that have been agreed at COAG. It has difficulties with some amendments which the government has brought to the chamber of its own initiative.

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

STATUTES AMENDMENT (VEHICLE INSPECTIONS AND SOUTH EASTERN FREEWAY OFFENCES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 October 2017.)

The Hon. J.M.A. LENSINK (12:38): I rise to place on the record some comments in relation to this bill, which has come about in part from the outcomes of the Coroner's report into the death of Mr James William Venning, which took place on the South Eastern Freeway several years ago.

Anybody who is familiar with this piece of road would understand the dynamic of it. It is potentially a very dangerous piece of road in that there is a continuous descent of some seven kilometres, from Crafers to Glen Osmond. I understand it is quite safe for heavy vehicles if they are roadworthy and travelling in low gears. However, if they are not, then, as we have seen over the years, there have been some tragic consequences of very serious accidents with heavy vehicles losing control and causing death either of the driver themselves or of others.

This particular piece of legislation has been developed in consultation with SAPOL, SARTA, TWU and the National Heavy Vehicle Regulator. The bill is designed to target drivers and owners who may put road users at risk by not maintaining heavy vehicles. The South Eastern Freeway has a very high volume of some 50,000 vehicles a day, with 10 per cent of those being trucks or buses, so it is essential that all measures are in place to make it safe for all road users.

There are two specific offences that have been created for drivers of heavy vehicles, the first one, based on Australian Road Rule 108, is failing to descend the downward track in low gear. The second is to exceed the set speed limit by 10 km/h or more. Both carry expiation fees, six demerit points and escalating periods of licence disqualification or suspension. SAPOL is able to issue an immediate loss of licence for safety camera detected offences. The Motor Vehicles Act will be

amended to enable the Registrar of Motor Vehicles to apply for a period of licence disqualification or suspension on expiation.

The bill also targets heavy vehicle owners who fail to nominate an offending driver. For second or subsequent offences, there is no fine; instead, there is an additional six demerit points or disqualification for no less than three years in addition to a maximum imprisonment of two years. Previous offences for speed or gears on the freeway will be used to determine penalties. Obviously, that is to encourage body corporates to identify the drivers of speeding vehicles.

There will also be compliance frameworks for inspections with increased penalties from $5,000 to $10,000. I note that there was a pilot heavy vehicle inspection scheme that commenced on 1 January 2017, which required all heavy vehicles older than three years and with a gross vehicle or aggregated trailer mass of 4.5 tonnes or more to be inspected on a change of ownership. As of May, some 600 vehicles had been inspected, with the government's second reading explanation stating that there was a frightening 50 per cent failure rate, and I would reiterate that that is a very disturbing figure indeed.

I think it also highlights the benefits of the Liberal Party's proposed Globe Link policy because it will take a number of heavy vehicles off that route, and that in itself is going to make that very busy road much safer for all other road users. With those comments, I commend this bill to the house.

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) (12:43): I thank honourable members for their contributions. I understand there will not be many questions during the committee stage. As I said, I thank honourable members for their contributions. This bill addresses some of the horrendous accidents and fatalities which have occurred on this stretch of road. The bill has been informed by the recommendations of the Deputy State Coroner, Mr Anthony Schapel, which arose from an inquest into the death of Mr James William Venning in 2014. I look forward to the consideration and speedy passage of the committee stage.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

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) (12:46): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (EXPLOSIVES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 October 2017.)

The Hon. A.L. McLACHLAN (12:48): I rise to speak to the Statutes Amendment (Explosives) Bill. I speak on behalf of the Liberal Party and indicate that we are supporting the second reading. The bill seeks to amend the Criminal Law Consolidation Act and the Summary Offences Act to provide tougher penalty provisions for homemade bomb makers. The government has advised that the current legislative means of controlling explosives largely deal with commercial and maritime misuse, or manufacture of explosives. The bill creates new criminal offences relating to explosives with severe penalties imposed. The new offences proposed by the bill include:

- the unlawful use of an explosive device, carrying a maximum penalty of 20 years' imprisonment;

- possession of an explosive device in a public place without lawful excuse, carrying a maximum penalty of 10 years' imprisonment;
- possession or taking steps in the process of manufacturing an explosive device without lawful excuse, carrying a maximum penalty of seven years' imprisonment; and
- possession or supply of an explosive substance, prescribed equipment or instructions on how to make an explosive device in suspicious circumstances and without lawful excuse. These carry a maximum penalty of seven years' imprisonment.

The bill also creates a bomb hoax offence, which carries a maximum penalty of imprisonment for five years. The government has provided some advice on the existence of similar offence provisions interstate in Western Australia, Victoria, New South Wales and Tasmania.

The bill also seeks to amend the Summary Procedure Act to provide police with additional search and seizure powers during the investigation of explosive offences. These new powers are proposed to be added to the Summary Offences Act. When introducing the bill, the government stated that these powers will ensure that the police have the tools to effectively detect and investigate activity connected with domestic manufacture, possession or use of improvised explosive devices, as well as the related precursors, instructions—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The level of conversation is making it difficult for me to hear the honourable member. The Hon. Mr McLachlan has the call.

The Hon. A.L. McLACHLAN: Thank you for your protection, Mr Acting President—as well as the related precursors, instructions and apparatus. It was also stated that these changes will make it clear to the community that such activity can only be for a lawful purpose.

If passed, the new powers will enable police officers to enter and search a premises at any time, for the purposes of ascertaining whether an explosives offence is being or has been committed. The proposed changes would also enable police officers to break into or open any part of the premises or items inside the premises, and to require the drivers of vehicles to stop to enable the search to be conducted.

The provisions will also enable police to seize property that may be intended for use in an offence, or may constitute evidence of an offence. The bill sets out procedures to be followed with regard to the destruction of any seized property to ensure that the safety of police officers attending a potential explosives offence is not jeopardised. These new police powers are the more controversial aspects of the bill.

I indicate to the chamber that I seek answers from the government in relation to the search powers, in particular why the government deems them necessary, having regard to other search and seizure powers that are currently available to the South Australia Police, and which include a general search warrant. I ask that they be provided at the second reading summing-up. In other words, why is it necessary in this bill to have specific search and seizure powers in relation to explosives, as opposed to being able to rely on existing powers that currently support police work in the field?

In relation to these powers, the Liberal Party has filed some amendments. At the moment they do not seek to obstruct these powers or curtail them, but the Liberal draft amendments effectively provide that the Attorney-General will take a review of the amendments proposed to the bill after three years, and police are to include in their annual report: the number of occasions on which the new search powers were exercised; the number of occasions on which property was seized as a result of the exercise of the search powers and the nature of the property seized; whether anyone was charged with explosive offences in connection with those search powers; and, any other information requested by the minister, including, of course, current ancillary provisions regarding the tabling of a report of the review.

I look forward to a response to my query in relation to why the additional search powers are required, having regard to existing laws. As I indicated, the Liberal Party will support the second reading.

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

Sitting suspended from 12:54 to 14:17.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

District Council of Robe, Report, 2016-17

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

South Australian Film Corporation—Report, 2016-17
Regulations under the following Acts—
Local Government Act 1999—Mobile Food Vendors
Rules of Court—
Magistrates Court—Magistrates Court Act 1991—Criminal—Amendment No. 64

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

Reports, 2016-17—
Child Death and Serious Injury Review Committee
Office of the Guardian for Children and Young People
The Council for the Care of Children

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

Reports, 2016-17—
Berri Barmera District Health Advisory Council Inc
Coorong Health Service Health Advisory Council Inc
Eastern Eyre Health Advisory Council Inc
Loxton and Districts Health Advisory Council Inc
Mallee Health Service Health Advisory Council Inc
Mannum District Hospital Health Advisory Council Inc
Naracoorte Area Health Advisory Council Inc
Penola and Districts Health Advisory Council Inc
Pharmacy Regulation Authority SA
Port Augusta, Roxby Downs and Woomera Health Advisory Council
Port Lincoln Health Advisory Council
Renmark Paringa District Health Advisory Council Inc
The Murray Bridge Soldiers' Memorial Hospital Health Advisory Council Inc
Waikerie and Districts Health Advisory Council Inc

Ministerial Statement

MURRAY-DARLING BASIN PLAN

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:19): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.K. HUNTER: South Australians remain deeply concerned about the progress and implementation of the Murray-Darling Basin Plan following the allegations aired on *Four Corners* in July of this year, and with very good cause. This week, the New South Wales Ombudsman released a damning report into maladministration of the state's water portfolio. The report was scathing of the New South Wales government's inaction and the department for water's poor handling of water compliance in that state.

The New South Wales Ombudsman's report also revealed that three previous investigations and subsequent reports into allegations of water theft and noncompliance had been provided to the department and the minister for water but had been buried—three investigations, all with evidence of water theft, noncompliance and lack of appropriate action. The first investigation was in 2007 when the Ombudsman examined a complaint claiming that the department had failed to take appropriate action in relation to allegedly unlawful farm dams constructed on a flowing river.

The second investigation was in 2012 and was instigated following a complaint that no action had been taken by the New South Wales department or minister for water following the 2007 investigation. The 2012 investigation heard not only that no action had been taken but also that another illegal dam had been constructed on the property. The Ombudsman recommended at the time that strong action be taken on these illegal dam works and we now know, from the 2017 report published this week, that they held serious concerns about the delay in the New South Wales department of water taking any action. The Ombudsman found:

> This outcome [the prosecution] was approximately ten years after the owner's activities were first reported to the Department by a complainant, and four years after we made recommendations that the Department accepted. During that time the owner of the property not only continued to utilise the unlawful constructions but had considerably expanded them in size and capacity.

During the decade in which no action was taken, the dam was expanded to 22 times larger than its original size, now holding over 14 megalitres from the original 0.5 megalitres. Then, in 2013, with a lack of serious action to address the outcomes of the two previous Ombudsman investigations, the Ombudsman received a number of complaints from staff inside the department of water, community groups, NGOs and individuals about that very lack of action. This instigated their third investigation into the same issue. It was also the third time the report was not made public and the third time no action was taken.

Then, just yesterday, the New South Wales Ombudsman released their fourth report into the allegations of ongoing water theft and noncompliance in New South Wales. In the report released this week, the Ombudsman said:

> The issues highlighted in the current investigation are strikingly similar to the ones we found in our previous investigations. Reports into the earlier investigations were not made public as we received assurances from the relevant Department responsible for water regulation at the time that our concerns and recommendations would be considered and appropriate action taken.

The report also found the department chronically under resourced, with a constant stream of restructures and transfers of water regulation responsibilities (seven times since 2007) and a clash of cultures. Of course, we know that this report comes after numerous allegations of water theft, meter tampering, special treatment for irrigators, corruption and maladministration allegations that have emerged since July of this year. This is as well as the interim report by Mr Ken Matthews which noted that water theft and noncompliance may still be occurring and called for further investigations.

In fact, the report says the Ombudsman undertook this formal investigation on their own volition 'based on the seriousness of these allegations and our prior knowledge of systemic failures in water compliance and enforcement'. This latest report shows that, for more than a decade, the New South Wales Ombudsman's office has been receiving complaints alleging that the water management principles and rules were not being properly complied with and enforced.

The Ombudsman's office has gone against convention and released the report to the New South Wales parliament, circumventing the state government and removing the option of keeping the report secret. This action highlights not only the seriousness of the claims but also the fear of cover-ups. The Ombudsman further notes:

> That so many staff members are driven to approach an independent investigation body to bring forward concerns invites inquiry as to whether there is both a lack of trust between staff and management, and a perception by staff that internal reporting mechanisms are not effective.

It is clear that only a royal commission now can protect the integrity of the Murray-Darling Basin and deliver the water required for our communities, our industries, our agriculture and our environment. The other agencies tasked with investigating these claims are doing the best they can within the narrow parameters of the terms of reference they have been given, but even these agencies are

publicly saying that more needs to be done in terms of a broad-reaching investigation with judicial powers.

A royal commission with powers to compel these key witnesses, key individuals who are alleged to have stolen water out of the basin system, is now the only credible way forward, the only credible way that we can investigate the depth and the breadth of these allegations and review the way we are managing one of the nation's most precious resources.

I seek leave to table a copy of 'Investigation into water compliance and enforcement 2007-17—a special report to Parliament under section 21 of the Ombudsman Act 1974' by the Ombudsman of New South Wales.

Leave granted.

Question Time

MENTAL HEALTH SERVICES

The Hon. J.M.A. LENSINK (14:26): I seek leave to make an explanation before directing a question to the Minister for Health and Substance Abuse on the subject of mental health.

Leave granted.

The Hon. J.M.A. LENSINK: On 2 November, the Principal Community Visitor's 2016 annual report in relation to mental health services was tabled. In the report, the Principal Community Visitor advises the minister of his concern that the government's strategy to reduce the time mental health patients wait in emergency departments for an inpatient bed has created some serious 'downstream problems' and ultimately a 'revolving door' situation for people with acute mental health conditions. The Principal Community Visitor writes:

> One of the most disturbing issues raised with the CVs was where at The QEH adult mental health unit, Cramond Ward, they had $1,000 fines imposed on them by the department as they did not free up a bed by discharging patients when there were patients in The QEH ED needing a bed and at risk of breaching the 24-hour target.
>
> This matter was reported to both the Chief Psychiatrist and the deputy chief executive by the PCV, expressing concerns about the added pressure this places on clinicians, adding that it was 'difficult to see how this improved clinical practice, and the severe fines imposed simply takes more resources out of the unit'.

My questions to the minister are:

1. What action has he taken in response to this concern being raised with him?

2. Did the then Chief Psychiatrist, Dr Aaron Groves, raise this concern with the minister in his 2016-17 report?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:27): Let me thank the honourable member for her question and let me also thank Mr Corcoran for the development of his report. I had the opportunity to meet with him earlier this week. I think it was earlier this week. He is doing an outstanding job in his role. It is an important role and we welcome the contribution that he makes.

Improving access to mental health services and reducing waiting times in emergency departments for people with a mental illness of course remains a priority for the state government. As minister, I am obviously committed to ensuring that no mental health patients wait more than 24 hours in an emergency department.

Since late 2014, the average waiting time in our mental health emergency departments has more than halved, I am advised. We have seen some drastic improvements, and I expect these good results to continue, because it is an important community service for those people who need access to emergency departments.

In 2015, mental health emergency department targets were developed in consultation with clinicians. These include, from 1 January last year, that mental health consumers should not routinely wait more than 24 hours in an emergency department, and that by July 2018 we aim for 90 per cent of mental health consumers not waiting more than eight hours in an emergency department and 75 per cent not waiting more than four hours.

Since the announcement of these targets, there has been an improvement across emergency departments, with the average waiting time reducing from 18.5 hours in October 2014 to 8.4 hours in September 2017, I am advised. I am also advised that the percentage of the patients waiting in emergency departments for more than 24 hours improved from 20 per cent in October 2014 to 2.3 per cent in September 2017.

These are important metrics. They make a real difference, if they are realised, for the benefit of mental health patients. We continue to strive to do better. We look forward to continuing to work with the statutory officer in terms of the Principal Community Visitor, Mr Corcoran, to achieve those targets. They remain an important organisation to keep us on our toes.

MENTAL HEALTH SERVICES

The Hon. J.M.A. LENSINK (14:30): This does not necessarily arise out of the minister's answer, but he has not actually responded to my concerns at all, which were expressed by the Principal Community Visitor in his annual report.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:30): Again, I enjoyed the meeting that I had with the Principal Community Visitor. We discussed a number of things, including the context of his annual report. There was a recent story in the media about the length of the report. The Principal Community Visitor and I discussed other legislation that governs his capacity to give an annual report and also his capacity to deliver a special report. We discussed the possibility of him potentially doing that. We hope to have a productive working relationship. He has an important function to serve, and that includes monitoring waiting times in emergency departments.

