LEGISLATIVE COUNCIL

Thursday, 21 June 2018

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 11:00 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. R.I. LUCAS (Treasurer) (11:01): I move:

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

Motion carried.

Bills

SENTENCING (RELEASE ON LICENCE) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 19 June 2018).

Clause 3.

The Hon. J.A. DARLEY: To assist the committee, I indicate that I will be opposing the Hon. Mr Maher's amendment No. 1. In general terms, I was going to oppose the other amendments, but I have a few question marks alongside some of them, so I might change my mind.

The Hon. K.J. MAHER: It was mentioned yesterday that, in order to assist the committee, there are a number of further amendments in the set of [Maher-1] that, if this fails, are either consequential or I flag I will not be moving them. I think that amendments Nos 3, 5, 6 and 8 require No. 1 to be passed for them to do any substantial work.

Amendment negatived.

The Hon. K.J. MAHER: I move:

Amendment No 2 [Maher–1]—

Page 3, lines 1 to 3 [clause 3(1), inserted subsection (1a)(b)]—Delete paragraph (b)

This amendment has the effect of deleting part of the Liberal bill. The Liberal bill does much the same things as the bill that was drafted before the Liberal bill as a private members' bill in that it requires the Supreme Court to take into account whether an offender on indefinite detention is now willing and able to control their sexual instincts. Both the opposition bill, which was drafted first, and the subsequent government bill have that in common—that the Supreme Court must be satisfied that an offender seeking either discharge or release on licence under the Sentencing Act who is serving indefinite detention has to be willing or able to control their sexual urges.

The Liberal bill goes further than that in terms of allowing effectively another get-out-of-gaol-free card, if you will, in that if an offender can demonstrate that they are aged or infirm, that is also another way an offender serving indefinite detention is able to be released from gaol.

The opposition thinks this is unnecessary and believes that any offender, regardless of who they are, how old they are or whatever condition they are in, should be able to demonstrate they are now willing or able to control their sexual instincts that saw them serving the indefinite detention in

the first place. If they are extraordinarily old, it might be very easy to demonstrate that, but we do not think there should be this get-out-of-gaol-free card, particularly on the basis of age.

As the original bill was drafted, someone could make a miraculous recovery, and we are not entirely sure—under the original drafting of the bill—how this miraculously recovered, infirm person would then be able to be put back in gaol after they had miraculously recovered. It is something that a lot of people can remember seeing years ago with people such as Christopher Skase. It often captures the community's interest when someone who has been otherwise healthy for a very long time suddenly has severe medical conditions that they use to seek to escape the application of the law.

We were exceptionally concerned that someone may appear to be infirm and may be able at a particular point in time on the balance of probabilities—and I am keen for the government to outline this; I assume the test would be on the balance of probabilities—to convince a court that they are in some way infirm and miraculously recover afterwards. So we think it is absolutely reasonable that the test should be whether a person is now willing or able to control their sexual instincts, the reason the court made the order in the first place for what is an exceptionally draconian measure: indefinite detention. The reason you are there in the first place should be the reason in relation to which the order is either discharged or the person is released on licence.

I commend to the chamber the amendment to delete the aged and infirm provision. Every other provision that is currently in the act remains. The provision that the government and the opposition agree on—that is, that you now have to be able to demonstrate you are willing and able to control your sexual instincts—remains. All this does is delete the other get-out-of-gaol-free card that the government is proposing where someone can demonstrate they are aged or infirm.

The CHAIR: Treasurer, in your response, could you also move your amendment because technically we need it to be moved before we proceed to putting it to the committee.

The Hon. R.I. LUCAS: I am happy to comply with the technical requirements of the committee stage, Mr Chairman, and I move:

Amendment No 1 [Lucas–1]—

Page 3, line 3 [clause 3(1), inserted subsection (1a)(b)]—Before 'infirmity' insert 'permanent'

It will be self-evident that if the Hon. Mr Maher's amendment gets up then, clearly, our amendment will have no work to do and we would not be able to proceed with it.

My advice is that the government's position is to oppose the amendment that has been moved by the honourable member. Under this amendment the opposition is seeking to delete proposed new section 58(1a)(b), which is a provision about the ability of the Supreme Court to order the discharge of a person's order of indefinite detention.

The comments that I make, I am advised, will apply equally to further opposition amendments Nos 7 and 10 which, in our view, should be treated as consequential amendments to this amendment No. 2 from the honourable member, as they make the same change but in relation to a person being released on licence and with regard to applications to cancel or confirm a release on licence.

The paragraph (b) of the bill that the opposition wishes to delete is part of a new first step for discharge of an order for indefinite detention. This first step, a hurdle to overcome in order for the discharge to occur, is that the person needs to demonstrate that they no longer pose an appreciable risk to the safety of the community due to their advanced age or infirmity. This paragraph (b) is repeated for people who are indefinitely detained, wishing to also be released on licence. The government has filed amendments to change this in all respects to being a permanent infirmity.

It must also be noted that if and only if the Supreme Court is satisfied that this first hurdle is overcome there is still a second hurdle. The Supreme Court, as per the current provisions, must consider the evidence before it and consider the paramount consideration of the safety of the community and then decide whether to discharge the order. The reason for inserting this provision is that under the bill the bar is set so high for any release on licence or discharge of an order that it is foreseeable that over time there will be people in prison who are indefinitely detained who will

never pass the test to be released but who will become so aged or permanently infirm that they pose no appreciable risk to the community.

If the opposition amendment is passed, there will be no mechanism to get these people out of prison, for example, into an aged-care home. This paragraph (b) is designed to address this issue. However, the government is proposing, as I said, an amendment so that any infirmity must be permanent to address concerns raised in the other house about this issue. The government stands by the need for this particular provision to remain as part of the legislation.

The Hon. K.J. MAHER: I have few questions to go on this. As I look at my crossbench colleagues in this chamber I am wondering, if I ask a few questions, that might help crossbenchers make up their minds, but I am conscious that I want to give everyone a go. So maybe I will ask a couple of questions and then open it up, and then go back to further questions. My first question is: is it medical evidence that the court will rely on to determine someone's advanced age or infirmity?

The Hon. M.C. Parnell: The birth certificate would be the first one.

The Hon. R.I. LUCAS: I am advised that, yes, it is for the court to decide but it would be based on medical evidence. I am also advised that, in relation to part of your earlier question, it would be on the balance of probabilities.

The Hon. K.J. MAHER: Can the minister point to where in their bill there is a requirement for medical reports to be furnished?

The Hon. R.I. LUCAS: I am advised that they are in the existing provisions of the act and it is for the person applying for the release to provide the evidence to convince the Supreme Court of the merit of their case.

The Hon. K.J. MAHER: I thank the honourable minister for his answer. I have the act in front of me. Is the minister able to point to the existing provisions of the act that would require, under sections 58 and 59, that medical reports be furnished when making application under here, as the minister stated?

The Hon. R.I. LUCAS: My advice is that it is not a requirement but it is what the court would ask for.

The Hon. K.J. MAHER: Just to be clear, a person could get the benefit of this provision, potentially, because it is not a requirement, without having to furnish a medical report—that is possible?