MENTAL HEALTH SERVICES

The Hon. J.M.A. LENSINK (14:31): Further supplementary: is the minister concerned that the practice of the department in fining psychiatric units might be taking resources from those psychiatric units and also not addressing the fact that some units may have so much demand that they can't discharge patients in order to meet the 24-hour target?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:31): The fine regime has the capacity or the potential to be able to serve as an important incentive in driving the behaviour that we are looking for. We are serious about realising these targets. They are good targets, and they have already resulted in substantial improvements. We think the fine mechanism, notwithstanding the legitimate concerns that the Hon. Ms Lensink raises, acts as an important incentive.

MENTAL HEALTH SERVICES

The Hon. S.G. WADE (14:32): Supplementary question arising from the minister's original answer: does the minister therefore concede that the price of the improved time targets within the EDs is a diminution in clinical practice in terms of outcomes for mental health patients, as asserted by the Principal Community Visitor?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:32): We don't accept the premise of the honourable member's question. We believe that we can achieve, and the state should have the objective of achieving, a reduction in waiting times that isn't at the expense of any clinical outcomes.

MENTAL HEALTH SERVICES

The Hon. S.G. WADE (14:32): In the minister's discussions with the Principal Community Visitor earlier this week, did he discuss the negative impact on clinical standards of the time targets in the EDs?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:33): I am not going to go into graphic detail about all the conversations that I have with the various people I meet with. I don't think that would be of particular assistance. Needless to say, the contents of the Principal Community Visitor's annual report is something that

the government monitors and cares about dearly. It's an important statutory office, and the annual report is an important reporting mechanism for the government.

MENTAL HEALTH SERVICES

The Hon. J.M.A. LENSINK (14:33): Further supplementary: in situations that arise where a particular unit may be experiencing more demand, is there any flexibility in the policy to not fine those units and to investigate the root causes of the problem?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:33): I am happy to take that on notice and get some advice about that.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:34): My question is to the Minister for Health. Is the government committed to retaining the current number of respiratory inpatient beds at The Queen Elizabeth Hospital?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:34): The government is currently in the process of an exercise that I am, naturally, intimately involved with in ensuring that the government's stated policy position that we will be retaining key services, announced by the Premier back in June, is delivered. That's a substantial undertaking. We are working with clinicians in delivering that.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:34): Supplementary question: can the minister assure the house then, that the respiratory ward at The Queen Elizabeth Hospital will not transfer to the Royal Adelaide Hospital?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:34): The government has made a stated policy commitment that the Premier announced back in June. We are getting on with the business of implementing that. That is evidenced probably principally through the budget allocation of an additional quarter of a billion—that is a 'b', Mr President—dollars to The QEH, because we take seriously public health services in the western suburbs.

QUEEN ELIZABETH HOSPITAL

The Hon. S.G. WADE (14:35): Can the minister advise whether he considers that the withdrawal of the respiratory ward at The QEH will be consistent with the Premier's commitment in June?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:35): Mr Wade wants to play cute political games with his questions. What we are doing is getting on with the business of ensuring that The QEH is of the standard that we expect, as a Labor government, for the communities that many of us represent—that in fact everyone in this place represents—in the western suburbs.

The QEH is a fine, outstanding institution. It is close to the heart of many people in the west, including myself. My grandmother was a volunteer in the Friends of The QEH for almost 30 years. She is a life member of that organisation. This is an institution that is close to many of us, which is why we are committed to its upgrade and ensuring that it provides safe, effective, productive, quality services to the people of the western suburbs.

CHEMOTHERAPY TREATMENT ERROR

The Hon. J.S. LEE (14:36): My questions are directed to the Minister for Health in relation to chemotherapy dosing:

1. Does the minister stand by reports that he has claimed that all the subsequent recommendations have been accepted and have either been implemented or are being progressed?

2. Can the minister confirm whether implementation has been completed within the time frames laid down in the reports?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:36): In answer to the honourable member's question, for which I am grateful, the government is getting on with the job of responding to the appropriate inquiries that have taken place, some of which have been instituted by the government itself, others by other organisations, including, of course, the select committee for the parliament.

I have stated, I think, previously that the recommendations have overwhelmingly been accepted by the government and many have already been implemented, and those that haven't been implemented we are getting on with the business of implementing. I mean, it is a pretty clear position. We want to get on with the job. I am advised that a number of the recommendations that have been made have indeed been enacted, and there are others that we are getting on with.

CHEMOTHERAPY TREATMENT ERROR

The Hon. J.S. LEE (14:37): Supplementary: can the minister indicate the time and time frame of those implementations and whether they have been implemented according to the recommendations in the reports?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:38): We are getting on with the business of implementing all the recommendations as quickly as we can.

EMPLOYMENT FIGURES

The Hon. T.T. NGO (14:38): My question is to the Minister for Employment. Can the minister tell the house whether the state's unemployment rate has reached double digits, as predicted by the Liberal Party?

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) (14:38): I thank the honourable member for his question. The honourable member asked if I can advise whether South Australia's unemployment rate has reached double digits as predicted by the Liberal Party. I am very pleased to advise the honourable member: no. No, it hasn't.

For the benefit of those who don't remember the predictions from a couple of years ago, a press release, dated 20 July 2015, released by the Hon. Robert Lucas says, amongst a lot of other things but relevantly for today's question:

> South Australia is in the midst of a…jobs crisis and is careering towards double digit unemployment…

This was 20 July 2015, 'South Australia is careering towards double-digit unemployment' was the prediction, the wish and the hope that the Hon. Rob Lucas had for this state. Let me go forward a little bit. Let me go forward to 10 September 2015 and a press release from the member for Unley, Mr David Pisoni, who said, 'South Australia is careering towards double-digit unemployment.' But wait, there's more. There is a press release from the member for Dunstan, the eternal Leader of the Opposition, Steven Marshall, dated 26 October 2015, and many members might be able to guess the language used. It's not original. Let me quote: 'South Australia is careering towards double-digit unemployment.'

The Hon. Rob Lucas started this all off—the campaign genius who sucked everyone else into his predictions and hope for this state, followed bravely by the member for Unley, who we know can be sucked in very easily and follows things very easily. You just have to ask people what happened a couple of years ago. Then, blindly being led further, the so-called Leader of the Opposition does not double down but triples down on the brave prediction that we are careering towards double-digit unemployment.

If we take the Hon. Rob Lucas's prediction from just over two years ago—in fact, about 26 months ago in July 2015—I would like to outline what has happened in those 26 months since that brave prediction, that brave hope for talking down this state. In the last 26 months since that prediction, we have had employment growth every single one of those months—26 continuous months of employment growth since that prediction.

We on this side are very fond of the Hon. Rob Lucas. We want him to keep running Liberal campaigns. We fervently hope that he is again the mastermind behind this general state campaign and we would like him to make more of these predictions because since his prediction we have seen jobs growth every single month—every single month. For 26 months since that prediction, there have been more jobs the next month than the month before.

Over those 26 months since that prediction and that hope for South Australia that he wanted to see us fail, there have been 23,700 more jobs created in this state. We are at a record number of South Australians employed—826,900 South Australians are employed in the state. That is a record number, since this brave prediction 26 months ago of reaching double-digit unemployment, and about half those jobs created are full-time jobs.

If we look over the last 26 months since that huge prediction by the Hon. Rob Lucas, we have seen the headline unemployment rate decrease by 2.1 per cent. It must have been maybe 12 or 13 per cent, so we are at double-digits still? No, we are now at 5.8 per cent headline unemployment, the third lowest in the nation. That is a five in front, not a 10 or 13 as the Hon. Rob Lucas wanted us to have.

If you look at trend unemployment, we are down 2.3 per cent since those 26 months ago when these predictions were made—down 2.3 per cent to the second lowest state in the nation. Of all the states, only New South Wales has a lower unemployment rate and this is all in the midst of one of the greatest economic transitions most of us will see in our lives—the slowdown in traditional manufacturing, the closure of Holden just a few weeks ago. This is all happening around—

The Hon. I.K. Hunter: And who caused that?

The Hon. K.J. MAHER: It was caused by a federal Liberal government who had no plan, no hope for South Australia, unlike the Labor Party. This is our central aim as a party—jobs. That is what we are now seeing in South Australia, but there is still more to do. That is why we are working with business to provide the environment and, importantly, to provide the help business needs—a $109 million jobs accelerator program, a $200 million Future Jobs Fund.

But there is an alternative proposition and it is the member for Dunstan's proposition—the member for Dunstan, who, on 26 October 2015, said, 'South Australia is careering towards double-digit unemployment. His alternative proposal is, 'Let's take our hands off the wheel and the pie will grow.' That's the idea. There is this magic pudding pie thing that the member for Dunstan has found that if you just take your hands off the wheel, magically this car runs into a pudding or a pie and the whole economy grows and everyone gets a job. It is ridiculous, and that is why South Australia needs a Labor government to stand with business and stand with South Australia.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Franks.

TRANSFORMING HEALTH

The Hon. T.A. FRANKS (14:45): My question is to the Minister for Health on Transforming Health. Of the 284 clinical standards that were identified as part of Transforming Health's failure to meet 52 of the clinical standards, given we are now meeting an additional 10 clinical standards, and there are only 42 not being met, what are the 10 clinical standards that Transforming Health has now delivered?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:45): Let me thank the honourable member for her question. Transforming Health has been a very significant undertaking on behalf of the Labor government. We acknowledge on this side of the chamber that when you are in government you have to accept the responsibility of making sure that you are continuing to evolve key agencies to be able to improve health care. The thing is that most people who pay attention to any form of public policy, but this is particularly true in the case of health where there are rapidly evolving techniques and technologies, know that there is a need to evolve policy, and there is a need to evolve the way we do things.

That is what Transforming Health largely acknowledges: that we have a changing world and operating environment around us, we have a federal government that has been cutting public health

funding consistently, starting off most recently with Tony Abbott, of course, and that being continued by the conservative government ever since. So, there is a need at our level of government to ensure that we have key reform pieces in place that are all about delivering high quality, productive outcomes into the long term.

The Transforming Health project, as I have stated previously, is largely complete. There still remain ongoing issues that we are addressing and many of those are on the record. We are implementing a change in policy in respect to The QEH; we have a review of services underway at Modbury, which is reaching a conclusion. That represents a very thorough public policy undertaking which stands in stark contrast to the Liberal Party who rushed out a Modbury health policy just because there was a reshuffle. We are getting on with a methodical review of what we do at Modbury.

There are other parts of Transforming Health that have largely been implemented and have delivered good results, and they are probably worth reflecting upon. Let's take, for example, the stroke model of care. In 2016-17, we saw that about 78 per cent of all stroke patients were admitted to designated stroke wards across metropolitan hospitals. We saw this being an improvement of approximately 4 per cent compared to the previous year. More stroke patients are now receiving routine physiotherapy assessments to inform their rehabilitation goals.

The RAH made significant improvement in 2016 with an increase of 6 per cent of patient admissions to a designated stroke unit when compared to the previous year. The Lyell McEwin has made dramatic improvements in timely access to physiotherapy assessment with 92 per cent of patients receiving routine assessments in 2016-17. We have had a new model of care for rehabilitation services. The new rehab service model has resulted in 70 more full-time staff being employed since the start of 2017 across our LHNs to support the expansion of ambulatory rehabilitation.

This includes staff and allied health roles, nurses and enabling infrastructure costs to support tele-rehab. It also means the integration of rehabilitation services into our major hospitals so that patients can receive rehabilitation sooner and get home quicker. We have seen improvements in the areas of acute hip fracture management, after-hours senior clinical cover, and a 12-month pilot underway at the Lyell McEwin is occurring. Based on the successes of the pilot so far, planning is in place for the implementation at the RAH, FMC and also Women's and Children's.

We have seen improvements in the area of acute coronary syndrome. We have seen improvements in infrastructure, some of which continue. So, Transforming Health, despite the cynics, despite the scaremongering that has occurred perennially from the opposition, has delivered good results for our public health system. That is something that our government can be proud of, but we want to continue that work into the future.

TRANSFORMING HEALTH

The Hon. T.A. FRANKS (14:50): A supplementary: the minister talked about six areas, but he didn't identify what the 10 clinical standards were that have been achieved under Transforming Health. Could he please now identify the 10 clinical standards?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:50): Unmet clinical standards will continue to inform the design and delivery of services. We are getting on with the job of making sure we deliver an outstanding standard of care to our patients across our whole public health system.

TRANSFORMING HEALTH

The Hon. S.G. WADE (14:50): I ask the minister: what proportion of the remaining 42 clinical standards will be met once the current models of care and reform projects are fully implemented?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:50): I am happy to take that question on notice.

LYELL MCEWIN HOSPITAL

The Hon. J.S.L. DAWKINS (14:51): I seek leave to make a brief explanation before asking a question of the Minister for Health in relation to the Lyell McEwin Hospital.

Leave granted.

The Hon. J.S.L. DAWKINS: Earlier this month, residents of Clearview received a pamphlet in their letterbox from SA Health promoting a new, bigger emergency department at the Lyell McEwin Hospital. The pamphlet states:

> We're making a healthy investment into the Lyell McEwin Hospital, creating a new, bigger Emergency Department.

It goes on to say:

> This will reduce waiting times, providing you with treatment sooner in modern, world-class facilities, closer to home.

This is the second such pamphlet to be delivered to Clearview in recent months. On Tuesday, in an answer to a question about The Queen Elizabeth Hospital in this place, the minister stated that it was important that people, and I quote, 'get access to treatment in a world-class hospital close to their place of residence'. My questions are:

1. Will the minister detail the advice which he or his department has received that predicts that residents of Clearview will travel the 17 kilometres to the Lyell McEwin Hospital in Elizabeth Vale when there are three hospitals which are substantially closer to them, being the Modbury Hospital, about 10 kilometres away; The Queen Elizabeth Hospital, about 11 kilometres away; and the Royal Adelaide Hospital, also about 11 kilometres away?

2. What was the area of distribution by suburb and council area for both pamphlets, and what was the cost of those pamphlets and their distribution on those occasions?

3. What is the cost of the distribution of the pamphlet in the Port Adelaide Enfield council area?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:53): The honourable member is right. The government is spending a large amount of money on upgrading the Lyell McEwin Hospital. We are spending $52.5 million on the Lyell McEwin Hospital, and $9.2 million was also committed to extending the emergency care unit at Modbury Hospital, which is a separate exercise from what is being undertaken in respect of the review of services at Modbury Hospital.

Collectively, those two investments, which add up to in excess of $60 million worth, are a very substantial investment that this state government is making in our public health system in the northern suburbs of Adelaide. I would have thought that would have been something that the opposition would support. I would have thought that would have been something that the opposition would welcome, not just because it is a good thing to do for residents in those communities but because it makes political sense.

But, we know that backing up the Modbury Hospital with public money is not in their DNA. We know that in the DNA of the Liberal Party is the exact opposite of public investment into public hospitals. That is not in the Liberal Party's DNA. We know that privatisation is in their DNA. It is good to see the Hon. Rob Lucas back in the chamber. I only say the word 'privatisation', and he comes running in. Any discussion around privatisation, he is right into it.

But, we know that residents in northern metropolitan Adelaide care about public investment in these hospitals, and that is why they are very glad to receive information informing them that they will have a doubling of the size of the Lyell McEwin emergency department.

LYELL MCEWIN HOSPITAL

The Hon. J.S.L. DAWKINS (14:55): Supplementary: I asked the minister, and he may have to bring it back, but I would like to know the amount of money spent on these two pamphlets into the inner northern suburb of Clearview, which is 17 kilometres away from the Lyell McEwin Hospital.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:55): I tell you what, the cost of distributing that information, so as to ensure that the public are well informed, and are not misinformed by the sorts of misinformation and scare tactics that the Liberal Party is constantly pursuing and engaging in, is a worthwhile investment. It is

important that people have confidence in their public health system. They can gain confidence in the public health system from the very substantial amounts of money that this state government is investing in it, including in excess of $60 million in the Northern Adelaide Local Health Network.

LYELL MCEWIN HOSPITAL

The Hon. J.S.L. DAWKINS (14:57): Supplementary: why has the minister decided to allow the Department of Health to allocate taxpayer funds on this advertising campaign rather than investing them in front-line services, particularly given that the demand for services at the Lyell McEwin is always very high, largely due to the government's long neglect of Modbury Hospital?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:57): The honourable member has raised the issue of public investment in the Modbury Hospital. I know he sits next to the Hon. Rob Lucas, and I am not privy to the conversations that he has with his parliamentary colleague that he sits next to, but if I hazard a guess, if he took the opportunity in a quiet moment to ask the Hon. Mr Lucas what he thinks about a public investment in the Modbury Hospital, we know what the answer would be: sell it off. They are all about privatisation.

We have a very different view, and there is a legitimate need for the South Australian public to be aware of what their taxpayer dollars are doing. We believe that expending taxpayer dollars on public healthcare services and high-quality public healthcare infrastructure is a worthwhile investment, and it is important they know about it so as to not be undermined by the misinformation constantly spread by those on the opposite side of the chamber who have only one policy when it comes to public health in this state: sell it off.

LYELL MCEWIN HOSPITAL

The Hon. J.S.L. DAWKINS (14:58): Supplementary: will the minister join me in the streets of Clearview to convince people in that suburb that they should go 17 kilometres to the north of their suburb to go to Lyell McEwin?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:58): I have had a number of public meetings in the northern suburbs of Adelaide, many of which have been orientated around the Modbury Hospital, which is not too far from Clearview, and a lot of people are reciting the misinformation that the Hon. Mr Wade and other members opposite have been spreading for years, and they are sick of it, because when they hear the truth about the outstanding investments that have been made in northern Adelaide, they are nothing but supportive of it.

MODBURY HOSPITAL

The Hon. S.G. WADE (14:59): In relation to the minister's comments in his original answer in relation to the so-called investment by the Labor Party in Modbury Hospital, can the minister confirm that the Transforming Health plan reduced the amount promised to be invested in the Modbury Hospital from $46 million by $14 million?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:59): I will gladly take every opportunity that we get between now and March next year to confirm the investments that we are making at Modbury Hospital. I will tell you what we won't be doing: we won't be coming up with on-the-run policies for the Modbury Hospital that have been rushed out into the media. Why? Because there is a reshuffle. The Hon. Mr Wade—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: The Hon. Mr Wade has been the shadow spokesperson for health for some time now. He has had a good run at developing policies to take to the people of South Australia at the next state election when it comes to public health. Then, all of a sudden we have a reshuffle and what does Mr Wade do? He cooks up a policy in respect of Modbury to reintroduce a four-bed HDU and emergency surgery—no details, no consultation with clinicians.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: We won't make the same mistake, because we are going to get out and talk to people. We are going to get out and talk to dozens of clinicians. We won't make decisions that will compromise people's safety. That's what we won't do. We will do the opposite; we will talk to clinicians. We will make sure we get the decision right. Once we announce our decision, we will have that argument, we will prosecute our case. We will have the support of the clinicians, we will have the support of locals. And Mr Wade will be condemned for coming up with a rushed policy—cooked up. Why? Because of a reshuffle. It will be shame on him.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dawkins has the floor. I want him to ask a question, and I want the minister to answer the question without interjection.

LYELL MCEWIN HOSPITAL

The Hon. J.S.L. DAWKINS (15:01): Will the minister bring back, as I asked earlier, the details of the area of distribution of the pamphlet by suburb and council area, particularly the details for the Port Adelaide Enfield council area?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:01): I am more than happy to take that on notice, because it will give us a great opportunity to rehash the issue of the extraordinary spend that we are making in public hospitals, which stands in stark contrast to the rushed policies and the plans for privatisation.

MURRAY RIVER

The Hon. J.M. GAZZOLA (15:02): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber on what this government is doing to protect the Lower Lakes, Coorong and Murray Mouth?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:02): I thank the honourable member for his most important question. It is a very timely question, as he would know. The Department of Environment, Water and Natural Resources is launching the new Lower Lakes, Coorong and Murray Mouth condition monitoring plan. South Australia has been working for many years to secure a Murray-Darling Basin Plan that delivers sufficient water to protect our key environmental assets.

The basin plan, of course, has to safeguard our state from a repeat of the Millennium Drought that impacted so severely on our way of life and our wellbeing and how it, obviously, threatened our economic productivity. We need to make sure that we are resilient in the face of future drought. It also saw riverbank collapses and acidification of the Lower Lakes. Honourable members can't fail to remember the horrible, horrible situation that was present down there in the salinisation of the Coorong and the great dieback right along the Coorong.

For South Australia to evaluate the effectiveness of the basin plan and to secure our fair share of environmental water, we do need to have a comprehensive and thorough ecological monitoring program, particularly for our key ecological assets and in particular the Lower Lakes, Coorong and Murray Mouth. This internationally important wetland is susceptible to harm in low-flow years. Some parts of the system, particularly the Coorong South Lagoon, have still not recovered fully from the effects of the Millennium Drought.

The Living Murray condition monitoring program has been running for 12 years. It represents a critical investment in science and the understanding of what is a fundamental part of the River Murray. It's a key component, and of course it's very important to how we actually manage, in practice, that wetland. With the recent review and improvement of the plan, we are now in a better position to track changes and condition as time progresses.

Many of the revised targets and indices in the plan have been adopted in our long-term environmental watering plan for the South Australian River Murray and will form the basis of reporting on the outcomes of the basin plan. The Living Murray program is a good example of achieving big outcomes through working together. South Australia knows just how important the Murray-Darling

Basin river system is and how important the work that has gone into this plan is, and the work that will come out of it is going to be around maintaining and improving the health of the river.

The health of the whole basin, in fact, is no small thing, and we all know that. Living in the driest state of the driest inhabited continent, South Australians certainly know about the importance of a sustainable and secure water supply to their future and their families' future. I have said before, and it is worth repeating, that 1.5 million people rely on the River Murray for their drinking water, and there are thousands of South Australians who rely on it for their livelihoods.

We should not have to—we do, but we should not have to—continuously explain just how important that water is to South Australians, yet here we are again. We are standing up for South Australians again. We are still explaining to people in the east the critical need for that Murray-Darling Basin Plan to be delivered on time and in full. A great many people put in a lot of thought, time and hard work into developing and negotiating a plan that will ensure the health of the great river system, not the least being the current Prime Minister, Malcolm Turnbull.

The plan is based on scientific evidence from some of our nation's most imminent—eminent—water experts, including the CSIRO.

The Hon. K.J. Maher: They are imminently eminent.

The Hon. I.K. HUNTER: They are imminently eminent. In spite of this, we still have a Murray-Darling Basin Plan that is in crisis and in desperate need of support.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: The *Four Corners* program that aired in July of this year, the raft of new allegations of water theft and corruption, the systemic undermining of the basin plan being reported in just about every major news outlet across the country and, of course, the ministerial statement I made today and the document that I tabled from the New South Wales Ombudsman's inquiry, which shows a determined approach by the New South Wales government, or at least the agencies responsible, to ignore crucial aspects of compliance—all these things need to be aired before a royal commission.

While our federal politicians drag their feet on the Murray-Darling Basin and continue to ignore the issues facing the Murray, we in South Australia stand up for the river. The South Australian government will continue to stand up for the river and will continue to invest in important work like this new monitoring plan. It is extremely important that we continue to work together with the Murray-Darling Basin Authority, the Commonwealth Environmental Water Office, our community, the scientists who work so hard to give us the data and information that we can make good policy decisions on, the Ngarrindjeri and the other basin states who are working to achieve outcomes in the Lower Lakes and Coorong and across the basin, particularly with our Indigenous communities.

In particular, the hard work, commitment and dedication of South Australia's scientists continues to underpin the work that has been done so far. There has been a huge amount of work completed over the last 12 years and the quality of the new condition monitoring plan is a credit to the knowledge and expertise of those who have worked on it. Earlier this month, I was pleased to receive a report showing that salt levels in Lake Albert have returned to pre Millennium Drought levels thanks to water level cycling and several high-flow events in recent years, as well as water from the Commonwealth Environmental Water Holder.

The lowering and raising of water levels, known as water level cycling, has been carried out by the Department of Environment, Water and Natural Resources since the Millennium Drought ended in 2010, helping to reduce salinity in Lake Albert to about 1,500 EC. In addition to the high flows in recent years, the delivery of environmental water has also assisted in removing salt from the lower River Murray and the Lower Lakes, as this has increased the volume of water available for release over the barrages as well. At the peak of the Millennium Drought, Lake Albert salinity reached more than 20,000 EC. As a point of reference, sea water is about 35,000 EC.

A year-long Lake Albert scoping study was carried out in 2013-14 to pinpoint the best management option to improve and maintain water quality and ecological health. The study

recommended that water level cycling, being cost neutral and timely, should be adopted to reduce salinity in Lake Albert. Of course, this is a great outcome for Lake Albert and the River Murray, but the Lower Lakes, the Coorong and the Murray Mouth condition monitoring plan does highlight that there is still a lot to learn about our very special wetland and how we can manage it into the future.

By working with our experts, our scientists, our local community, the irrigators and our Indigenous communities, governments continue to work to get the best outcomes for our very precious river system. The advice we have received so far has helped us to secure a large share of the environmental water on offer, and it is important that we continue to fight for a fair share of water for our state.

I would like to acknowledge the work of the Lower Lakes, Coorong and Murray Mouth Scientific Advisory Group, the Community Advisory Panel and the Ngarrindjeri Regional Authority, for supporting our staff in developing watering proposals and in guiding the barrage operations. I also congratulate the work of the staff from the Murray-Darling Basin Authority and the Commonwealth Environmental Water Office for their support in delivering the Living Murray program and for the collaborative manner in which environmental water is being delivered in the basin.

This plan is one part of the government's ongoing efforts to save the River Murray. This government is unwavering in our commitment to stand up for that river, just as we are unwavering in our commitment to make South Australia self-sufficient in energy. We want South Australia to be in control of our energy plan, our energy system, and our energy plan does just that. We are unlike the Liberals, who are, as we heard from the minister to my right at the moment, addicted to privatisation—addicted to privatisation. The Liberals have already announced that they intend, should they win government at the next election, to privatise the government-owned power station—the government-owned power station.

Members interjecting:

The Hon. I.K. HUNTER: Indeed, the Hon. Mr Lucas leads again with his chin. Before we even signed the cheque they had made the announcement that they intend to privatise the state-owned energy system. There you have it, out of their own mouths. Steven Marshall—

Members interjecting:

The PRESIDENT: Order! Minister, take a seat. For a start, can the Leader of the Government please show a bit of respect for your ministerial colleague and desist from interjecting. The Hon. Mr Dawkins, you have a fantastic radio voice, but it's very deep and loud and it overtakes everything. Please allow the minister to finish his answer so that others can ask questions. Minister.

The Hon. I.K. HUNTER: Thank you, Mr President. I always feel very threatened when the Hon. Mr Dawkins opens up with his very loud stentorian vocals, very appropriate for church halls, where he does an excellent turn in his choral presentations, but goodness gracious, it scares the hell out of me.

I just want to finish on this point. While we are standing up for South Australia in terms of supporting the River Murray, in terms of making South Australia energy self-sufficient and we are purchasing a power plant wholly owned by the government to supply the energy security for South Australia's future, the Liberals have already pre-empted it and said that they are going to flog it off. Should they get into government, they are going to flog it off.

That's their policy announcement. They don't want the state to be involved in the energy system. They want to leave it, as the Hon. Michelle Lensink said earlier, to the free market—hands off the steering wheel. They have done such a good job for us so far, haven't they, that free market? That free market in the energy system that the Hon. Robert Lucas gave us when he privatised ETSA. That's what he wants to do with the state-owned energy station. That's what he wants to do and you can bet your bottom dollar that should they be back in government they will do it to SA Water as well.

HYDROTHERAPY SERVICES

The Hon. K.L. VINCENT (15:12): While I can't compete with the Hon. Mr Dawkins on volume, I would like to seek leave to make a brief explanation before asking questions of the Minister for Health regarding the hydrotherapy pool at Flinders Medical Centre.

Leave granted.

The Hon. K.L. VINCENT: I understand the new hydrotherapy pool at Flinders Medical Centre opened on Monday 13 November of this year. Concerns remain, from my dealings with people in the community, about the lack of places available for self-help users of the pool, as well as licensees of the pool. I have been advised by a user of the self-help service that the initial bookings for the hydrotherapy pool were booked out within two hours. Many self-help users have now opted to stop using the service due to the limited sessions available and the requirement that sessions must be booked in advance.

The minister has previously advised me that a survey was conducted of self-help pool users. However, one of my constituents, who is a regular user of the pool, did not seem to be aware of this survey. I understand that a number of licensees have also been advised that their licence to use the hydrotherapy pool will not be extended beyond December of this year. I remain concerned that licensees (physiotherapy services that have been contracted by Disability SA) have not been provided with an alternative facility to use. My questions to the minister are:

1. Prior to the opening of the new hydrotherapy pool, what consultation occurred with self-help users?

2. If a survey was administered, how was this delivered to self-help users, and how many self-help users completed the survey?

3. How was it decided how many sessions would be provided to self-help users and what time these sessions would occur?

4. What assistance is being offered to assist self-help users if they have been unable to secure an online booking due to high demand?

5. What assistance is being provided to licensees to find alternative facilities?

6. What communication has occurred between SA Health and Disability SA to ensure that people with disabilities who have been using the services of licensees continue to have access to hydrotherapy?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:15): I thank the honourable member for her question. I am advised that the brand-new hydrotherapy pool that has been built at the Flinders Medical Centre is operational, as the Hon. Kelly Vincent referred to. There were a number of self-help users at the Repat, who, I am advised, will continue to be able to get access to the brand-new hydrotherapy pool at the Flinders Medical Centre, which the Hon. Ms Vincent has already alluded to. The priority for SA Health, of course, is to be able to provide access to existing SA Health patients, and from there, once that demand has been met, to facilitate the pool being accessed by those people who might be former patients or otherwise potentially described as self-help users.

The Southern Adelaide Local Health Network (SALHN) has been actively engaged with self-help users. I am advised there was a number of discussions that took place with those users over a period to try to talk about session times. However, if there are specific concerns or times or lack of access issues that have been raised by some self-help users from the old pool, I would encourage the Hon. Ms Vincent to either pass those details on to us directly or, indeed, I can provide the Hon. Ms Vincent's office with the contact details of people within SALHN so that we can facilitate a direct conversation between the respective parties to see if their particular concerns can't be accommodated.

It's fair to say that the pool has been a hot topic and something that my ministerial office has been paying a lot of attention to, to try to make sure that we can accommodate, as best we can, all those people who have reasonable expectations about getting access to the pool. Another thing I would add is that we will also be actively working with the ACH Group, which is in the process of taking over the hydrotherapy pool, to see if we can come to an arrangement that provides for people getting access to that pool, although it is not operated by SA Health.

HYDROTHERAPY SERVICES

The Hon. K.L. VINCENT (15:17): I apologise; I might have missed the end of the sentence there. Can the minister elaborate on what the process has been thus far for deciding how many sessions would be provided for self-referred users of the pool?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:18): I am advised that the Southern Adelaide Local Health Network is able to accommodate up to 340 self-help or community access visits per week at the new pool, which means that those who are currently using it will be able to use the pool one to two times per week; however, at different times. That is a short way of answering the question about availability. There may be issues in terms of different timings and so forth, and that's why I am happy to facilitate a conversation between the relevant officials and the people who have concerns.

HYDROTHERAPY SERVICES

The Hon. K.L. VINCENT (15:18): For the providers who have been contracted to use the facility—that is, the new pool at the FMC—what arrangements can be made now for their clients? So, if you are the service provider who has been contracted to use this facility and you have clients who can't access the pool because of high demand, what arrangements should those service providers and clients, alike, make?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:19): Again, I am happy to take that on notice.