The Hon. R.I. LUCAS: My advice is that the practice of the court is that that would be the procedure that would be adopted. If the member wants to, in legal terms, argue that anything is remotely possible, I will leave the member to argue that particular case. I am not in a position to give legal advice in relation to that issue, but the advice we have—the best advice we have—is that is the practice, and that will be the practice that the court will adopt. It would seem to be a common-sense practice that if someone is arguing issues in relation to medical conditions you would expect or assume the court would actually follow that particular practice. That seems to be a common-sense understanding of the processes they might adopt.

The Hon. K.J. MAHER: I will ask this final question and then some crossbenchers might have questions. Then I will go back to some of the questions about how a court would be judging someone's advanced age as the get-out-of-gaol-free card and what are the tests that would be applied and whether you would necessarily have to have a medical report given that you are merely going on someone's age.

I think it is worth placing on the record some disappointment at the way this council and the opposition and crossbenchers are being treated in this debate. We have heard again just now, and we heard regularly yesterday from the minister responsible in this chamber for the carriage of this bill, that he cannot give detailed answers. Yesterday, he claimed, 'I can't give detailed answers because I'm not a lawyer and others are lawyers, so they can figure it out for themselves.' He talked about the fact that he can only go on the advice that he has. He occasionally refused to listen to advice from his advisers or would not let the chamber know what that advice was.

I think it is going to be very difficult to conduct bills on behalf of the Attorney-General if the minister will regularly say, 'Well, I'm not a lawyer, I don't understand this as well, you just have to use your common sense.' I think it is going to be extremely difficult for the opposition, and crossbenchers particularly, to make judgements about whether this is good law or bad law, whether we should pass this.

It seems to me common sense that a minister representing another minister would be able to explain the bill, would have informed themselves of the effect and nature of the legislation we are being asked to consider. I think it holds this chamber somewhat in contempt to say, 'I'm not a lawyer, I don't know, just use your common sense,' or, 'You're a lawyer, you should know.'

If the honourable minister responsible for this bill at this time is struggling to explain the effects of the law we are being asked to pass because, as he said yesterday, 'I'm not a lawyer,' perhaps the honourable member should let someone who is legally trained like the Hon. Stephen Wade have carriage of bills where he might not be able to use that excuse that, 'I'm not a lawyer.'

I am wondering if the member might be able to, without referring to the 'I'm not a lawyer' excuse, let us know how a court would judge being released under this get-out-of-gaol-free scenario because of someone's advanced age?

The Hon. R.I. LUCAS: I thank the honourable member for his commentary. My advice is that it is not a get-out-of-gaol-free card, as the honourable member continually refers to, and that the individual would have to convince the court that advanced age or infirmity has to be proven to lead to the person to pose no appreciable risk to the safety of the community. That, ultimately, is the requirement. It is not just an issue of advanced age or infirmity, they actually have to prove that it would lead to the person posing no appreciable risk to the safety of the community.

The Hon. M.C. PARNELL: I, too, was going to start with the get-out-of-gaol-free analogy, because it implies getting out of gaol free of any due consideration being given to the circumstances. Get out of gaol free is a lucky card that you pull out of the Monopoly pile of Chance or Community Chest cards—I cannot remember which one—and it is just dumb luck that you got out. What we are looking at—

The Hon. J.E. Hanson: Chance.

The Hon. M.C. PARNELL: I am reliably informed it is a Chance card in Monopoly. What we are talking about here are two alternative tests to be applied to someone who wants to be released from gaol. The first test we have talked about already: the person is both capable of controlling and willing to control their sexual instincts. The second alternative test, which presumes a failure of the first, is that they are of advanced age or permanently infirm and therefore no longer represent an appreciable risk to the safety of the community. So they are drafted in the alternative.

In terms of whether or not to remove paragraph (b), the people we are talking about here are people whose minds are still not right. They still have evil thoughts and still harbour this notion that they would quite like to get their hands on young children. These are people who have not met the first test. The way I think of it is that their heads are still not right.

The question then is: if they can, by whatever mechanism, and the Leader of the Opposition has been exploring this mechanism, convince a court that, despite the fact that their head is still not right, they actually do not pose any danger or pose no appreciable risk to the community because they are so old or infirm—and if the government's amendment gets up, that infirmity needs to pass a higher test; that is, one of permanent infirmity—what good purpose is served by keeping them locked up simply because their mind is not right? I think that is an alternative way of posing the question: what good purpose is served?

The minister made a similar statement, saying that if we do not have paragraph (b) and someone does not get their mind right, then that is a barrier to people at an advanced stage of decrepitude having to stay in gaol and not being able to go to an aged-care facility, where they would presumably be treated more appropriately then they are in gaol. That is a complete barrier. Every so often, someone would presumably go to this old person in their wheelchair, to their bed if they are bedridden, or whatever they are, and ask them if their mind is right and if they have changed their

thoughts. If they have not, and they still harbour these evil, wicked notions, paragraph (b) would give an opportunity for the court to say that, nevertheless, there is no real risk to the community.

The Christopher Skase example is a good one—he did ultimately die, I recall; I am not sure how long after we saw the oxygen tanks and whatever—but I think the government has sought to address that through the inclusion of the word 'permanent'. It is important to note that a person's advanced age does not need to be permanent—that sort of goes without saying—but certainly their infirmity needs to be permanent.

We could chew the fat and go up hill and down dale about the test to be applied, the satisfaction that the court needs to have and the medical practitioners that would be called in. However, at a practical level, the application is going to be made by the person who wants to be released or, more than likely, their legal representatives or someone acting on their behalf who says, 'Look, we know grandpa hasn't changed his way of thinking, but he is no longer any threat to anyone. Can he please go to an old person's home?' The worst case scenario is a remarkable recovery and they discharge themselves from the old person's home and reoffend.

Is that at all conceivably possible? Yes, it possibly is. The best laid plans can go astray and the court might get this wrong. However, when we are weighing these things up, on balance the idea that someone must stay in gaol effectively until they die because their head is not right, I do not think that is the way to go. I think that, for many of these people, aged-care facilities, or maybe even hospitals or palliative care, would be preferable to people having to stay in gaol simply because they have not been able to convince people that they are able to control their urges.

I will listen carefully to what the Leader of the Opposition says, but my inclination is to oppose the opposition amendment to delete subparagraph (b) but to support the government's insertion of the word 'permanent' in front of the word 'infirmity'.

The Hon. F. PANGALLO: I rise to support the opposition amendment to this. I have already given an example, probably more graphic than that of Christopher Skase, where in fact a court in South Australia was misled by a terrible offender by the name of Ric Marshall, who was a children's TV presenter back in the 1970s. We all remember those graphic images of Mr Marshall arriving in court on a gurney, supposedly incapable of any action. He was subsequently released and was later photographed frolicking in the front yard of his residence as if nothing was wrong with him. I have also been given examples by the Parole Board of a person who appeared to be permanently infirm, who was released and as a consequence was able to reoffend.

The other thing is, I do not know whether I would want a sex offender in a nursing home where one of my loved ones was, particularly when I am visiting with a young family. You just do not know. I would not think there would be many nursing homes that would want to take sex offenders in to look after them. I am a bit perplexed by the notion that, 'It's okay, let's let them out and nursing homes will look after them.' I am not sure whether nursing homes would. I imagine that it would be up to Corrections and the government to look at ways of handling people like this and where we should put them. Perhaps they might have to look at particular geriatric wings in Corrections. In essence, I do not agree with the notion. I support the opposition's amendment.