MIDDLE RIVER RESERVOIR

The Hon. T.J. STEPHENS (15:19): My question is to the Minister for Sustainability, Environment and Conservation regarding Kangaroo Island's Middle River Reservoir. Can the minister please confirm whether South Australia's Middle River Reservoir on Kangaroo Island has a major structural defect and may require replacing?

The Hon. I.K. Hunter: Sorry, major structural?

The Hon. T.J. STEPHENS: Can the minister please confirm whether SA Water's Middle River Reservoir, on KI, has major structural defects and may require replacing?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:20): I thank the honourable member for his important question. I am not, I believe, aware of major structural defects at the Middle River Reservoir on KI that may require, did you say, replacement? I do know that we have a constant management plan for our major reservoirs, of course, and SA Water is currently undergoing a consultation round on KI about future water requirements and are consulting with the local community.

There is probably, as a result, in all of our reservoirs ongoing maintenance required and I know we are investing hugely in the Tod Reservoir, near Port Lincoln, and of course Kangaroo Creek Dam spillway and the raising the dam wall upgrade there. These are routine requirements to bring those reservoirs up to what are now new ANCOLD guidelines, which weren't in existence when the reservoirs were built, obviously. They are major investments.

I am not presently aware—but I stand to be corrected by some notice that comes through to me from the agency—that there is a similar situation on KI, but I think the best thing to do is to take the honourable member's question back, ask the agency to give me the information he requires, and bring it back for him.

BROADWAY, MS R.A.

The Hon. D.G.E. HOOD (15:21): I seek leave to make a brief explanation before asking the Minister for Health questions about the death of Rita Ann Broadway.

Leave granted.

The Hon. D.G.E. HOOD: Rita Ann Broadway tragically died on 2 January 2015 from a urinary tract infection. Ms Broadway received a long-term indwelling catheter for incontinence in late

2013. On 13 different occasions between November 2013 and December 2014 her catheter was replaced with the assistance of the RDNS. During this same period Ms Broadway had the SA Ambulance Service change her catheter also. So, it is fair to say she was aware of the significance of her health situation and when it was necessary to ask for help.

Ms Broadway attended Modbury public hospital on 31 December 2014, complaining of increased urine output, smell and pain. The nurse's initial assessment was of a possible urinary tract infection, yet the doctors failed to consider a possible UTI, and her requests for her catheter to be changed were denied. Ms Broadway was given several painkillers and analgesics and discharged approximately 4½ hours later, the same day.

Professor Kelly, an expert witness in the Coroner's investigation, gave evidence to the Coroner that Ms Broadway should at minimum have been given antibiotics and her catheter should have been changed and that her death could have been prevented if this was to have occurred. The Coroner agreed with this assessment, giving an 80 per cent to 90 per cent chance of recovery had the catheter been replaced in this particular case. Unfortunately, Ms Broadway died, as I said earlier. Her request to the RDNS to change her catheter was also denied, and as a result she died later that day. My questions for the minister are:

1. What is the initial response of the government in relation to this situation?

2. Is the government going to adopt the protocols for diagnostic criteria for catheter-associated urinary tract infections, as recommended by the Coroner, or at what stage of decision-making are they in that process?

3. What staff education and training is employed or will be employed to ensure that this doesn't recur?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:23): Thank you to the honourable member for his question. I am advised that the Coroner, of course, only recently handed down their findings—I think, was it yesterday, from memory—into the circumstances of Ms Rita Broadway's passing. There was one principal recommendation that came through from that Coroner's report. The department is now going through the process of assessing that recommendation and developing a government response to it. It is my hope that that can be done as quickly as it can, and when that occurs I am happy to report back to this place what the government's response is to that recommendation.

In regard to the other components of Hon. Mr Hood's question, I am happy to take that on notice, because the government in conjunction with the department is in the process of developing a response holistically to the Coroner's findings.

JAMIE LARCOMBE CENTRE

The Hon. J.E. HANSON (15:24): My question is to the Minister for Health. What services will the Jamie Larcombe Centre provide to our veteran community?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:24): Let me thank the honourable member for the first opportunity I have had since becoming Minister for Health to take a question of such intelligence. I can say—

Members interjecting:

The Hon. P. MALINAUSKAS: No, this is the first government question I have had. This is the first question I have had that has been underpinned by such sound research and knowledge. I have to say that I look forward to an opportunity where I have not been inundated with silly supplementary questions, so as to provide the Hon. Mr Ngo, amongst other members, an opportunity to ask a question around important policy that I know they care about.

On 5 October, I did have the pleasure of joining the Minister for Veterans' Affairs in officially opening the Jamie Larcombe Centre. In all seriousness, this was a really good day. It was a well-attended event and I think it was a very good sign of everybody's commitment to veterans' mental health generally that there was a good cross-section of political representation at the event. It was very much a good thing.

Obviously, there has been a long road that has led to the development of the Jamie Larcombe Centre that has been difficult, but this was a special occasion and it was great to have so many people present from all sides of politics amongst other far more important guests, including senior ADF officials and, of course, family and friends. The centre is named after Sapper Jamie Larcombe, in tribute to the service and also the sacrifice he made when he was tragically killed on 19 February 2011.

It was a privilege to be able to meet Jamie's family—Steve, Tricia, Emily, Ann-Marie and April—and also his fellow service personnel. Jamie's sacrifice and that of more than 100,000 Australians has made the world a better place and a safer place, and Jamie's legacy will be rich and last as long as our nation endures. Over the next 50 years, many thousands of veterans, their families, friends, advocates and those who provide them with vital services will be inspired by Jamie's story as they enter the centre.

Over 70,000 Australian Defence Force service men and women have been deployed and operational since 1999, many of them on multiple occasions. They wear their uniforms in our name and put their lives on the line in a very real way. They do that in some instances every day. We know that this will result in increasing numbers of deployed service people requiring treatment for mental health conditions including PTSD in the years ahead. That is why the South Australia government has designed specialist healthcare services for our veteran community.

In January 2014, the government adopted the Charter for Veterans. The charter outlined three key principles: government services should consider the cultural, economic, social, physical, emotional and pastoral needs of our veterans; veterans should be involved in consultation about services that affect them and their community; and services that directly impact veterans should aim to provide timely, appropriate and adequate assistance to veterans.

Building upon the work of the charter, a veterans' healthcare framework was released last year. The framework is part of our ongoing work to ensure that veterans receive the best available care at any of our major hospitals and healthcare facilities. It is in the context of both the veterans' charter and the framework that the new model of care for the Jamie Larcombe Centre was developed.

Issues affecting men and women who return from warlike service can be quite different to those affecting defence personnel who are deployed to non-warlike operations in peacekeeping, border control or natural disaster response roles. This $15 million investment into veterans' mental health will ensure that, regardless of age, gender or service history, our veterans who access the services at the Jamie Larcombe Centre will receive the best possible culturally sensitive care for the next 50 years and beyond.

The new centre includes: a purpose-built contemporary mental health unit incorporating ward and outpatient areas, along with courtyard and garden areas designed to facilitate recovery; library, communal lounge rooms, private family rooms and a children's playground for visiting families to enjoy; co-location of clinical services with a teaching and research hub; in-ward telepsychiatric facilities enabling veterans from country areas to access these services closer to home; designated separate inpatient areas for vulnerable groups; ECT therapy provided on the Glenside Health Service campus; and access to PTSD services for veterans, police and emergency services personnel, acknowledging that they have unique treatment needs as a result of their service.

The Jamie Larcombe Centre marks a new era in providing enhanced care to veterans in this state. It will be a centre of excellence in mental health research and education, incorporating an acute inpatient unit, outpatient services and specialist services for PTSD. I am sure that Dr Cowain and her hardworking staff and volunteers from Ward 17 will continue the outstanding work that they provide to our veterans in this new state-of-the-art facility. Our service men and women deserve nothing less.

I am very glad to report that very recently the Governor-General himself, with an extraordinary and distinguished career in our defence forces, had the opportunity to visit the Jamie Larcombe Centre, which I think is a great opportunity for such an outstanding Australian to be able to see the investment that this state government has made to look after our veterans. It has been a tough move to the Jamie Larcombe Centre, but undoubtedly it will be a good one, particularly when those recipients of care from Ward 17 get to see the familiar faces of the people who do the outstanding work, albeit in a brand-new environment.

Bills

LABOUR HIRE LICENSING BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 November 2017.)

The Hon. R.I. LUCAS (15:31): I rise on behalf of Liberal members to speak to the second reading of this bill, and in doing so will try to indicate how I, on behalf of the party, will try to approach the second reading and the committee stage. For the reasons I will outline, I think the vast bulk of the work, in terms of discussion and debate, will need to be done during the committee stage of the debate, which will occur in the next sitting week and probably, I suspect, in the optional sitting week as well, given, looking at the *Notice Paper*, there are 36 agenda items at the start of play today.

I understand three or four of them might have been completed, so we are still at 32. As we speak, I think more bills are being passed in the House of Assembly and messages are to be received this afternoon, so we are going to have close to 35 bills to consider in the last sitting week and then the optional sitting week, I suspect, as well, assuming the government wants to get the bulk of its program through before the house rises before the next state election.

To that end, my normal course in relation to complicated bills like this one would be to outline in the second reading all of the detailed questions and allow the government to take advice and pursue the issues in the committee stage. For the reasons I will outline, I have found that impossible in relation to this bill because this bill is, to use a colloquial expression, a dog's breakfast at the moment. We have now received five separate sets of amendments on behalf of the government and three of those sets of amendments have been received in the last, approximately, 48 hours.

I and the shadow minister, the member for Bragg, are finding it impossible to keep up with the constant stream of amendments that are arriving from the government, trying to correct some of the clearly identified deficiencies in the government's drafting of the legislation.

I am sure the government's response is that they are just responding to the criticism. The position I would adopt is, if there had been proper consultation in relation to the legislation, then many of these particular problems could have been sorted out during the consultation phase rather than dropping the bill into the parliament and then, as I said, now having five separate sets of government amendments in relation to the legislation. We are not aware, given we have at least one and probably two sitting weeks left, of whether there will be further sets of amendments from the government as they recognise further inadequacies in the drafting of this complicated piece of legislation.

What I will endeavour to do is, firstly, put the Liberal Party's general position in relation to the need for the legislation, and then I will really only address two major submissions that I think all members, but certainly the opposition, received as recently as October, roughly four weeks ago, from the Ai Group and a little bit earlier than that from Business SA. These were on the original drafting of the bill.

Some of the issues that have been raised in those submissions, I understand, are being addressed in some of these five separate sets of amendments that have been filed, but because we have not had the time this week to keep track of all those amendments, as each new set arrives, we have sent it out to the stakeholder groups, to consult with those groups to see whether or not the amendments meet some or all of the criticisms they have identified in the drafting of the legislation.

This is no criticism of the stakeholder groups. If you get three new sets of amendments in the last 72 hours or so, it is not possible for those stakeholder groups to have instant turnaround in terms of taking legal advice on what the implications of the government's re-drafted amendments might mean in terms of the inadequacies that have been identified in the legislation.

So, that is the general approach that I will adopt. I acknowledge that some of the criticisms identified by the Ai Group and Business SA, which are indicative of the range of other stakeholders who have identified problems, might have been addressed in some of the more recent amendments

that have been filed by the government. We will consult over the next 10 days, before the parliament reconvenes, and address the issues.

I want to refer, in the South Australian context, to the seminal work on the labour hire industry, which was undertaken by the parliamentary Economic and Finance Committee's inquiry into the labour hire industry. The 93rd report, which was tabled in the House of Assembly in October last year, just over 12 months ago, has clearly been the genesis for the government's response in the legislation we have before us.

In that particular report, the position of the Liberal Party was clearly outlined in an attached minority report, signed by Mr Stephan Knoll (member for Schubert), Mr David Speirs (member for Bright) and Mr Vincent Tarzia, the lion of Hartley, or the member for Hartley. They signed the following minority report. The first thing they did on our behalf was as follows in their opening paragraph:

> Over the course of this inquiry there were a number of stories outlining improper and potentially illegal behaviour in relation to the conduct of labour hire companies in South Australia. The evidence was at times disturbing and represented a significant wrong in our community; much of it perpetrated upon some of the most vulnerable in our community. More must be done to stamp out the illegal behaviour and to ensure that all who work in Australia share the same basic working rights and conditions.
>
> This report does highlight illegal behaviour but it does not identify an area where the law is insufficient, indeed the report centres around ways to reduce already illegal behaviour. The South Australian Wine Industry Association makes this point in its submission:
>
> 'There are already extensive protections under both State and Federal harassment and discrimination legislation, including employers having vicarious liability for any acts by their employees. On this basis there is no need for additional legislation.'
>
> The majority report proposes to significantly increase the regulatory and financial burden on labour hire firms and those that use their services through a licensing scheme. The increased burden aims to increase compliance, but will also add additional cost to all industries involved, a factor ignored in the majority report.
>
> Given that the behaviour that this report seeks to reduce is already illegal this minority report merely differs on how to achieve increased compliance. Simply creating more red tape for those who already operate inside the law will not of itself increase compliance.

I think that is a fair summary of the strong position that Liberal members adopted on the Economic and Finance Committee inquiry into the labour hire industry.

Put simply, we are saying that we acknowledge there have been problems, but our approach is: why not use existing powers and, if need be, we can look at existing powers and penalties if there is a judgement that they are insufficient and penalise and punish the rogue operators in the labour hire industry. Do not penalise and punish the 90 per cent plus genuine, law-abiding, legally operating labour hire companies that are operating without criticism from either workers or regulatory authorities and agencies.

The Economic and Finance Committee took evidence that indicated that an estimate of over 90 per cent of all participants in the industry were compliant labour hire firms. It is a similar view that we have adopted in relation to the government's attempts to, in our view, overregulate young people drinking in the entertainment precinct of Adelaide.

The government's response is to punish everybody, lock down everything for a compulsory period of three hours, even though the majority of young people are quite happy to behave themselves and enjoy the entertainment precinct of Adelaide in the early hours of the morning without causing any grief to anybody else. But, the government's response is that all must be punished for the sins of the few. This is the approach this government adopts in so many areas, and it is the approach this government is adopting in this particular area.

So, consistent with the position of our members on the Economic and Finance Committee, the Liberal Party will, in relation to this bill, support the second reading to enable debate in the committee stage. We will be sympathetic to a number of the amendments that will be moved by members, not just government members but the Hon. Mr Brokenshire has flagged an amendment as well, where we think it might improve the bill, but when it comes to the third reading the Liberal Party will vote against the third reading of this legislation, with or without the amendments that have been flagged in the committee stage.

We think the mere fact that the bill is in such a mess that five separate sets of amendments have to be moved is an indication that the government does not really know what it is doing. It is not aware of the consequences of the legislation that has been drafted. It has been poorly and hastily drafted, poorly consulted upon and, in a rush prior to the end of parliament and before the state election, the government is desperate to get anything into operation prior to the end of this particular parliamentary session.

It will be a long committee stage, as it should be. The government will be held to account in relation to what it does or does not know, what it should have known and what it did not know in relation to its original drafting, what consultation it did undertake and if it did undertake consultation why are there now five separate sets of amendments being moved to try to get the legislation through the parliament, what will be the implications of some of these amendments and what has been the legal advice available to the government.

The final part of the dissenting or minority report to the Economic and Finance Committee report that I want to refer to is the potential impact in terms of new industries growth in terms of jobs and economic growth in the South Australian economy. I look in particular at the information technology sector. The ITC sector is clearly a source of new jobs, in particular for young people, in the future.

Our industry sectors in South Australia will need to be nimble and to be able to adapt quickly and not be tied down by unnecessary red tape and regulation. They need to be in a position to move quickly in terms of how they reasonably treat their employees as companies live and die relatively quickly in the new economic environment. Not every new IT firm is going to succeed and not every new IT firm is going to churn out millionaires or multimillionaires. Some will succeed and many will fail.

Our labour hire systems, our industrial relations systems, our workplace systems will need to acknowledge that that is the reality in terms of the future, at the same time stamping out obvious offensive and obnoxious employer behaviour in terms of treatment of workers and employees.

The minority report quotes a statement made by the Information Technology Contract and Recruitment Association in a submission. I am not sure whether it was made to the South Australian inquiry or whether it was made to a federal Senate inquiry of a similar nature, but it is nevertheless quoted in the South Australian report. It says:

> …ITCRA is not convinced of the need for a national licensing system or industry code, as this would only serve to increase costs for already compliant labour hire/contracting providers and fails to prevent unscrupulous operators... Further, disparate forms of regulation and more onerous licensing requirements in South Australia may deter national and international labour hire/contracting firms from operating in South Australia.

I think that is a salutary lesson to legislators and to those of us in this chamber—some of us anyway—who might be forced into a position of saying that we are going to support this with amendments or not. That is not our position. What we are saying is that this is a dog's breakfast in terms of its drafting.

The government or a future government needs to go back to square one and either adopt the alternative mechanism, which is the one that we have indicated, or if a government is intent on overregulating and more red tape, it needs to at least get the balance right in terms of its drafting of its legislation and not just introduce something and then patch it up with five separate sets of amendments and hope that the mess can be understood and that the ramifications and implications for businesses and industry will not be significantly impacted in terms of economic and jobs growth in South Australia.

I now refer to the submission made by the Ai Group, which I received by way of a letter dated 9 October, just over five weeks ago, from Mr Stephen Myatt, the head of the Ai Group in South Australia. In that covering letter, he says:

> …numerous genuine contracting arrangements would be covered by the Legislation which go far beyond a reasonable notion of labour hire. Within industry, businesses provide a huge array of different services and other labour is involved to a greater or lesser extent. The Bill would lead to the disruption of countless business to business services and expose businesses, their owners and managers to significant risks and added costs.
>
> Secondly, the penalties in the Act are unjustified. These penalties go way beyond those of a similar Bill which passed the Queensland parliament—despite considerable opposition—and to have jail terms for breaches of this

proposed Act is unnecessary and unjustified. Indeed, upon reflection you would wonder why any individual in South Australia would operate a business with such huge penalties in areas based around licensing.

That is again an important message. It is a warning: why would anyone want to invest in South Australia in some of these new areas if the sort of onerous penalties and onerous red tape and overregulation is to be imposed on the costs of doing business in this state compared to some other jurisdictions? Increasingly, as I said, our businesses are going to have to compete internationally as well as nationally in terms of the products and services they produce.

The third point they refer to is the not-for-profit group training companies. We understand in one of the earlier sets of the amendments the government is moving they are seeking to address that particular issue. The end of the letter states:

The bottom line in relation to this Bill is that if there are labour hire operators that are presently breaking the law, then we should be enforcing the law. There is no need to add extra red tape and regulatory burden to all labour hire operators, the vast majority of which operate professionally and legally. It merely imposes additional costs on good operators.

The licencing regime as proposed by this Bill will not be successful in driving out underhanded operators from this industry unless enforcement is put in place.

In the detailed submission attached to that October letter the Ai Group addresses a number of clauses of the legislation. The first general point they make is that the alternative procedure is that there are a number of existing pieces of legislation. They refer in particular to the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017, which has passed the commonwealth parliament, which will amend the Fair Work Act to introduce a new serious contravention penalty, up to $540,000 per breach for a company, 10 times the current maximum penalty; increased penalties for pay slip and record keeping offences, up to $54,000 per contravention, which is double the current maximum; and up to $540,000 for a serious contravention, 20 times the current maximum.

The act gives franchisors and holding companies more responsibility for breaches of workplace relation laws and instruments by franchisees and subsidiaries. It also grants the Fair Work Ombudsman compulsory interrogation powers similar to the powers of the Australian Building and Construction Commission. The Fair Work Act equally applies to labour hire operators and users of labour hire services. The Ai Group identifies the fact that there is already significant new legislation that is about to come into operation, as we understand it, which purports to cover a number of those areas.

I think other submissions identify other pieces of legislation. Business SA identifies not only the Fair Work Act but also the Work Health and Safety Act, the Return to Work Act, the Criminal Law Consolidation Act, the Competition and Consumer Act, the Independent Contractors Act, the Fair Work Act South Australia, the Migration Act, the Superannuation Guarantee, the Superannuation Guarantee Charge Act and the Taxation Administration Act as all being current legislative protections that are available in terms of monitoring compliance and enforcing compliance on some rogue labour hire firms in this industry sector.

The Ai Group then goes on to identify some specific areas. They argue that clause 3(1)(a) of the bill should be deleted as it implies that providers of labour hire services exploit workers. This is clearly untrue in the vast majority of cases. They argue for an amendment there. I will go through the detail of these arguments in the committee stage, but I am going to flag the nature of the complaint from Ai Group. They say that clause 6, in terms of the meaning of labour hire services, has an extremely broad definition of 'labour hire service provider' and 'worker', which they say will include on-site maintenance and repair, professional services, professional secondments and group training organisations.

To that end, I thought the Business SA group was instructive. In their submission, under the meaning of labour hire services, they state:

This section uses the following wording: 'in the course of carrying on a business, the person supplies, to another person, a worker to do work'. Professional organisations such as accountants, lawyers, business consultants, nurses and I.T professionals may, from time to time, place workers in other workplaces or be seconded to clients. A few examples of such arrangements are:

- A corporate health service that 'supplies' a nurse to deliver flu vaccinations

- An I.T professional setting up computer systems
- An auditing accountant
- A translator supplied to assist migrant workers
- A first aid attendant at a sporting event

What Business SA is saying is that, under their legal advice, the definition of 'labour hire service' and 'worker' in the bill would cover all those sets of circumstances. I do not think anybody in their right mind would contemplate that professional services and professional secondments or a corporate health service that supplies a nurse to deliver flu vaccinations and the like were intended to be covered by the definition of labour hire services and this particular legislation. The lawyers for the Ai Group and Business SA are clearly arguing that that is, in essence, what is going to happen.

Ai Group has argued for a particular definition that we will explore in the committee stage as being a better definition. Under clause 7, the meaning of 'worker', they argue, is highly problematic, open to misinterpretation and needs to be clarified. There is a long section on the not-for-profit group training companies that I will not address because I think the government's first set of amendments has sought to address them.

Regarding clause 9, they raise significant criticisms about the fit and proper person provisions. They say here that the government wants to give the commissioner broad levels of discretion in determining who is a fit and proper person for the purpose of holding a licence or to be a director of a body corporate. They are arguing that that could lead to arbitrary outcomes, that the commissioner could make highly subjective assessments that would lead to unfair outcomes for individuals. Again, I think it is instructive in relation to that particular clause to look at the Business SA submission, which does look at some examples. They say:

> For example, a person will be excluded from holding a licence due to an estranged family member e.g. step-brother being involved in criminal activities covered by the Serious and Organised Crime (Control) Act 2008….Section 9(2)(a) of this bill does not allow for discretion if a person was found guilty of an offence but a significant amount of time has elapsed since the offence.

Business SA gives some very useful examples of the sorts of—one would hope—unintended consequences of the current drafting of the legislation in relation to fit and proper person.

In relation to excessive penalties under clause 11, the Ai Group and also Business SA argue that they are too harsh. We will describe those and argue that case in the committee stage. In relation to clause 15, the Ai Group argues that this particular power could be used inappropriately by trade unions against licensees for reasons unrelated to the act, such as the licensee's decision to not agree to negotiate an enterprise agreement with the union. Their argument is that clause 15(5)(a) should be deleted.

In relation to clause 16, which concerns the grant of a licence, again they are arguing that the commissioner is given a very broad discretion in relation to the granting of a licence. 'Inappropriately broad and unfettered' is their description of the commissioner's power, and we will explore that in the committee stage.

In relation to clause 18, they have raised significant questions about the meaning of prescribed information and what the government is intending to be provided with every 12 months. They say that this will impose, potentially, an extremely lengthy and onerous cost burden on the 90 per cent plus of legitimate operators in the labour hire sector with the intent of trying to catch the less than 10 per cent, perhaps, of rogue operators within the industry.

In relation to clause 19 concerning notification of changes in circumstances, again they have argued the onerous nature of this, in that within 14 days of a change, licence holders will have to notify the commissioner of a change in respect of prescribed matters relating to the licence. They say this is unfairly vague and onerous. They say:

> Many established labour hire operators have an extensive number of services, activities and clients which regularly change. This provision not only imposes an unfair regulatory burden on licence holders but also potentially requires the disclosure of confidential or commercially sensitive business information, to which we have referred above.

In relation to clause 21—Suspension and cancellation, again they argue that the powers the commissioner has are way too broad and unfettered. They argue that the commissioner has broad powers to cancel a licence if he or she is satisfied that a licensee, employee or representative of the licensee has contravened a relevant law, whether or not the licensee, employee or representative has been convicted of an offence for the contravention.

What the Ai Group is saying is, 'Hold on, fair suck of the sauce bottle' (or whatever colloquial expression you want). They are saying that the commissioner can actually close a business down because, in essence, that is what happens: if you lose your licence as a labour hire service operator, that closes your business down. The commissioner can do that, whether or not the licensee employer representative has been convicted of an offence. So, it is a judgement that the commissioner (he or she) is satisfied that one of the representatives, an employee—not necessarily the licensee—has contravened a relevant law. The commissioner can just close the shop down.

That seems to be an extraordinarily broad provision to be allowed. I would be stunned if some members in this chamber who understand business and business operations could, in any contemplation, support such broad powers for a commissioner. Some members of this chamber have very great respect for our commissioners. They seem to be growing like Topsy—left, right and centre. Personally, I am not a great lover of the mushrooming growth of commissioners that we have all over the place. My view—a simple view, perhaps, and a solitary personal view—is that we have ministers who should accept responsibility, we have departments that are meant to be implementing the policies and we now have an ever-increasing number of commissioners, and many of them are being supported by both sides of politics. I accept the reality of that.

However, they are a special breed unto themselves, and parliaments and executive government are, at some stage, going to have to have a good, hard look at the number we have and the powers they have. If we continue to give them unfettered, subjective, broad discretions in relation to closing businesses down just because they are satisfied—even though they have not been convicted of anything in relation to a particular action—we are taking a very big step, in my view.

My earnest entreaty to members of this chamber is that there is no crying need for this. Unless every i is dotted and every t is crossed in relation to this, and you are satisfied that there are no loopholes, then we should not be passing faulty legislation. That is certainly the position that the Liberal Party is adopting. Under clause 24—Requirements for responsible persons, Ai Group is arguing for the deletion of subclause (1). With regard to part 5—Monitoring and enforcement, Ai Group proposed those powers. We will take those up in the committee stage of the debate.

Let me conclude by saying that I have approached the second reading in a completely different way to most other pieces of legislation because of the continually changing nature of the government's bill as a result of their constant series of amendments to their own legislation. We are now going to pause and, hopefully, see the end of the government's amendments and then be able to consult with stakeholders, finally, on where they see the legislation.

We will, as I indicated at the outset, support a forensic examination of the provisions of this bill during the committee stage. We will raise the issues that the Ai Group, Business SA, the Wine Industry Association and others have raised in relation to deficiencies in the drafting. We will support some amendments that may well marginally improve the legislation, but, ultimately, we believe this legislation is wrongly based. It approaches the problem of a small number of rogue operators in completely the wrong way.

For an alternative government, which has pledged to try to grow our state economy, grow jobs in South Australia, reduce red tape and overregulation and reduce tax levels, this overregulation approach to the labour hire industry is completely opposed to the philosophical and practical direction in which we would like to take this state. Therefore, for those reasons, we will be strongly opposing the third reading of the bill.

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

STATUTES AMENDMENT (CHILD EXPLOITATION AND ENCRYPTED MATERIAL) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 November, 2017.)

The Hon. A.L. McLACHLAN (16:04): I rise to speak to the Statutes Amendment (Child Exploitation and Encrypted Material) Bill. I speak on behalf of the Liberal opposition and indicate that we are supporting the second reading.

The bill seeks to make a change to two areas of the law. The first relates to child exploitation material websites, and the second relates to accessing encrypted material during the investigation of serious criminal offences. With respect to the first, the bill establishes new offences criminalising the creation, promotion and use of child exploitation websites, which addresses a current gap in the South Australian legislation.

The Attorney-General in the other place highlighted, when introducing this bill, that child exploitation material:

> ...website administrators and those hosting such websites contribute to the proliferation of CEM online and facilitate and promote the exchange and distribution of CEM...While South Australia's existing laws address the possession and distribution of this material, existing offences do not always sufficiently capture the conduct of administering, establishing and operating CEM websites—which can occur without actual possession of the CEM.

To address this, the bill will create new offences that criminalises the use, creation and promotion of such sites. It will also be an offence to encourage others to use a child exploitation website as well as to provide information to assist them in avoiding apprehension for a child exploitation offence.

The offences have been drafted in such a way as to capture online forums, groups and other social media platforms which are capable of and commonly used for the dissemination of child exploitation material. It was on such a site or chat forum that the offending of Shannon McCoole was discovered by international law enforcement agencies. Importantly, defence provisions have been included to protect legitimate website administrators hosting a site in good faith.

We are advised that the offences have been modelled on similar legislation in Victoria, and the legislation is intended to complement the new commonwealth legislation which also targets the provision of websites and online child abuse material. I note that the federal government's Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill contains new measures criminalising the provision of services such as websites that provide access to child abuse material online.

As highlighted in the second reading of that bill, this is necessary, as these services facilitate and encourage offending by large, sometimes global audiences and promote the production of new child abuse material. The Liberal Party supports these initiatives to combat the exploitation of children both here and abroad.

As I alluded to, what is, in effect, the second part of the bill is in relation to encrypted computer records. When introducing this bill the Attorney-General highlighted the difficulties commonly faced by law enforcement in gaining access to encrypted material that may contain evidence of serious crimes. Indeed, the recent experience has shown that criminals, particularly those involved in child exploitation offences, have been able to take advantage of modern advances in technology to conceal their crimes.

The Attorney-General indicated that although this problem is typically encountered in relation to child exploitation material offending, it is not confined to these crimes. He stated:

> The use of encrypted records is now an established feature of much modern offending. It could include fraud, drug dealing, cyber bullying or revenge porn, online stalking or a breach of an intervention order where the offender uses the internet to harass or communicate with his or her former partner.

A Queensland Crime and Corruption Commission report, released in October 2015, on accessing electronically stored child exploitation material offences highlighted the current legislative limitations and barriers that law enforcement agencies face when investigating child exploitation offences. The report echoed the Australian Crime Commission's concern that there is a growing international concern that technological advancement is facilitating the online exploitation of children. The report indicated:

> It is common for child exploitation material to be stored electronically and offenders are becoming increasingly skilled in data encryption and secure data storage to conceal evidence of their involvement in these offences.

> Encryption and other security measures make it virtually impossible for law enforcement to access evidence of suspected [child exploitation material] on an electronic storage device without information such as login details and passwords that are necessary to access the device or its files.
>
> An inability to access this information means that evidence of these offences remains concealed and may be destroyed. Further, police are unable to identify, locate and remove from harm the children involved in the Child Exploitation Material.

To address this, the bill establishes a new procedure contained in the Summary Offences Act for a magistrate to order that a suspected offender or other narrow class of third parties be compelled to provide information or assistance to access encrypted or restricted access records held on or accessible through a computer or data storage capable device. The bill provides that an application must be made to the magistrate for such an order by either a police officer or the Independent Commissioner against Corruption. Honourable members should note that the ICAC was added after amendments in the House of Assembly.