The Hon. K.J. MAHER: I thank the Hon. Frank Pangallo for his contribution and also the Hon. Mark Parnell. I might address some points the Hon. Mark Parnell raised. He is right, I think, that the correct way in the bill that the government has introduced is that it is either one or the other. I think that is a distinction that was teased out in the House of Assembly. As I remember the debate there, I think the Attorney-General may have been mistaken in that it had to be both, but I think the 'or' makes it very clear that it is one or the other.

It is either you are capable of controlling or willing to control your sexual instincts or it is (b), in the alternative, even if your mind is not right, which is an easy way to summarise it, due to either, as bill originally says, infirmity—or the alternative amendment is 'permanent infirmity'—or advanced age. I am keen in a moment to tease out a bit more what 'advanced age' could mean. It is one or the other of those that may see you either released on licence or having the detention discharged. I think the Hon. Mark Parnell is right when he says that the standard upon which you judge a person's advanced age or infirmity is against the appreciable risk they pose. That is, as I think the bill reads there, the test of how aged or infirm you are in relation to an appreciable risk.

I would say to the Hon. Mark Parnell, and also the Hon. John Darley, who will be considering how to vote on these amendments, that a couple of years ago when we were considering whether to release someone on licence or have the order discharged, the parliament changed this law to make the paramount consideration, when determining such an application, to protect the safety of the community. That was the paramount consideration that the court should take into account. We thought, I think, at the time that we passed those laws that that would remedy the problem of offenders who posed a serious risk being released. That clearly has not been the case.

We have seen the Supreme Court order the release of Colin Humphrys, completely against the recommendations of the Parole Board, and that is why we are here today because the reduction of risk that we thought we put in place to protect the safety of the community has not been enough. The way the courts have interpreted that law has meant that they have ordered that Colin Humphrys be released, and I think we are unanimous in our view that that it is not a good thing.

Based on reading the judgement of the Supreme Court, the fact that the Parole Board thinks that Colin Humphrys is not willing or able to control his sexual urges and the expert medical reports say he is not willing or able to control his sexual urges, even though we inserted the protection of the community clause to make sure that they would only consider it if the risk was low, we are back here today to take it further because that has not been enough.

I would say to the Hon. Mark Parnell and the Hon. John Darley that we are inserting the same test again. The provision that we have found to be deficient in the release of dangerous paedophiles, we are being asked today to have that same test about the risk to the community inserted against age or infirmity. That is not something we can live with as the opposition.

If one person—if a Colin Humphrys or a Ric Marshall—is released because somehow they have been able, at a select point in time, to convince the court that they ought to be released and, as we have heard, not necessarily on the basis that there is no actual requirement for medical evidence to be presented (you would think in the ordinary course of things it would be), and if someone was to be released and we had the chance to make it the case that they would not otherwise have been released because of this, I think it will be a difficult position we will be in if in the future that happens, knowing that we had an opportunity to not have that person released.

I would not like the Hon. John Darley or the Hon. Mark Parnell to be in a situation where, because of a very similar clause, the safety of the community, the appreciable risk that we are seeking to remedy here now, knowing that we had to remedy it because it was not sufficient, we inserted it again in relation to another area of this law and someone is released and offended. It will be not be an easy thing to live with.

The Hon. J.A. DARLEY: I thank the Leader of the Opposition, the Leader of the Government and the Hon. Mark Parnell for their explanation on this clause. That leads me to reaffirm my view that I will oppose this amendment.

The Hon. R.I. LUCAS: Just briefly, the Hon. Mr Pangallo raised the issue of Mr Ric Marshall. I do not want to comment about that case—I do not know the detail of that particular case—but in terms of the general principle my advice is that in the circumstances where someone convinced the Supreme Court, on the basis of medical evidence, and others that they were permanently infirm in relation to it and then, miraculously, two days after they got that judgement they were seen frolicking in the backyard, my advice is that there are other provisions in the bill that allow the government through the DPP to immediately, having had *Today Tonight* cameras expose this person frolicking in the backyard, to immediately institute proceedings to put that person back into custody.

I do not know whether those provisions existed in relation to the 1970s or 1980s case the honourable member referred to, and I do not seek to comment on that case in particular, but I am advised that in the circumstances I have just outlined, where someone then was caught, clearly contrary to the evidence that had been presented to convince the Supreme Court, the government of the day—I am sure Liberal or Labor—would immediately institute proceedings under the provisions to reverse that.

The Hon. F. PANGALLO: I do not know why it has to be up to the media to try to expose these wrongdoers. In the case of Mr Marshall, it was some time afterwards that this matter was exposed and who knows what he could have done in that period. I am not sure whether the

government has the mechanisms to be able to determine that, when it took a tip-off, basically, to highlight the fact that this person had deceived a court. I still think there is a risk. The other thing I mentioned was the nursing homes. I do not know how somebody can be confident that nursing homes will accept a sex offender in their midst.

The Hon. M.C. PARNELL: I do not want to prolong the consideration of this clause because people have basically put their positions on the record, but I will say that there is a continuum of responses. At one end of the spectrum is lock them up, throw away the key and under no circumstances can they ever be released. The other end of the spectrum is very low bars, it is quite easy to get released, just say that you are reformed and that is enough and you will be out. What we are really looking at is where in between those two extremes we draw the line.

Whilst there is talk of—and I am familiar with the Marshall case and we all know about Christopher Skase—people feigning their infirmity, I tell you what is far more likely, and that is someone feigning the reformed nature of their mind. They have a bar to cross in that they have to convince some psychiatrists, doctors and whatever, but if there is danger, that is where it is. The danger is in people saying, 'I've reformed. I've reformed. I don't think like this anymore. I've learnt the error of my ways.' I think that is more the danger area.

At the end of the day, unless we are going to go for throw away the key and you must die in gaol regardless, we have to draw the line somewhere else. I take the Hon. Kyam Maher's exhortation of, 'How will we sleep at night if this goes wrong and someone is let out and reoffends, and it will all be our fault.' Yes, I take that responsibility, as I think all members of parliament do if we get it wrong. However, I think that where this line is currently being drawn is a sensible one, especially given that the consequence of removing this means that there will be people who, on no possible estimation, will ever be a danger ever again to anyone but they must stay in gaol because their mind is not right. I think that is too far in the other direction.

I am comfortable with the position that the Greens have landed at, which is that we will not support the Labor amendment but we will support the Liberal inclusion of the word 'permanent' in front of 'infirmity'.

The Hon. K.J. MAHER: I am keen to tease out two things: the test for 'aged' and is there a specific date or chronological year that someone needs to be, and how will the courts interpret that where it is not 'aged and infirm', this is 'aged or infirm', so it is 'aged' by itself? Before I do that, the minister mentioned that, under the bill as it is drafted, if this miraculous recovery—

The Hon. R.I. Lucas: With amendment No. 3.

The Hon. K.J. MAHER: Can I confirm that, under the bill as it was originally drafted before the amendment, there was no way a miraculously recovered person would be able to be brought back into gaol?

The Hon. R.I. LUCAS: I am advised that the DPP could have launched an action under common law, but to further clarify, there is a further amendment that we are about to consider, which speaks to the substance of the response I gave earlier to the Hon. Mr Pangallo.