The bill sets out that the application for an order must include the nature of the serious offence that is suspected to have been committed and in relation to which the order is required; the grounds on which the applicant suspects that the offence has been committed; the grounds on which the applicant suspects that any data held on a computer or data storage device is or may be relevant to the offence; and the grounds on which the applicant suspects that the specified person has knowledge relevant to gaining access to any data held on a computer or data storage device.

The application must also be accompanied by an affidavit made by the applicant verifying the grounds of the application. The magistrate may make an order if they are satisfied that there are reasonable grounds to suspect that data held on a computer or data storage device may afford evidence of a serious offence. It is my understanding that a serious defence is defined as an indictable offence or an offence with a maximum penalty of two years' imprisonment or more.

It is broadly based on the Criminal Law (Forensic Procedures) Act 2007 which authorises forensic procedures for offences carrying more than two years' imprisonment. I ask that we be advised in the second reading summing-up of the types of offences that come within that definition, in particular any nonviolence offences such as driving. It would seem, on first blush, that it is a very broad definition to allow access to encrypted material outside of, obviously, child exploitation materials.

The magistrate must also be satisfied of a number of other factors such as whether the specified person is reasonably suspected of having committed a serious offence or is the owner of the data or computer or data storage device or the lessee of the computer and so on and so forth. The magistrate must also be satisfied that the specified person named in an order has relevant knowledge of either the computer or data storage device or network which the computer forms part of or the measures applied to protect data held on the computer or data storage device.

There are some provisions for failure to comply. The bill proposes an offence provision for those who refuse or fail, without reasonable excuse, to provide the information or assistance that is sought under the order. The bill proposes a maximum penalty of five years' imprisonment. I note that this not only reflects the penalty in other jurisdictions, such as Victoria, Queensland and the ACT, but also seeks to act as an incentive for compliance.

This is particularly pertinent to child exploitation offences, for as the Queensland crime commission report has noted, a person may refuse to comply with an access order knowing that the penalty for failing to comply is substantially less than the penalty for the child exploitation offence that the information contained on the storage device might be evidence of. Importantly, a defence of reasonable excuse for failing to comply with an order is available. Applications for orders can be made before or after the execution of a search warrant.

The bill also introduces new offences to the Summary Offences Act for impeding an investigation by interfering with data. The new offence provisions criminalise the alteration, concealment or obstruction of data held on a computer or device that is subject to an access order and may reasonably be expected to be evidence of an offence. The maximum penalty will be five years' imprisonment and 10 years for those who are a specified person subject to an order of the court.

The Attorney-General in the other place indicated in his second reading that this offence is especially necessary as with remote storage it is possible for an associate to be able to remotely delete the encrypted material even though the device has been seized by police and is the subject of an order to compel access. I know the Queensland crime commission's report also recommended criminalising a failure to comply. This followed a finding that high-level offenders with extensive involvement in the child exploitation material community are often well-informed of the law and law enforcement methods, and of technologies used to hide evidence and conceal their involvement in child exploitation offences. These offenders are less likely to give access and information to the police and it is in these situations that an access order must operate effectively.

I advise honourable members that the Liberal Party is considering amendments to the bill with the view of requiring South Australia Police and the ICAC to report on the use of these provisions. They may well have been filed by now, and we will consider those in the committee stage. I ask honourable members to have kind regard to them. The Law Society has provided a submission in relation to this bill, dated 20 October 2017. I ask the minister, if possible, to provide in the second reading summing-up a response to the issues that are raised by the Law Society in their letter.

The Liberal Party will be supporting the second reading. It will be seeking to amend in relation to reporting requirements. It will be interested, in the committee stage, to better understand the government's justification for seeking aggressive search powers and seeking to break encryption codes beyond child exploitation materials and associated offences, which I think have been argued by the Law Society as the more controversial aspects of this bill. As I said, the Liberal Party will be supporting the second reading.

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

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 October 2017.)

The Hon. J.A. DARLEY (16:17): I rise to speak on the Retail and Commercial Leases (Miscellaneous) Amendment Bill. The bill makes a number of changes to the Retail and Commercial Leases Act in response to a review of the act which was conducted by retired District Court judge, Alan Moss.

The bill clarifies the issue of when GST should be included, gives direction on what information is to be provided to lessees, and inserts provisions for the government and the Small Business Commissioner to provide exclusions from the act. I have no issues with the above provisions and believe it will assist to clarify matters for both lessors and lessees; however, one aspect of the act which I have issue with is the matter regarding the rent threshold which is used to determine whether the act will apply or not.

Prior to 2011, the rent threshold was $250,000. I understand that this was the threshold that was originally in the bill when the original act was passed, and that it had not changed. Essentially, if the rent was under $250,000, then the provisions of the act would apply; however, if the rent was over $250,000, then the act would not apply.

One of the provisions concerned was the ability to pass on land tax. If the rent was over $250,000, then landlords were able to pass on land tax directly to the tenant; however, if the rent was under $250,000, they could not pass on land tax directly but land tax could be taken into consideration when calculating the rent. This does not make sense to me as it seems it is just another way of indicating to landlords that land tax can be passed on, albeit as part of the rent rather than a standalone charge. I would be grateful if the minister could clarify to me what this means.

As mentioned before, the rental threshold for the application of the Retail and Commercial Leases Act was $250,000 but, in 2011, it was changed to $400,000. I understand there was no particular impetus for this change and that it was almost a matter of a public servant suddenly waking up one day, realising that the threshold had not changed since the inception of the act and deciding that it should be changed. By changing the threshold overnight, the government has caused

significant issues to landlords who are now faced with having to pay land tax when previously it was the responsibility of the tenant.

I have had regular communication with one such constituent, who is by no means a big-time landlord. She is akin to what is colloquially known as a mum-and-dad investor and now faces a loss of $35,000 per annum from her income due to the government's change in the threshold. At the time of signing the lease, the terms were understood by both the lessor and the lessee. A price was negotiated for the rent and, because this price was above the threshold, the lessee understood that they would be liable to pay the land tax. This was fair and transparent. However, because of the threshold change, the rent now came in under the new $400,000 threshold and the onus to pay the land tax was put back onto the landlord. To me, this is inherently unfair.

As such, I introduced a bill to rectify this, and I understand the opposition has amendments that emulate the provisions of my bill. Essentially, the amendments will mean that if a lease was over the $250,000 at the time the threshold was changed in 2011, then it would be deemed that they are not covered by the act and land tax is able to be passed on to the tenant. For clarity, this includes lease renewals. I understand the government will argue that it was always envisaged that the threshold would be a fluid figure and that landlords should have anticipated that it would change; however, the threshold did not vary for many years after the introduction of the act, and the market responded accordingly.

My position on this matter is that land tax should be able to be passed on in an open, transparent manner for all leases regardless of the rental amount. Lessors and lessees would be able to make decisions on leases with the full knowledge of what is expected. However, given these are problems currently, with our land taxes accounted, for leases that fall under the threshold, it would be very difficult to unscramble the egg and prevent landlords from double dipping. I think more work needs to be done on this matter to make the process more transparent. It should be no surprise that whilst I will be supporting the bill, I will also be supporting the opposition amendments.

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

EDUCATION AND CHILDREN'S SERVICES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 October 2017.)

The Hon. R.L. BROKENSHIRE (16:23): I rise on behalf of Australian Conservatives to speak to the Education and Children's Services Bill, which is a bill that repeals the Education Act 1972 and the Children's Services Act 1985 and attempts to set out a contemporary framework for the education of children in this state, and attempts to further support students, teachers and schools to provide a quality education. We all have that desire for our children. Of course, it can only be a desire with an outcome if the right structures are in place and the right support services are there.

A consultation draft of this bill was released for public consultation between 19 December 2016 and 10 March 2017, and the bill makes clear that the paramount consideration of the operation, administration and enforcement of the act is the best interests of the children. We all want outcomes that are in the best interests of the children. Having said that, we also have a responsibility to the parents who are responsible for those children.

That is where some problems lie with this bill, and therefore we have filed some amendments, which I will go into in detail when we sit to debate the bill at the committee stage. We will not oppose the bill. There is no doubt that the Education Act needs modernising from time to time. The South Australian schools association, SAASSO, has expressed quite a lot of concern about this bill. The Australian Conservatives have been through this bill with a fine-toothed comb, and we have concerns about certain aspects of it.

I note that the Liberal opposition also has some amendments on file, as do the Australian Conservatives, and I would ask my colleagues to have a good look at those amendments, and then I will go into detail in committee on our amendments. If we were not in a position to get up some of

those amendments that bring a focus back to parents' rights, then we would have to reconsider our position at the third reading, because we have a lot of parents who are very unhappy about what is occurring in our education system when it comes to what I can only describe as, at the moment under this government, a lack of parents' rights and a lack of informative advice going through to the schools.

We are not far away from an election. This is an important act, but notwithstanding that, there may or may not be a change of government. We are only sitting for three more days, so I would assume that it is going to be difficult to get this bill through. I am not quite sure why it is being rushed, although I have my suspicions. I will not be a cynical politician—that would not be right on this occasion—but we will have a close look at this bill when we get into committee.

With those words, we have put the framework there in the second reading for the government. We support the bill, we have some questions about why there is a rush on at the moment, so we will need to spend some time in committee. There are quite a lot of important amendments, and we will be working hard to get approval for our amendments. Based on how the committee stage pans out, we reserve our right at the third reading, and we have more work to do on consultation with key industry sectors that represent the parents of the children. With those words, that is enough from me on this bill.

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

SOUTH AUSTRALIAN PUBLIC HEALTH (IMMUNISATION AND EARLY CHILDHOOD SERVICES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2017.)

The Hon. K.L. VINCENT (16:28): While I would be the last person who would want to take away from the importance of immunisation in terms of its positive impact on public health, I have been contacted by parents who are concerned about this bill because of the way it seeks to enmesh the medical practice of immunisation with the right of a child to education.

Early childhood is one of the great frontiers of discovery of our time. Neuroscience is giving us a greater insight into the importance of this as an incredible time for brain architecture. Engaging children in early childhood services holds benefits that set the course of their lives, literally, including reducing their involvement in the criminal justice system.

So, there are economic imperatives for ensuring that all young children are actively engaged and involved with early childhood education services. This is a time of life when engaging the child also includes engaging their parents, which is something that tends to drop off over the years as children move into primary and secondary school years.

In the 19th and first half of the 20th centuries, childhood deaths from infectious diseases such as measles, diphtheria and polio were common. Vaccines have dramatically reduced the rates of many childhood infections. Deaths from vaccine preventable diseases (VPDs) are now very rare. Their incidence has fallen sharply because of successful immunisation programs. Medical advances through immunisation have prevented disease. The Dignity Party supports positive public health measures that are proven to improve health outcomes for the population.

Through the lobbying that has come before me on this bill, I have decided to offer amendments that put forward the views of people in the community. These include the Royal Australasian College of Physicians (RACP), who have written, I believe, to all members, who would have received a copy of their letter to the Communicable Disease Control Branch of SA Health. The RACP letter expresses concern and in particular states the following:

> The RACP is very concerned about section 96C of the Amendment Bill, which proposes to deny attendance not only to child care, but also to pre-school, to children who do not meet Australian immunisation requirements. In the older preschool group, any incremental benefit from this proposed measure in strengthening protection against vaccine-preventable diseases (VPDs) is miniscule, as Australia has high overall rates of immunisation and children over 2 years of age have received most vaccines and boosters. This means any increase in protection for other children

from exclusion of incompletely immunised children from pre-school is negligible, whereas that the detrimental effects of lack of access to early childhood education and care on a child's long-term development are potentially very large.

This correspondence further recommends that making full documentation of immunisation status compulsory at each new enrolment would 'significantly strengthen' South Australia's already robust protection against vaccine preventable disease outbreaks.

The amendments that the Dignity Party is putting forward are a way of including in our debate the voices of families who wish to be able to make an informed decision, who wish to make choices without coercion and who find the tying of the medical practice of vaccination into the hitherto unrelated area of early childhood education and care to be unacceptable, including those in the medical profession through the Royal Australasian College of Physicians. Many of these families are parents of children who have had some vaccinations. Many of those families are people who are in close contact with their general practitioners about the issue of immunisation, many of whom see themselves as being very separate to the general anti-vax debate.

The Dignity Party and myself, I want to clearly state, are not against the evidenced-based practice of immunisation against VPDs. But we sound caution because there is a need to actively encourage early childhood education, and tying it to vaccination is likely to be discouraging to some families and may result in a disengagement or a lack of engagement from services, and it will make very little difference to our already high level of vaccine compliance. There is no question in my amendment about the exclusion of under-vaccinated children if a current outbreak is active.

We certainly do not want this to be a blanket measure, but we do want there to be some room for the medical practice of immunisation and the very well-supported educational practice and development practice of child education and welfare and care to be more nuanced for the long-term benefit of young children and young people in this state.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

TOBACCO PRODUCTS REGULATION (E-CIGARETTE REGULATION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2017.)

The Hon. K.L. VINCENT (16:35): The Dignity Party supports the bill. My staff, on my behalf, availed themselves of briefings from the Australian Vaping Advocacy, Trade and Research group and the Cancer Council about the bill. Both briefings were very informative. It is clear that the community and the industry around vaping and cigarettes have moved at a pace much faster than current regulatory processes. The Cancer Council has provided a wealth of information, and I thank them for that very much.

I also congratulate them on their recent Quit With Hado promotion on Triple M radio. Initiatives such as this are key to continuing to lower South Australia's smoking rate. The Cancer Council provided information that is of extreme concern. According to a New South Wales government health fact sheet:

Tests of e-liquid samples collected by NSW Health in 2013 showed that 70 per cent of the samples contained high levels of nicotine even though the label did not state nicotine as an ingredient. As a result, NSW Health released a public health warning in October 2013 to inform the public about the risks of e-liquids that contain nicotine.

An honourable member: That was quick.

The Hon. K.L. VINCENT: I am good, but I am not that good. As we all know, nicotine is a highly addictive substance. According to a Public health Association of Australia submission to a federal parliamentary inquiry, they state:

The available evidence strongly suggests that young people who may never have ended up as smokers are trying e-cigarettes. This conclusion is supported by evidence about the promotion and advertising of e-cigarettes. Producers and advertisers are using tactics similar to those seen for tobacco in the past, to get and retain new users while they are young—the time when most tobacco use patterns are established.

This information was based on a 2016 report from the US Surgeon General. So, we have young people at a vulnerable time in their lives, perhaps during adolescence, and we have a product that, even when it is advertised as being nicotine free, may actually contain not just some nicotine but high levels of addictive nicotine.

When we delve behind the image of the e-cigarette as a harmless pastime there may be something more sinister afoot. Add in some fruity flavours—someone told me about a strawberry shortcake flavour recently—and surely this could be attractive, particularly to young people. I have similar concerns about the use of things like vodka cruisers, which often taste much more like a soda than alcohol. I think it can be all too easy, particularly for young people, to forget that they are actually consuming something that can be highly alcoholic. An article published by the American Chemical Society in August this year, indicates:

> E-cigarettes likely represent a lower risk to health than traditional combustion cigarettes, but they are not innocuous…Vapers' toxicant intake was calculated for scenarios in which different e-liquids were used with various vaporizers, battery power settings and vaping regimes. For a high rate of 250 puff day using a typical vaping regime and popular tank devices with battery voltages from 3.8 to 4.8 V, users were predicted to inhale formaldehyde (up to 49 mg day), acrolein (up to 10 mg day) and diacetyl (up to 0.5 mg day), at levels that exceeded U.S. occupational limits. Formaldehyde intake from 100 daily puffs was higher than the amount inhaled by a smoker consuming 10 conventional cigarettes per day.

I will repeat that: formaldehyde intake from 100 daily puffs was higher than the amount inhaled by a smoker consuming 10 conventional cigarettes per day.