The Hon. K.J. MAHER: I thank the minister for his comments and I think that confirms what we thought. I think schedule 2 of the bill was rushed and incorrectly drafted, so I think the bill was mistakenly put into parliament. I think the correct application was that it is not prospective in nature in terms of allowing an application from someone who is released in one or two years, pretending to be of no appreciable risk because of age or infirmity and then miraculously recovers.

Under the bill, as it was originally put into parliament, I think schedule 2 would only apply to someone who was released before this bill came into operation, and it left wide open that anyone who had an order after the bill came into operation would not be able to have schedule 2 applied. I note that the minister has said that there is an amendment to fix it up, and I thank the government for moving that amendment. Certainly, without that amendment, I think we would have had no choice but to pass the opposition amendments to stop that miraculous recovery scenario.

I think that does point to the fact that we canvassed this when the committee last met that this bill was, it seems, very, very hastily drafted. It was a response to something that the opposition

did. The bill was put into parliament without due thought. I appreciate that there is now a government amendment to fix up what was clearly an oversight that would have left a hole wide open for not being able to get that miraculously recovered scenario back into gaol. Given it is a stand-alone test—not to do with being aged and infirm—what is the test that is going to apply for someone who is just aged?

The Hon. R.I. LUCAS: I am advised that it is obviously a decision for the court. The court has to find that the advanced age results in the person no longer presenting an appreciable risk to the safety of the community. It is a judgement for the court. There is no definition. If the leader is looking for a definition as to exactly what that age is, that is a judgement for the court.

The Hon. K.J. MAHER: I am presuming that if you are of an advanced age such that a court might decide, without necessarily having any medical evidence before it, that someone's advanced age was such that they do not pose an appreciable risk, does that mean—as I think the Hon. Mark Parnell spoke about—that physically they are not able to pose a risk? Generally, is that what is going to be the case?

The Hon. R.I. LUCAS: I am advised that the intention of this provision is that, either through advanced age or infirmity, they no longer present an appreciable risk to the safety of the community. Ultimately, that is a judgement call for the court to make.

The Hon. K.J. MAHER: I am assuming then that there is something in the nature of the person's physical ability, in that advanced age part, that means they do not pose an appreciable risk anymore?

The Hon. R.I. LUCAS: Again, I think that would be a reasonable assumption to be made by the leader.

The Hon. K.J. MAHER: If it is reasonable to assume—for the advanced age part—that it is the physical nature of the ageing process that has rendered them no longer an appreciable risk, surely that also means that they are infirm enough not to pose a risk. Why do we need both of those; why not just 'infirm'?

The Hon. R.I. LUCAS: Based on advice from parliamentary counsel, I understand it is a replication of an existing provision in the Sentencing Act as it relates to a different area in relation to home detention. The provision there refers to advanced age or infirmity. That particular provision carried over into the drafting of this particular provision. I am told that the former drafting was used under the amendments introduced by the former Labor government. The same drafting has been used in relation to this particular provision.

The Hon. K.J. MAHER: I thank the honourable member for his kind of answer. I think it is going to be difficult for both the opposition and crossbenchers if reasons of, 'Oh, because someone else did it before' or, 'It's done somewhere else' are given. My question is: why are we using that term? Why is it not just 'infirmity'? Whether it is used here or whether it is used elsewhere in legislation, in this act or anywhere around the world, what is the reason for it?

The Hon. R.I. LUCAS: I cannot offer much more than that. That was a drafting decision that has been taken based on the best advice the government had in terms of the drafting. The advice given to me is that we are unconvinced that it creates any problem in terms of the way the drafting has been done. In the absence of any indication as to what the problem or mischief is that is created through the drafting, the government commends the current draft to the committee.

The Hon. K.J. MAHER: I thank the honourable member for his answer. It gets back to a point I made very early on. When we were last in committee the honourable member did not answer questions or would not supply answers on the basis that he is not a lawyer. He was handling an Attorney-General's bill and was unwilling to provide answers on that basis or on the basis that other members of the chamber were lawyers and they should know and work it out for themselves. Just saying, 'This is how we chose to draft it' does not give us any explanation whatsoever.

I might do it as a very, very simple question. In what scenarios would someone be considered of advanced aged and not be an appreciable risk where they would not also be infirm and not presenting an appreciable risk?

The Hon. R.I. LUCAS: I really cannot offer any greater clarity in response to the leader's question. It is a judgement call he will have to make in relation to the amendment. This is the bill that the government through the Attorney-General, based on its legal advice, has drafted. I just return to what I said, based on advice, earlier—that is, in the absence of any argument that the drafting causes or creates a problem—we recommend the current drafting of the bill and this particular amendment to the committee.

The Hon. K.J. MAHER: If it is the case that someone does not pose an appreciable risk because of their infirmity—and I recognise the government has now come to their senses and acknowledged they got the bill wrong in the first place and are moving an amendment to have permanent infirmity—if the government cannot outline any scenarios where advanced age or infirmity, or permanent infirmity if that is what passes, are any different, it seems unnecessary.

But if the government is insisting that advanced age needs to remain there because there are differences between the two, then I think this chamber needs to know what are the scenarios. We might be agreeing to something that could potentially let dangerous paedophiles back onto the street because of advanced age. What are those scenarios?

The Hon. R.I. LUCAS: Again, this is the third time the member has put the question. I cannot offer any further information other than the answers I have provided to the first two questions.

The Hon. K.J. MAHER: I will make this the final question on this: can the minister outline any reason why we should not remove 'age' from it?

The Hon. R.I. LUCAS: I cannot offer any further information to the three questions that the member has now put. The advice I have provided is the best advice that I have been provided with, and I shared that with the committee.

The CHAIR: Are there any other contributions on the amendments from honourable members? Just to alert honourable members as to how we are going to proceed, as there are two amendments, one moved by the Treasurer and one moved by the Leader of the Opposition, the first question I am going to put—before I put it, just to alert you—that all the words in paragraph (b) up to but excluding 'infirmity' stand. If you are in favour of the Treasurer's position you will vote aye, and if you are in favour of the Leader of the Opposition's position you vote no—that is for the benefit of our newer members. I will put the question, unless any other honourable member has a contribution, that all words in paragraph (b) up to but excluding 'infirmity' stand.

The committee divided on the Hon. K.J. Maher's amendment:

Ayes 10
Noes 9
Majority 1

AYES

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

NOES

Bourke, E.S.	Hanson, J.E.	Hunter, I.K.
Maher, K.J. (teller)	Ngo, T.T.	Pangallo, F.
Pnevmatikos, I.	Scriven, C.M.	Wortley, R.P.

PAIRS

Bonaros, C.	Wade, S.G.

The Hon. K.J. Maher's amendment thus negatived.

The CHAIR: The Hon. Mr Lucas's amendment has already been moved, so I am going to put it as a question.

The Hon. R.I. LUCAS: Just speaking very briefly, we have had the debate already in relation to this, so I do not propose to add anything further.

The Hon. K.J. MAHER: Just a quick question on the amendment that is now going to be put to insert 'permanent'. The minister who has carriage of this bill in this chamber spoke about the reason to put this in is because it appears elsewhere in legislation as being the reason to put 'aged and infirm' in. The explanation you gave about why you would put 'aged and infirm' in is because it appears elsewhere in this legislation—can I confirm that?