The vaping fraternity likes to promote the use of e-cigarettes, or vaping, as a smoking cessation strategy. The Cancer Council stresses that neither vaping nor e-cigarettes qualify as an approved pathway at this point to quit smoking under the Therapeutic Goods Act. A lot would shift were e-cigarettes and vaping to come under the act, but they currently do not.

In line with the precautionary principle, 'First seek to do no harm', Dignity Party is pleased to support the government's initiative in seeking to regulate the sale, supply and use of e-cigarettes. The decline in the rate of smoking in South Australia is to be applauded, but it must not be taken for granted.

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

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:42): 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.

Reoffending has substantial costs for our community. It means more crime in our communities, more victims as a result of these crimes, and more expense through costly court proceedings and incarceration. Repeat offenders are responsible for a large proportion of our State's crime and the 2017 Report on Government Services reported that South Australia's return to Corrective Services rate was 46%.

We know that a reduction in reoffending means a safer community and frees up resources to invest more in important community services, like our schools and hospitals.

That's why in August last year this Government set a bold target to reduce the rate of reoffending 10% by 2020, and following a near-12 month review of the State's correctional system, a fundamental shift in corrections policy is now being driven.

This Bill supports the 10 by 20 Strategy and implements elements of the State Government's Action Plan and Response – ensuring that the Department for Correctional Services can continue to provide the highest level of prisoner and offender management, whilst building a strong rehabilitative culture, in line with National and International best practice in corrections.

Reforms in the Bill will have a range of positive impacts. A key proposal is the insertion of new Section 3 which introduces for the first time, an 'Objects and Guiding Principles' of the Act; the primary Objective and Principle

being community safety. Along with providing for the proper administration of facilities and services and providing safe and secure management of prisoners, importantly, other key objectives and principles are to promote rehabilitation; to have regard to the rights of victims of crime; to consider particular needs and circumstances of prisoners and offenders; to recognise the importance of family and community involvement; and to support the reintegration of prisoners to the community as part of their rehabilitation. The new section also introduces a new objective to provide for the management of officers and employees. The objects and principles are fundamental in reducing reoffending and building a strong rehabilitative culture.

The Bill contains amendments that place a greater legislative emphasis on end to end case management as part of prisoner and offender assessment, planning and review functions. In correctional services, case management is the coordination of prisoner and offender care from the moment they enter the corrections system until the time they leave. Case management involves the individualised and planned management of offenders and prisoners based on a risks/needs assessment, and the development and implementation of case plans and progress reviews. Effective case management is fundamental in providing prisoners and offenders with the tools to develop pro-social lifestyles and the ability to reintegrate through access to support, programs and services and is based on international best practice.

This includes embedding these principles into staff requirements. Setting a higher standard for staff integrity and professionalism is important in underpinning offender rehabilitation, which in turn supports a reduction in reoffending. The Bill contains new provisions allowing the Chief Executive to compel staff to participate fully in post incident reviews and investigation processes.

An important aspect of this Bill is the introduction of drug and alcohol testing of Department for Correctional Services employees. This Government is absolutely committed to working to eliminate instances of contraband entering our prison system and to ensuring the highest standards of professionalism are maintained by those working in our prison system, and the introduction of this testing is a vital step towards these goals.

Further to this, the Bill introduces 'buffer zones' for the purpose of possession of drugs under the *Controlled Substances Act 1984*, to increase penalties for possession and increased penalties for unauthorised mobile telephones within a buffer zone surrounding prison sites. The intention is to be similar to school zones, in which the sale, supply or administration of a controlled drug is prohibited.

Further amendments include new provisions for the protection of biometric data from misuse. Biometric data is used as a security measure to control access to some of the States' prisons and it is important to ensure the proper safeguards are in place to maintain privacy and protect individuals.

The Bill also enables the use of recordings by body worn cameras worn by correctional officers. Body worn cameras have been trialled in New South Wales and Queensland corrective services. Amending the Act to allow for the future use of this technology in South Australian prisons will bring DCS in line with other jurisdictions. The cameras, which attach to the front of a correctional officer's uniform, eliminate the need for officers to carry hand-held cameras and are particularly useful in a spontaneous incident. Enabling this technology will provide additional benefits to current surveillance and CCTV used to monitor activities in prisons, will assist in protecting staff against violence, and could potentially deter unruly or offensive behaviour.

To further embed the principles of rehabilitation into law and better support the 10 by 20 Strategy and Response, the provisions relating to the inspection of prisons have been significantly amended. Whilst retaining the scheme's independence, which is key, the intention is to introduce 'Official Inspectors' to attract and retain a diverse, skilled independent and dynamic group that meets contemporary needs (for example inclusive of women and Aboriginal representatives, culturally diverse, and incorporating specialists in mental health and international standards), with a limiting term of appointment (three years) to ensure that involvement can be extended or limited in accordance with changing needs.

Other important reform includes preventing automatic parole for offences of dealing or trafficking drugs. Currently, prisoners who are sentenced to less than five years imprisonment for offences of deal or traffic drugs are eligible for automatic parole. To support the SA Ice Taskforce, and align with the *South Australian Alcohol and Other Drug Strategy 2017-2021*, the Bill excludes automatic parole for these offenders. Ensuring these offenders apply for parole will allow the Parole Board to consider such matters as the safety of the community and the likelihood of compliance with parole conditions before they are released into the community.

An emerging security issue is Remotely Piloted Aircraft (RPAs). Whilst the Commonwealth regulates airspace, it is a matter for each State to decide whether and how to deal with RPAs in relation to prison security in each State. There have been several examples interstate where RPAs have been flown over prisons. There is a risk that RPAs could be used to introduce contraband into prisons, and may threaten safety and security by recording images of prison security and operations. The emerging threat of RPAs (or drones) will continue to increase with the advancement of technology and sophistication around RPAs, as will accessibility of RPAs to the public. This Bill therefore contains new provisions to safeguard prisons from the potential risks associated with RPAs and other forms of aircraft to maintain the integrity of prison operations.

The confidentiality provisions in the Act have also been reviewed. Whilst necessary to maintain the security of prisons and protect the privacy of prisoners, the Bill provides better support for the principles in the *Public Sector (Data Sharing) Act 2016* and the Information Sharing Guidelines by improving access to information in appropriate

circumstances and to relevant people such as family and kin and to Agencies. Appropriate release of certain information will create greater transparency and accountability.

The Bill also seeks to modernise and strengthen provisions relating to the sharing of information with external justice agencies, specifically in relation to recorded prisoner telephone calls. It allows for the rerecording and dissemination of recordings of calls, including to a Court, by external justice agencies for intelligence, investigative or evidentiary purposes. This is an important change that will enhance community safety allowing justice agencies greater ability to gather evidence and work together to prevent ongoing offending.

To further protect victims of crime, the entitlement of prisoners to send mail will be limited in certain circumstances; including preventing prisoners from contacting directly or indirectly any victim, alleged victim or persons associated with their offending. In addition to this, the Bill provides for the automatic suppression of victim's names, where a victim makes a civil claim against a prisoner in regard to an amount awarded to a prisoner that is paid into the prisoner compensation quarantine fund.

Finally, the Bill amends Part 7 of the Act with regard to any amount held to the credit of a prisoner at the conclusion of the quarantine period to support the 10 by 20 Strategy and Response principles, by providing that fifty percent of funds held to the prisoner's credit at the conclusion of the quarantine period be credited to the Victims of Crime Fund, with the remaining fifty percent being credited to the prisoner's resettlement account, to be used for rehabilitation and reintegration at the conclusion of the prisoner's sentence

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Correctional Services Act 1982*

4—Amendment of long title

The words 'to provide for certain powers relating to the management of correctional services officers and employees' are inserted into the long title.

5—Insertion of section 3

Proposed new section 3 sets out objects and guiding principles for the purposes of the Act.

3—Objects and guiding principles

6—Amendment of section 4—Interpretation

Definitions are inserted and amended for the purposes of the measure.

7—Amendment of section 7—Power of Minister and CE to delegate

These amendment allow for delegations by the CE without the Minister's approval.

8—Substitution of Part 3 Division 2

The existing provision relating to inspectors of correctional institutions is substituted with a new Division relating to official inspectors:

Division 2—Official inspectors

20—Official inspectors

The Governor will appoint official inspectors.

20A—Independence

Provision is made in relation to the independence of official inspectors.

20B—Remuneration

Provision is made in relation to the remuneration of official inspectors.

20C—Staff and resources

The Minister will provide official inspectors with necessary resources.

20D—Functions of official inspectors

The functions of official inspectors are set out.

20E—Use and obtaining of information

Certain powers to use and obtain information are set out for official inspectors.

20F—Requests to contact official inspector

Provision is made in relation to prisoners and their associates contacting official inspectors.

20G—Reporting obligations of official inspector

The reporting obligations of official inspectors are set out.

20H—Confidentiality of information

The provision provides that information about individual cases disclosed to an official inspector is to be kept confidential and is not liable to disclosure under the *Freedom of Information Act 1991*.

9—Amendment of section 22—Assignment of prisoners to particular correctional institutions

The requirement that a person who is sentenced to a term of imprisonment exceeding 15 days must not be imprisoned in a police prison is deleted.

10—Amendment of section 29—Work by prisoners

Distinctions in the current Act between remand prisoners and other prisoners relating to work are removed.

11—Amendment of section 33—Prisoners' mail

One amendment proposes that the regulations and the CE can prescribe that material is prohibited material for the purposes of the provisions relating to prisoners' mail.

Other amendments are consequential on the new Division relating to official inspectors.

Other amendments relate to prisoners nominating legal practitioners for the purposes of the provisions relating to prisoners' mail.

12—Amendment of section 34—Prisoners' rights to have visitors

The prohibition on children visiting child sex offenders is broadened so that a child cannot visit a prisoner who has ever been found guilty of a child sexual offence.

13—Amendment of section 35A—Power to monitor or record prisoner communication

Section 35A(2) is amended so that the regulations may, in relation to a communication of a kind prescribed by the regulations that may be monitored or recorded, provide that the parties to the communication must, at the commencement of the communication, be informed of that fact.

Another amendment is consequential on the new Division relating to official inspectors.

A new subsection is inserted to authorise the provision of a communication recorded or monitored (or evidence or information revealed by such a communication) to law enforcement agencies, prosecution authorities, any other agencies prescribed by the regulations, as well as the ICAC and the OPI for certain purposes set out in the provision.

14—Insertion of section 36A

Proposed new section 36A relates to the use of restraints:

36A—Restraints to be used on prisoners in certain circumstances

Officers and employees of the Department and police officers employed in correctional institutions are authorised to use restraints in certain circumstances, provided that the CE's requirements are complied with.

15—Amendment of section 37A—Release on home detention

This amendment is consequential.

16—Insertion of Part 5 Division 3

A new offence provision is proposed to be inserted:

Division 3—Criminal offences

49—Possession of certain items by prisoners

A prisoner commits an offence if the prisoner has possession of a controlled drug or a prohibited item in a correctional institution without the CE's permission.

17—Amendment of section 51—Offences by persons other than prisoners

Amendments are made to provide for an offence for persons to have possession of a prohibited item (which includes a controlled drug) in a correctional institution without the CE's permission. In addition, a similar offence is provided for in a correctional institution buffer zone. The latter offence is not committed if the person has a lawful excuse.

18—Amendment of section 55—Continuation of Parole Board

This amendment is consequential.

19—Amendment of section 57—Allowances and expenses

The allowances and expenses of members of the Parole Board will be determined by the Remuneration Tribunal (currently, the Governor determines these).

20—Amendment of section 60—Proceedings of the Board

These amendments relate to the constitution of the Parole Board and the sitting of the Board in divisions.

21—Amendment of section 64—Reports by Board

The time period within which the Board must report on the progress of life prisoners is amended from 1 year to the period of time designated by the presiding member.

22—Amendment of section 66—Automatic release on parole for certain prisoners

Section 66(1) is amended so that the Board is to order that prisoners entitled to automatic release on parole are released on the day on which their non-parole period expires.

Another amendment adds serious drug offenders to the list of those not entitled to automatic release on parole.

Another amendment is consequential.

23—Amendment of section 67—Release on parole by application to Board

The amendments relating to *prisoners of a prescribed class* are consequential on the amendments to Part 6 Division 4 (relating to reviews of the release on parole of certain prisoners).

The amendment to section 67(7ab) protects information relating to a victim (or a member of their family) of an offence of a prisoner from disclosure.

The amendment to section 66(11) is a technical amendment.

24—Amendment of section 68—Conditions of release on parole

Section 68(1aa)(b) is amended to provide that the release of a prisoner on parole automatically under section 66 is subject to the prescribed conditions (being conditions determined by the presiding member of the Board).

The deletion of section 68(2a) is technical.

Other amendments relate to the CE being given power to accept conditions of parole on behalf of a prisoner in certain circumstances.

25—Amendment of section 74—Board may take action for breach of parole conditions

This amendment is related to the insertion of new section 74AAA. It limits section 74 to breaches involving offences or serious parole breaches.

26—Insertion of section 74AAA

New section 74AAA is inserted:

74AAA—Board may suspend release on parole or take other action for certain breaches of parole conditions

The Board is empowered to make certain orders (including directing that a person serve a period of time in prison) where satisfied that the person has breached a condition of their parole (other than a breach that is to be dealt with under section 74).

27—Amendment of section 74AA—Board may impose community service for breach of conditions

This amendment is consequential.

28—Amendment of section 77—Proceedings before the Board

The provisions relating to proceedings before the Board are amended to provide that a prisoner is not entitled to be physically present in proceedings before the Board and that the Board can receive evidence or submissions from a prisoner not physically present by means of audio or visual link (or allow the prisoner to appear or be physically present before the Board).

29—Amendment of heading to Part 6 Division 4

This amendment is consequential.

30—Amendment of section 77A—Interpretation

Certain decisions of the Parole Board are reviewable by the Parole Administrative Review Commissioner. The current situation under section 77A is that the following decisions of the Board in relation to a prisoner serving a sentence of life imprisonment are *reviewable decisions*:

- a decision to order the release of the prisoner on parole;
- a decision as to the conditions to be imposed on the parole by the Board;
- a decision to vary or revoke a condition to which the parole is subject.

The amendments proposed to the definition of a *reviewable decision* will expand on the class of prisoners in respect of which a decision may be a reviewable decision so that it applies to decisions of the Board in relation to a prisoner of a prescribed class.

A *prisoner of a prescribed class* is defined to mean—

- a prisoner who is serving a sentence of life imprisonment for an offence; or
- a prisoner who is serving a sentence of imprisonment for an offence against section 12 of the *Criminal Law Consolidation Act 1935* (Conspiring or soliciting to commit murder); or
- a prisoner who is serving a sentence of imprisonment for an offence against section 241(1) of the *Criminal Law Consolidation Act 1935* (Impeding investigation of offences or assisting offenders) as an accessory if—
  - (i) the offence established as having been committed by the principal offender is the offence of murder; and
  - (ii) the principal offender committed the offence of murder in prescribed circumstances.

Accessory and *principal offender* are defined as having the same meanings as in section 241(1) of the *Criminal Law Consolidation Act 1935*.

For the purposes of Part 6 Division 4—

(a) an offence of murder will be taken to have been committed in *prescribed circumstances* if, in the opinion of the Commissioner—
  - (i) the offence was committed in the course of deliberately and systematically inflicting severe pain on the victim; or
  - (ii) there are reasonable grounds to believe that the offender also committed a serious sexual offence against or in relation to the victim of the offence in the course of, or as part of the events surrounding, the commission of the offence (whether or not the offender was also convicted of the serious sexual offence); and

(b) a reference to an *offence of murder* includes—
  - (i) an offence of conspiracy to murder; and
  - (ii) an offence of aiding, abetting, counselling or procuring the commission of murder.

31—Amendment of section 81L—Payments out of fund where legal proceedings notified

This amendment provides that the remainder of any prisoner compensation quarantine fund (after payments in accordance with the scheme) are to be divided equally between the Victims of Crime Fund and the prisoner.