The Hon. R.I. LUCAS: To answer the honourable member's question, no. This amendment is about inserting the word 'permanent' and has nothing to do with the issue that the honourable member just talked about. This is about inserting the word 'permanent'. We had the debate in relation to the earlier amendment. I thought from the earlier comments from the Leader of the Opposition that he was actually supporting the insertion of the word 'permanent'. This is simply about inserting the word 'permanent'.

The Hon. K.J. MAHER: I can indicate that the opposition will be supporting this amendment. The opposition is simply asking: does the word 'permanent' appear in other places in this legislation or other legislation where 'aged and infirm' appears?

The Hon. R.I. LUCAS: My advice is no.

The Hon. K.J. MAHER: Is the government considering, seeing that the government saw fit—and we support inserting the word 'permanent' here—have they considered, at all, putting the word 'permanent' for that consistency, which the minister was so fond of moments ago?

The Hon. R.I. LUCAS: Obviously, it is not proposed in this bill, so the answer to the question as to whether we are going to include it is no, that is not our suggestion. I am advised that there was some consideration but they believed that on consideration it has work to do in relation to this particular area; it does not have the equivalent amount of work to do in the other area.

The Hon. K.J. MAHER: I am wondering if the minister could expand on that: why it is needed here and why it is not needed in other places in this bill that it appears.

The Hon. R.I. LUCAS: We have had the debate about why it is needed here and I think the member has indicated that he supports it here. I am not in a position and we are not discussing at this stage why various other parts were not amended. The only reason that issue was referred to earlier was that the member had asked a question whether the words that he asked about earlier appeared in other parts or where that had come from, or words to that effect, and that was the advice I was given. But, we are not actually discussing the home detention issues in relation to this particular bill. We are talking about a particular set of circumstances which do not directly relate to home detention.

The Hon. K.J. MAHER: I understand what the minister is saying. It does seem incongruous that the minister would, in the absence of actually being able to explain the notions of what the stand-alone age part means and what the test will be, he fell back on the fact that it appears elsewhere in this legislation and that is the reason that it is being inserted here. It seems incongruous that the reason you cannot explain what something does is because, 'I am only doing it because of drafting suggestions because it appears elsewhere,' that no consideration then would be given to going back and applying that consistency of which the minister was so fond only moments ago.

The Hon. R.I. Lucas's amendment carried.

The Hon. K.J. MAHER: I move:

Amendment No 4 [Maher–1]—

Page 3, after line 3—Insert:

(1d) Section 58—after subsection (4) insert:

(4a) The Supreme Court, when determining an application under this section, must not have regard to the length of time that the person subject to the order may spend in custody if the order is not discharged.

This amendment has work to do in relation to some other amendments, but stands on its own and is not consequential, in that it is an amendment out of an abundance of caution. We often legislate not for what is most likely to happen but what may happen. This makes it very clear that, when a court is determining an application under this section, the court should not have regard to the length of time that a person subject to an indefinite detention order has served.

In effect, what it means is that the court must only take into account the other provisions—that is, that a person can now control or is willing to control their sexual instincts—but cannot take into account the length of time that someone has served. We do not want any sort of danger, in the worst-case scenario, where a court may view the amount of time that someone has spent in gaol as a consideration. This makes it abundantly clear that this is not something that can be taken into account.

We think it is a pretty common-sense amendment in that, even if you put up the argument that you think the rest of the act is enough, and a court cannot take into account anything that is not in the act, then this does no harm. It does not take away from any of that and, at the very worst, it does no harm. The only possible argument that we can see against it is that they should not be doing it anyway. If that is the case, then there is no harm in putting it in there.

The Hon. R.I. LUCAS: I am advised that, under this opposition amendment, a new section (58), subsection (4a) is inserted, stating that when the Supreme Court is determining whether to discharge an order for a person who has been indefinitely detained, the length of time the person has spent in custody must not be taken into consideration. Amendment No. 1 of the second set of amendments filed by the honourable member and amendment No. 11 insert the same provisions, but regard an application for release on licence or an application that a release be cancelled. The government's position is that it considers the amendments are unnecessary, in light of the new, stricter test to be applied prior to a discharge or a release on licence being ordered.

The Hon. F. PANGALLO: I rise to concur with the opposition, and I support that amendment.

The Hon. M.C. PARNELL: I might take this opportunity to put on the record the Law Society's view of this particular amendment, which I think we have been invited to do by the Leader of the Opposition, who could think of no arguments other than those he put forward. Members would have seen the submission of the Law Society. It was addressed to the Attorney-General, dated 8 June. Paragraph 27 of their submission reads as follows:

> The removal of the ability for the Court to take into account how long a person has been in custody has serious implications in terms of the supports and rehabilitation that might then be provided to an incarcerated person. If the Court is able to take this factor into account it provides some encouragement to the Department of Corrections to provide the rehabilitation and re-integration supports that a person needs to ultimately transition into the community. If this consideration is mandatorily excluded, there is no encouragement for the Department to offer any supports to transition someone out of custody and the potential exists for people to be in custody indefinitely with no support or release plan.

What the Law Society is saying is that once it has been realised that this person is not getting out, then the approach from Corrections would be, 'Well, what is the point in wasting any money on their rehabilitation or their education? They are not getting out.' People might think it is a long bow to draw, because the amendment we are looking at here is that the court is not allowed to take into account how long they have been in gaol or how long they might be in gaol.

I guess the assumption is that if the court were thinking, 'If we do not let them out, then they will die in gaol, and if they are going to die in gaol, then Corrections will know that and no effort will be made to rehabilitate them.' I think that is the way the logic flows.

The Greens' position on this particular amendment was not as solid as it was with the previous one. I did mention earlier on that the notes that I have include the words 'convince me'. It possibly does no harm, because I think the predominant consideration of the court is going to be the safety of the community, as we have discussed. The court is going to have to look, most importantly,

at whether the incarcerated person has changed their attitude, whether they are willing and able to control their instincts. That is a dominant consideration.

I guess age and infirmity, as we have been discussing, are also considerations. My feeling would be that once the court has taken those things into account there is probably not much left to think about in terms of 'but they might be in gaol for the rest of their lives'. And that might be the correct answer—that they die in gaol. I am not saying that is the wrong answer. It might be the best answer. I am not entirely convinced that the amendment is necessary, but also not entirely convinced that it improves the situation. I am keen to hear anymore arguments.

The Hon. J.A. DARLEY: I am of the view that this amendment does no harm and so I will be supporting it.

The Hon. K.J. MAHER: I might just conclude. I will not take long. I thank the honourable member for putting on the record the Law Society's view, which had been taken into account in the opposition continuing with this amendment. The opposition does not agree with the Law Society's view about what may be in the minds of Correctional Services in looking at rehabilitation programs for individuals. In my experience, Correctional Services take the prisoners as they find them and apply rehabilitation services based on what they know, not what they think may or may not be in the minds of courts about whether to release them.

The opposition thanks the Law Society for its view, but disagrees with, as I think the honourable member put it, possibly the long bow they draw in relation to this. I think, as the government has said, that they do not think it is necessary. I think that is the nub of it. It may not be necessary, but we think, out of an abundance of caution, that it should be supported. If the government does not think it is necessary, then it is probably a very good indication that it does no harm, and if it does no harm but may make something abundantly clear, then it ought to be supported, we think.

The Hon. F. PANGALLO: Again, I am in support of that. I do not think it does any harm to include that amendment. I am just unsure about the role of the Parole Board when there is a long-serving prisoner, as to whether they need to satisfy or make admissions to a Parole Board before they are released. I am not talking about sex offenders, but I think there are instances where long-serving prisoners before they are released on parole need to satisfy or make admissions to the Parole Board. Is that correct?

The Hon. R.I. LUCAS: My advice is that we are happy to have an officer discuss that with the Hon. Mr Pangallo, but it is not directly relevant to this particular issue, which relates to the issue of release on licence. Having been in this chamber for a long time, I recognise that the numbers are not with the government in relation to this, so I do not intend to delay the proceedings of the committee, at least from the government's viewpoint.

Amendment carried.

The Hon. K.J. MAHER: I indicate that I will not be moving amendment No. 5 [Maher–1] about the role of the Parole Board, given the chamber has decided it should not have such a role. I indicate as well that I will not be moving amendment No. 6 [Maher–1] either. They are both consequential on the involvement of the Parole Board, as the opposition had suggested.

Clause as amended passed.

Clause 4.

The Hon. K.J. MAHER: I move:

Amendment No 7 [Maher–1]—

Page 3, lines 16 to 18 [clause 4(1), inserted subsection (1a)(b)]—Delete paragraph (b)

There are a number of amendments in relation to the Parole Board and in relation to the issue of aged and infirmed which relate to an indefinitely detained offender being released on licence, the indefinitely detained offender having that order discharged and also for an indefinitely detained offender having the application of being able to be brought back before a court and having these new laws apply.

There are three ways our amendments apply in relation to the act. This is the second way in relation to being aged or infirmed and, given that we have had debate on this and I have seen how the numbers are in the chamber, I was considering reprosecuting it and dividing again, but I do not think that would be a good use of everyone's time. So I will put the amendment but then lose it very quickly, I suspect.

The CHAIR: I need the Treasurer to move his amendment as well.

The Hon. R.I. LUCAS: I move:

Amendment No 2 [Lucas–1]—

Page 3, line 18 [clause 4(1), inserted subsection (1a)(b)]—Before 'infirmity' insert 'permanent'

We have prosecuted the case, as the leader indicated earlier, and I will not add anything further.

The Hon. K.J. Maher's amendment negatived; the Hon. R.I. Lucas's amendment carried.

The Hon. K.J. MAHER: I confirm that I will not be moving amendment No. 8 [Maher-1].

The CHAIR: I understand that we are then at amendment No. 1 [Maher-2].

The Hon. K.J. MAHER: I move:

Amendment No 1 [Maher–2]—

Page 3, after line 18—Insert:

(1b) Section 59—after subsection (4) insert:

(4a) The Supreme Court, when determining an application under this section, must not have regard to the length of time that the person has spent in custody or may spend in custody if the person is not released on licence.

(1c) Section 59(10)—delete subsection (10) and substitute:

(10) The appropriate board must, on application by the DPP or on its own initiative, cancel the release of a person on licence if satisfied that—

(a) the person has contravened a condition of the licence; or

(b) where the person was released on licence due to the person's advanced age or infirmity—there is evidence suggesting that the person may now present an appreciable risk to the safety of the community (whether as individuals or in general).

(10a) The appropriate board may, on application by the DPP or the person, or on its own initiative, vary or revoke a condition of a licence or impose further conditions.

(10b) If the appropriate board has cancelled the release of a person on licence, the person may not further apply for release on licence for a period of 7 years, or such greater period as may be specified by the Board.

(1d) Section 59(11)—after 'subsection (10)' insert 'or (10a)'

(1e) Section 59(13)—after 'subsection (10)' insert 'or (10a)'

The CHAIR: It has been indicated that you might be amending '7 years' to '5 years' in (10b).

The Hon. K.J. MAHER: The first part of this amendment, that is (1b) of the amendment to section 59 after subsection (4), is consistent with what has been the will of the chamber in relation to a court not taking into account how long someone has been detained under an order. The second part of the amendment, that is from (1c) down, is different. I do not think it is the same issue that has been agitated and that the chamber has been in agreement on. It introduces a number of new provisions, but if I can draw members' attention in particular to (10b): 'If the appropriate board'—that is almost always the Parole Board—'has cancelled the release of a person on licence, the person may not further apply for release on licence for a period of 7 years'.

If someone has been under an order of indefinite detention, has been released on licence and they breach any part of their licence conditions, under that part of this amendment that prisoner is not able then to apply again to be released on licence from indefinite detention for a period of

seven years. I might indicate to the chamber that I will be seeking to move an amendment to this to change '7 years' to '5 years'.

The CHAIR: Leader of the Opposition, you can move that in an amended form.

The Hon. K.J. MAHER: I move my amendment in an amended form. The amended form is amended to change, in (1c)(10b), the number '7' to '5' so that (10b) now reads:

> If the appropriate board has cancelled the release of a person on licence, the person may not further apply for release on licence for a period of 5 years, or such greater period as may be specified by the Board.

The Hon. R.I. LUCAS: Mr Chairman, I seek some guidance in terms of what is now an amended amendment. Given the decision that was taken earlier, is there any way in the procedures for the first part of this amendment, which is the amendment to insert subclause (4a), to be decided, because that is consistent with the decision taken earlier, and then we can address the remainder of the honourable member's amendment?

The CHAIR: It is my understanding that we can do that.

The Hon. R.I. LUCAS: Are you happy to do that first?

The Hon. K.J. MAHER: I further move this in a further amended form, Mr Chairman.

The CHAIR: No, I will put the question if the Leader of the Opposition is happy at this point.

The Hon. K.J. MAHER: Yes.

The CHAIR: I put the question that clause 4, page 3, after line 18, insert:

> (1b) Section 59—after subsection (4) insert:
>
> (4a) The Supreme Court, when determining an application under this section, must not have regard to the length of time that the person has spent in custody or may spend in custody if the person is not released on licence.

I put the question to the committee that that be agreed to. Treasurer, are you happy with that approach?

The Hon. R.I. LUCAS: Yes.

The CHAIR: I put the question to insert subclause (1b): those for the question say aye, against no; the ayes have it.

The Hon. K.J. Maher's amendment No. 1 [Maher-2] subclause (1b) carried.

The CHAIR: Whilst the Treasurer is consulting and for the benefit of honourable members, after debate from honourable members I will put the question that the Leader of the Opposition's amendment will be (1c), (1d) and (1e).

The Hon. R.I. LUCAS: Thank you, Mr Chairman. I think that makes the process marginally easier. Let me place on the record that the government's position in relation to this amendment is that we oppose the amendment that subsection 59(10) of the act is replaced. This same section is the subject of the government's amendment No. 3. The government, of course, prefers its own amendment. Section 59(10) currently provides:

> The appropriate board may—
>
> (a) on application by the DPP or the person, or on its own initiative, vary or revoke a condition of a licence or impose further conditions; or
>
> (b) on application by the DPP, or on its own initiative, cancel the release of a person on licence, if satisfied that the person has contravened, or is likely to contravene, a condition of the licence.