32—Amendment of section 81M—Payments out of fund where notice from creditor received

This amendment is substantially similar to the amendment to section 81L.

33—Amendment of section 81O—Payments out of fund where no notice given

This amendment is substantially similar to the amendment to section 81L.

34—Insertion of Part 7A

A new Part is inserted relating to the management of officers, employees of Department:

Part 7A—Management of officers, employees of Department etc

Division 1—Preliminary

81S—Interpretation

A definition of *designated position* is inserted.

Division 2—General

81T—Investigative powers of CE

The CE is given investigative powers in relation to officers and employees of the Department.

81U—Commissioner of Police may object to certain applications for engagement or appointment

Certain employment applications may be referred to the Commissioner of Police, who may object to the application. If so, the CE may refuse the application (without providing grounds or reasons for the refusal).

Division 3—Drug and alcohol testing of officers, employees etc

81V—Interpretation

81W—Drug and alcohol testing of officers and employees

81X—Drug and alcohol testing of applicants to Department

81Y—Procedures for drug and alcohol testing

81Z—Biological samples, test results etc not to be used for other purposes

The sections in proposed Division 3 provide for drug and alcohol testing of officers and employees of the Department. The scheme is substantially similar to the scheme in the Police Act 1998. One key difference is that proposed section 81W(2)(d) allows the CE to require drug and alcohol testing on the ground that the CE considers that an officer or employee should undergo such testing.

35—Amendment of section 83—CE may make rules

The CE is empowered to make rules for the purposes of the new drug and alcohol testing scheme (see section 81W(2)).

36—Amendment of section 85C—Confidentiality

New subsection (a1) provides that certain information must not be disclosed except with the authorisation of the CE.

The other amendment and the inserted definitions relate to that new subsection.

37—Amendment of section 85D—Release of information to eligible persons

The need for a written application for release of information is deleted. Another amendment changes the reference from [a prisoner's] 'family or a close associate of a prisoner' to [a prisoner's] 'immediate family' (which is a defined term).

38—Insertion of section 85E

A new section is inserted relating to biometric data:

85E—Confidentiality of biometric data

Provision is made relating to the use and disclosure of biometric data obtained from visitors to prisons.

39—Amendment of section 86B—Use of correctional services dogs

The provision clarifies that correctional services dogs may be used to search an officer or employee of the Department at a correctional institution or probation and parole hostel.

40—Insertion of sections 87A and 87B

New sections are inserted relating to the operation of unmanned aircraft around correctional institutions:

87A—Operation of unmanned aircraft

It is an offence to operate an unmanned aircraft within 100 metres of a correctional institution without the permission of the CE.

87B—Unmanned aircraft—special powers

The CE is given powers relating to the seizure of unmanned aircraft in certain circumstances.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Public Sector Act 2009*

1—Amendment of section 59—Right of review

Certain decisions of the CE under the *Correctional Services Act 1982* (relating to refusing an application to which the Commissioner of Police has objected and to transferring or assigning different duties to an officer or employee of the Department if the CE considers that the officer or employee is not suitable to continue working in a correctional institution) are prescribed as decisions not subject to review for the purposes of section 59 of the *Public Sector Act 2009*.

Part 2—Transitional provisions

2—Transitional provision—allowances and expenses of members of Parole Board to continue

This transitional provision continues the determination of the Governor relating to the allowances and expenses of members of the Parole Board until the Remuneration Tribunal has made a determination under the section as amended.

3—Transitional provision—review of release on parole relating to prisoners of a prescribed class

This transitional provision makes it clear that the amendments to the *Correctional Services Act 1982* in this measure relating to the review of the release on parole of prisoners of a prescribed class do not apply to a prisoner of a prescribed class if, prior to the commencement of this clause, the prisoner has been released on parole. However, if, after the commencement of this clause, the release on parole of a prisoner of a prescribed class is cancelled, the relevant amendments to the *Correctional Services Act 1982* made by this measure will apply to the prisoner (including any application for release on parole made by the prisoner after that commencement).

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

JUDICIAL CONDUCT COMMISSIONER (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:43): 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.

This Bill makes miscellaneous amendments to the *Judicial Conduct Commissioner Act 2015*. The Act was passed by Parliament on 29 October 2015 and received Royal Assent as No 34 of 2015 on 5 November 2015. Since that date, the Governor has appointed the Independent Commissioner Against Corruption, the Honourable Bruce Lander QC, as the first Judicial Conduct Commissioner (the Commissioner) with the approval of the Parliamentary Statutory Officers Committee.

The amendments contained in this Bill were requested by the Commissioner and the Crown Solicitor, and operate to clarify some aspects of the Act and improve the efficiency of the judicial complaints process.

The Bill allows the Commissioner to investigate if further information or new evidence enlivens a complaint that would otherwise have been dismissed, and also allows the Commissioner to summarily dismiss complaints that could be dismissed under section 17, but without the need to conduct a preliminary examination or to give notice of the complaint to the judicial officer concerned or to the jurisdictional head. This will assist to reduce the administrative burden on the office of the Commissioner.

The Bill provides that the identity of the complainant need not be provided to the judicial officer concerned or to the relevant jurisdictional head unless the complainant consents to the disclosure or the Commissioner is of the opinion that the disclosure of the complainant's identity is necessary in order to ensure that the judicial officer is able to properly respond to the complaint or to ensure that the relevant jurisdictional head can properly deal with the complaint. This is essential to encourage complaints to be made to the Commissioner, especially coupled with an amendment to make it clear that any acts of victimisation from a judicial officer towards a complainant can itself be

conduct that is the subject of a complaint. It is important to the Commissioner and to the Government that lawyers not be dissuaded from making complaints due to fears of retaliation when they next appear before that judicial officer.

The definition of 'relevant jurisdictional head' where the person the subject of the complaint is themselves a jurisdictional head has been amended to refer to the Chief Justice of the Supreme Court, meaning that complaints about a jurisdictional head are referred to the Chief Justice.

The Bill also makes several minor points of clarification, including requiring a copy of the report of the Judicial Conduct Panel be provided to the Commissioner, providing that where the Commissioner is also the Independent Commissioner Against Corruption, a person employed under section 12 of the *Independent Commissioner Against Corruption Act 2012* and directed to perform duties under the *Judicial Conduct Commissioner Act 2015* or a person seconded to assist the Commissioner be included as a 'member of the Commissioner's staff' and making it clear that that the Commissioner has the explicit power to consider conduct that occurred prior to the commencement of the *Judicial Conduct Commissioner Act 2015.*

Finally, the Bill makes an amendment to address the circularity of the current section 33, which provided that a person must not, except as authorised, publish information relating to a complaint if the publication was prohibited. The section has been amended to clarify that information cannot be published unless authorised by the Commissioner.

The provisions in this Bill will assist the Commissioner in effectively undertaking his duties, and will clarify the operation of the *Judicial Conduct Commissioner Act 2015.*

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Judicial Conduct Commissioner Act 2015*

4—Amendment of section 4—Interpretation

This clause makes a minor change to the definition of *relevant jurisdictional head* to make it clear that, where a complaint relates to a jurisdictional head, the Chief Justice of the Supreme Court is the only relevant jurisdictional head for the purposes of the complaint. The clause also clarifies that acts of victimisation by a judicial officer may be the subject of a complaint under the Act.

5—Amendment of section 5—Application of Act

This clause clarifies that the principal Act can apply to conduct occurring before its commencement.

6—Amendment of section 10—Staff

This clause ensures that section 10 properly reflects the position in relation to staff under the *Independent Commissioner Against Corruption Act 2012* by referring to staff of the Independent Commissioner Against Corruption (and not just staff of the OPI).

7—Amendment of section 12—Making of complaints

This clause allows the Commissioner to determine not to give any notices under subsection (3) in relation to a complaint until the Commissioner has determined whether the complaint is one that must be dismissed under section 17(1).

8—Amendment of section 13—Preliminary examination of complaints

This clause allows the Commissioner to dismiss a complaint before conducting a preliminary examination if the Commissioner determines that the complaint is one that must be dismissed under section 17(1). In addition, if the Commissioner exercises this power to dismiss a complaint, the Commissioner is not required to give any notification in relation to the complaint to the judicial officer who is the subject of the complaint or to the relevant jurisdictional head.

9—Amendment of section 16—Discretionary dismissal of complaint

This clause amends section 16 to ensure consistency of wording and to allow for discretionary dismissal of a complaint where the Commissioner has previously considered the subject matter of the complaint or the Commissioner has determined that the subject matter of the complaint could not, if substantiated, warrant the taking of any action. Currently these are grounds for mandatory dismissal under section 17(1)(g).

10—Amendment of section 17—Mandatory dismissal of complaint

This clause deletes section 17(1)(g) (consequentially to the amendments to section 16) and provides that, if the Commissioner dismisses a complaint under this section, the Commissioner is not required to give any notification in relation to the complaint to the judicial officer who is the subject of the complaint or to the relevant jurisdictional head.

11—Amendment of section 18—Referral of complaint to relevant jurisdictional head

This is consequential to clauses 8 and 9.

12—Amendment of section 25—Report by panel

This amendment requires the report of a judicial conduct panel to be provided to the Commissioner.

13—Amendment of section 27—Commissioner's annual report

This is consequential to clauses 8 and 9.

14—Amendment of section 30—Immunity from liability

This amendment ensures that the immunity from liability under section 30 extends to persons exercising, or purportedly exercising, powers or functions under the Act in accordance with a staffing arrangement established under section 10.

15—Amendment of section 32—Confidentiality, disclosure of information and publication of reports

This amendment requires that a notification required to be given by the Commissioner under the Act to a judicial officer or jurisdictional head must not disclose the identity of any complainant except in certain circumstances.

16—Amendment of section 33—Publication of information and evidence

Currently section 33 allows the Commissioner to prohibit the publishing of information or evidence relating to a complaint but then allows publication of material the subject of a prohibition in accordance with a specific authorisation by the Commissioner or a court. Under the proposed amendment, publication would only ever be allowed in accordance with a specific authorisation by the Commissioner or a court (so there would be no need for any initial prohibition by the Commissioner).

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

HEALTH AND COMMUNITY SERVICES COMPLAINTS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:43): 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.

This Bill will amend the *Health and Community Services Complaints Act* 2004 (the Act) to enable the National Code of Conduct for Health Care Workers (National Code), agreed to by the Council of Australian Government's Health Council to be implemented. Currently the regulations under the Act include the Code of Conduct for Unregistered Health Practitioners and the Act enables prohibition orders to be made if the code is breached and, in the opinion of the Commissioner, making the order is necessary to protect the health or safety of the public.

The National Code is based on the South Australian Code which is already in the regulations under the Act. This Bill makes some changes to the Act so that the Commissioner is able to enforce orders made in other jurisdictions. Orders made in South Australia can be enforced in other states and territories where corresponding legislation is in place.

The Bill enables a volunteer to become the subject of proceedings under the Act. Currently section 9(4) of the Act specifies that volunteers should not unnecessarily be involved in proceedings under the Act. The intent of this section is that when complaints against health services are being investigated and remedied volunteers should not be involved. Because Division 5 of the Act – Action against unregistered health practitioners – is concerned with protecting the public from harm rather than the making and resolution of complaints against health and community service providers, which the remainder of the Act deals with, it is made explicit that volunteers may be subject to action being taken under this Division.

The amendment of section 77 of the Act is to enable the Commissioner to obtain information from professional and other associations such as the Australian Association of Social Workers or the Australian Register of Naturopaths and Herbalists about practitioners where there are concerns. These bodies often play a disciplinary role in regard to members and may have information which the Commissioner needs in order to meet the threshold for making an order.

A further change to Act has arisen from the Commissioner's experience with making orders under the Act. This change arose from a case where, despite being subject to a prohibition order the person concerned continued to offer services to the public, potentially accepting payment for their future provision. The Crown Solicitor's Office advised that if the Commissioner wished to prohibit a person from 'offering' services then a change to the Act was necessary. This Bill amends sections 56(B) and 56(C) to prevent a person on an interim or final order offering to provide services, advertising services, holding themselves out or promoting themselves as a provider of health services or providing advice in relation to the provision of health services.

Once the Act is amended the National Code of Conduct for Health Care Workers will replace the Code of Conduct for Unregistered Health Practitioners in the regulations. The National Code refines and extends some of the provisions of the current Code however their content is similar.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Health and Community Services Complaints Act 2004*

4—Amendment of section 4—Interpretation

This clause inserts a definition of *corresponding law* consequential to inserted section 56EA in clause 9 and also deletes reference to the ceased *Occupational Therapy Practice Act 2005*.

5—Amendment of section 25—Grounds on which a complaint may be made

This clause amends section 25 to provide that a volunteer may be required to participate in proceedings under the Act and may be the subject of the exercise of power under Part 6 Division 2 if, in the circumstances, a code of conduct under section 56A(1) applies in respect of the volunteer and the Commissioner is satisfied that conduct of the volunteer poses or has posed a risk to the health or safety of members of the public.

6—Amendment of section 56B—Interim action

This clause makes a number of amendments to section 56B of the Act to—

(a) provide that an order of the Commissioner under the section may, in addition to prohibiting a person from providing health services (as is currently the case), prohibit a person (for a period of 12 weeks or shorter period as may be specified)—

(i) from offering, advertising or otherwise promoting health services or specified health services; and

(ii) from holding themselves out or otherwise promoting themselves as a provider of health services or specified health services; and

(iii) from providing advice in relation to the provision of health services or specified health services; and

(b) provide that the Commissioner, in taking interim action, may publish a public statement, in a manner determined by the Commissioner, identifying a person and giving warnings or such other information as the Commissioner considers appropriate in relation to the health services, or specified health services, provided by the person; and

(c) clarify and simplify the operation of the section.

7—Amendment of section 56C—Commissioner may take action

This clause makes a number of amendments to section 56C of the Act to—

(a) provide that an order of the Commissioner under the section may, in addition to prohibiting a person from providing health services for a specified period or indefinitely (as is currently the case), prohibit a person (for a specified period or indefinitely) from—

(i) from offering, advertising or otherwise promoting health services or specified health services; and

(ii) from holding themselves out or otherwise promoting themselves as a provider of health services or specified health services; and

(iii) from providing advice in relation to the provision of health services or specified health services.

(b) clarify and simplify the operation of the section.

8—Amendment of section 56D—Commissioner to provide details

This amendment is consequential to clause 6 and clause 7.

9—Insertion of section 56EA

This clause inserts new section 56EA to provide that a person commits an offence if—

(a) an interstate order is in force in respect of the person; and

(b) the person engages in conduct in this State that would constitute a contravention of the interstate order if it occurred in the jurisdiction in which the order is in force.

The regulations will prescribe the interstate orders under corresponding laws to which this section will apply. The maximum penalty for the offence will be $10,000 or imprisonment for 2 years or both.

10—Amendment of section 75—Preservation of confidentiality

This clause amends section 75 of the Act to provide an exception to the prohibition on recording, disclosing or using confidential information gained through involvement in the administration of the Act in circumstances where it is necessary for the purposes of a corresponding law.

11—Amendment of section 77—Returns by registration authorities and prescribed bodies

This clause amends section 77 of the Act to provide that additional bodies prescribed by the regulations must provide returns required by the Commissioner under the section as is currently the case for registration authorities.

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

Parliamentary Procedure

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:43): On behalf of the Minister for Sustainability, Environment and Conservation, I seek leave to table the Commissioner for Children and Young People's Annual Report 2016-17.

Leave granted.

Bills

STATUTES AMENDMENT (INTENSITY OF DEVELOPMENT) BILL

Introduction and First Reading

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

STAMP DUTIES (FOREIGN OWNERSHIP SURCHARGE) AMENDMENT BILL

Introduction and First Reading

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

At 16:45 the council adjourned until Tuesday 28 November 2017 at 11:00.