Government amendment No. 3 to be considered next, expands on this provision, so that in addition to these provisions, in cases where a person is released on licence due to permanent infirmity or advanced age, the DPP has the ability to apply for a cancellation of licence—and a board can also do so itself—if there is evidence that the person may now pose an appreciable risk to the community. The government amendment addresses concerns that a person's infirmity may change, their risk to the community may change and, therefore, their release needs to be reconsidered.

This opposition amendment goes too far. It removes the discretion of the board. Instead of allowing the board to take certain actions, it says:

> The appropriate board must, on application by the DPP or on its own initiative, cancel the release of a person on licence, if satisfied that—
>
> (a) the person has contravened a condition of the licence; or
>
> (b) where the person was released on licence due to the person's advanced age or infirmity—there is evidence suggesting that the person may now present an appreciable risk to the safety of the community (whether as individuals or in general).

The government takes the view that some breaches may be very minor in nature and it is more appropriate that the Parole Board has the discretion to cancel a licence, but may choose not to in cases of very minor breaches.

Further to this, an additional part of this amendment prevents a person from applying for a release on licence for a period of seven years, or in the case of the amended motion, five years, or such greater period as specified by the board, following the cancellation of their release on licence by the appropriate board.

Again, our view is that this amendment not be supported as it is unnecessary under the current act, where the Supreme Court refuses a person's application for release on licence pursuant to section 59(9) of the act, which states:

> …the person may not further apply for release for a period of 6 months, or such lesser or greater period as the Court may have directed on refusing the application.

Given that a breach could be very minor, this amendment goes too far and these amendments should be opposed.

The Hon. M.C. PARNELL: The opposition's amendment, I think, is harsh, but again it addresses a continuum of circumstances. At one end of the spectrum what the opposition is proposing is entirely appropriate and at the other end of the spectrum, it is not at all. The difficulty arises, as the minister indicated, from the use of the word 'must':

> The appropriate board must, on application by the DPP or on its own initiative, cancel the release of a person on licence if satisfied that—
>
> (a) the person has contravened a condition of the licence…

I do not pretend to be an expert about what all those conditions might be, but let's look at two ends of the spectrum. If one of the conditions is that the person does not hang around schoolyards, then I am thinking that is a serious breach. If a person released on licence is hanging around outside a school, then we get them back in, we get them back in gaol.

At the other end of the spectrum, if it is a condition of licence that they report somewhere—a police station, whatever—by 4 o'clock every Thursday afternoon and their bus breaks down and they get there at five minutes past four, that is a breach. Under the opposition's amendment a hardline approach would be, 'You've breached a condition of your licence, you're going back inside and you're not even allowed to ask to be let out again for five more years.' Now, that really is going too far. That is the dilemma that we have here.

The question then needs to be: on that spectrum of breaches of condition, can we have confidence that if the paedophile released on licence is found at a playground or near a schoolyard, is there capacity to get that person back in and to effectively lock them up again? I think the answer is yes, there is that capacity to do that.

On the question about how long a person should have to wait before reapplying, what we do not want, I guess, is someone every five minutes applying for release and occupying the resources of the state. I am not sure what other capacity there is in the Parole Board or wherever else to limit vexatious continuous applications. I would take some guidance from the minister as to whether there is some way of limiting it. At the other end of the spectrum, though, making them wait five years before being even able to ask to be let out again on licence is going too far, I think, in the other direction.

My inclination is therefore not to support this opposition amendment, but I would appreciate it if the minister can respond to any of those issues. Is there a way of preventing people from applying—I said every five minutes but, say, every month? Is there a way of stopping someone from applying every single month, or do they have a legal right to insist that any application they make, whenever they make it, must be fully dealt with? Is there a mechanism there? If there is, that is good, and if there is not, I am still struggling with five years as the default.

The Hon. K.J. MAHER: I just might answer—you go first.

The Hon. R.I. LUCAS: I think the question was to me, so I thank the honourable member for his offer of assistance. I know he is a lawyer and I am not—I am at that disadvantage. The advice I am given is that under the current act where the Supreme Court refuses a person's application for release on licence pursuant to section 59(9) a person may not further apply for release for a period of six months, or a lesser or greater period as the court directs upon refusing the application. So I would assume, in the circumstances, that if the Supreme Court had a series of six-month ones they may well—may well; they would have the power to—direct a longer period, saying, 'Don't come back and make another application for two years', or 12 months or something. So I assume that would be within the realms of possibility of the court if it chose to so act.

The Hon. K.J. MAHER: I just want to make a very quick point. I note that the Hon. Mark Parnell asked, 'Can you keep applying to the Parole Board for this sort of thing?' It is worth pointing out that we decided earlier today that the Parole Board should not have a role in this. You would ordinarily think, as I think the honourable member did, that the Parole Board ought to have a role in this—they are the ones on a day-to-day basis who deal with these sorts of things a lot more—but it is not the Parole Board. We decided that the Parole Board being able to stop someone getting out is not something we wanted, so it is actually the Supreme Court, not the Parole Board. Again, common sense might dictate that it should be the Parole Board, but we in this chamber decided that not be so.

The Hon. J.A. DARLEY: I will still be opposing the opposition's amendment.

The Hon. F. PANGALLO: I will be supporting the opposition amendment. I note that the honourable member mentioned the issue of missing a bus and not being able to report in. I am sure there would be a discretion by the Parole Board or any body that looks after the welfare of these prisoners and that that would be taken into account. I am sure this amendment will take into account a serious breach rather than a trivial breach. That is what it is intended to do, so I will be supporting it.

The Hon. R.I. LUCAS: I move:

Amendment No 3 [Lucas–1]—

Page 3, after line 18—Insert:

(1a) Section 59(10)(b)—delete 'the person has contravened, or is likely to contravene, a condition of the licence.' and substitute:

—

(i) in the case of a person released on licence on the ground referred to in subsection (1a)(b)—there is evidence suggesting that the person may now present an appreciable risk to the safety of the community (whether as individuals or in general); or

(ii) in any case—the person has contravened, or is likely to contravene, a condition of the licence.

The CHAIR: If there are no other contributions from honourable members, I put the question that new subclauses (1c) to (1e) as proposed to be inserted by the Hon. K.J. Maher be so inserted. If you are with the opposition you vote yes; if you are with the government you vote no—for the benefit of clarity for members.

The committee divided on the Hon. K.J. Maher's amendment:

Ayes 9
Noes..... 10

Majority 1

AYES

Bourke, E.S.	Hanson, J.E.	Hunter, I.K.
Maher, K.J. (teller)	Ngo, T.T.	Pangallo, F.
Pnevmatikos, I.	Scriven, C.M.	Wortley, R.P.

NOES

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

PAIRS

Wade, S.G.	Bonaros, C.

The Hon. K.J. Maher's amendment No. 1 [Maher-2] subclauses (1c), (1d) and (1e) thus negatived.

The CHAIR: The next question is that new subclause 1(a) as proposed to be inserted by the Treasurer be so inserted.

The Hon. R.I. Lucas's amendment carried; clause as amended passed.

Clauses 5 to 10 passed.

Clause 11.

The Hon. R.I. LUCAS: I move:

Amendment No 4 [Lucas–1]—

Page 5, line 33 [clause 11, inserted Schedule 2, clause 1(5)(b)]—Before 'infirmity' insert 'permanent'

I move the amendment standing in my name. It is consequential on an earlier vote and debate.

Amendment carried.

The Hon. K.J. MAHER: I move:

Amendment No 2 [Maher–2]—

Page 6, after line 23 [clause 11, inserted Schedule 2, clause 1(8)]—After paragraph (c) insert:

(ca) evidence tendered to the Court of the estimated costs directly related to the release of the person on licence;

This area relates to when someone has been released on licence, but, on application, is sought to be reheard by the court under these new provisions. The private members' bill that the opposition drafted essentially used the mechanism when someone was going before the Supreme Court, again, having already being released on licence, that referred to the provisions under sections 58 and 59, that is, the original provisions, as we would amend them, that the court would take into account.

The structure of the drafting that the government has chosen is to restate provisions in this new section. I think in the haste of the government drafting this they missed out on part of the provisions and so we are seeking to help the government out in what was a very clear drafting error in the haste in which they sought to draft this bill, given that the opposition at the time had released a bill, and the government, as I think we found out earlier this week, attempted to very quickly, possibly without cabinet approval, draft their own version of the bill, but have made a pretty grave error and mistake in the way that they have done it. We are always happy to help the government

when they have, through haste and in attempt to try to wrest the political advantage back somehow, made grave errors.

The Hon. R.I. LUCAS: I thank the honourable member for his commentary, but I will not respond in kind other than to say in the interests, as always, that the government adopts in terms of listening to the will and wisdom of the Legislative Council and having consulted with, as I understand it, the attitude of some of the crossbenchers, the government position is that it is prepared to support this particular amendment. It does not see that there is a significant issue being raised in relation to the amendment. As always, we thank the honourable member for his contribution to the debate.

The Hon. M.C. PARNELL: I do have a question of the mover—two questions, in fact. My understanding is that the insertion of this paragraph adds an extra consideration that the court must take into account in determining a review of a licence. The new consideration is that the court must take into account evidence tendered to the court of the estimated cost directly related to the release of the person on licence. When I saw those words, the first thing I thought was that, surely, it would always be more expensive to keep someone in gaol than to supervise them out of gaol, but I might be very wrong in that assumption.

My two questions are: does the mover have any information, if you want the court to take into account the expense of supervising someone who is out on licence, of whether that is usually more or less expensive than keeping them in gaol? Is the flipside to this that if the court is required to have regard to the cost of supervising someone on licence, should it also be required to have regard to the cost of not releasing someone on licence and keeping them in gaol?

The Hon. K.J. MAHER: I thank the honourable member for his questions. The government may be able to furnish this in greater details. Certainly, in my discussions with the various stakeholders on this matter, including the Parole Board, I am informed that yes, there are circumstances where release on licence could be more expensive than someone remaining in gaol. Should the court take into consideration how much it costs someone to be in gaol when they consider whether the community should be safe? My answer is no, I do not think they should.

Amendment carried.

The Hon. K.J. MAHER: I move:

Amendment No 11 [Maher–1]—

Page 6, after line 26 [clause 11, inserted Schedule 2, clause 1]—After subclause (8) insert:

(8a) The Supreme Court, when determining an application under this clause, must not have regard to the length of time that the person has spent in custody or may spend in custody if the person's release on licence is cancelled or not confirmed.

This is the final one of the three that talks about disregarding the length of time served. I commend it to the chamber and look forward to the support that there has been the last two times it was moved to give effect.

The Hon. R.I. LUCAS: The government recognises this is consequential on an earlier vote in the chamber.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (12:43): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Sitting suspended from 12:44 to 14:15.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the Minister for Human Services (Hon. J.M.A. Lensink)—

The South Australian Community Visitor Scheme Special Report—Disability Services—Report, 2016-17

By the Minister for Health and Wellbeing (Hon. S.G. Wade)—

Report of actions taken by SA Health following the Deputy State Coroner's finding of 29 November 2017 into the death in custody of Tiffany Jayne Michie

Ministerial Statement

POLICE REVIEW

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:16): I table a copy of a ministerial statement relating to the Marshall government's police works review made earlier today in another place by my colleague the Minister for Police, Emergency Services and Correctional Services.

Question Time

NATIONAL PARTNERSHIP AGREEMENT ON REMOTE INDIGENOUS HOUSING

The Hon. K.J. MAHER (Leader of the Opposition) (14:17): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding housing.

Leave granted.

The Hon. K.J. MAHER: For the third time since taking on the portfolio of human services, yesterday the minister was asked to update the chamber on the status of remote Aboriginal housing agreements. The minister started her answer, 'It delights me to be able to place on the record some information in relation to this issue.' The minister then merely regurgitated federal minister Ken Wyatt's response from *Hansard* in the federal parliament from February of this year, which was:

> The funding that we provided to South Australia last year was $430 million for mainstream, or general, housing, but over the last nine years South Australia has received $3.3 billion.

The minister was twice further asked if the figure that she rattled off was for Aboriginal housing, to which she stated, 'This is all Aboriginal housing, if you had been listening.' New and further information has come to hand in relation to this matter. An SBS report yesterday on this topic stated:

> Mr Scullion said he was disappointed that negotiations with Queensland had taken so long, while other states and territories have since reached new joint funding agreements.

My questions are:

1. Can the minister give the actual figure the federal government has provided for remote Aboriginal housing over the last nine years, rather than the $3.3 billion that she claimed yesterday?

2. Did the minister meet with federal minister Nigel Scullion when he was in Adelaide last week?

3. Given the minister has held her portfolio for three months now, can she outline to the chamber the actions she herself has undertaken to secure new funding from the federal government?

4. What is the split of the new joint funding agreement reached with the federal government, as per minister Nigel Scullion's comments reported in the media yesterday?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:19): I thank the honourable member for that particular question. When he asked me, 'Is this all Aboriginal housing', I was referring to a particular response from the minister, Ken Wyatt, to a specific question in relation to Aboriginal housing. So the honourable member should be minded that, when he wants to interrupt people when they are on their feet, he should take things in the context of the question in which they were asked.

So I did repeat verbatim the response that was given in the House of Representatives in relation to a very specific question from the member from Mayo and a response that the Hon. Ken Wyatt provided to the member for Mayo putting into context all of the funding that the federal government has provided to South Australia over a considerable period of time.

I have had a number of negotiations—well, put it this way: my department has had ongoing negotiations with the relevant federal department, and there is also Treasury-to-Treasury discussions going on. And, yes, I did meet with minister Scullion last week, but I am not in a position to be able to provide the honourable member with details of those discussions, apart from the fact that he said to me that he had rather enjoyed the interactions with the Hon. Mr Maher, and my response to him was that perhaps he didn't know him very well!

The PRESIDENT: Leader of the Opposition.

Members interjecting:

The PRESIDENT: Order!

NATIONAL PARTNERSHIP AGREEMENT ON REMOTE INDIGENOUS HOUSING

The Hon. K.J. MAHER (Leader of the Opposition) (14:21): The minister has outlined again today that her department has had regular and ongoing discussions with the relevant federal department, which federal department is that?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:21): It is with the relevant department—

The Hon. K.J. Maher: You have no idea, do you?

The Hon. J.M.A. LENSINK: No, I do—with the relevant department that Mr Scullion is responsible for on an ongoing basis.

The Hon. I.K. Hunter interjecting:

The Hon. J.M.A. LENSINK: Well, they are ongoing discussions and Treasury-to-Treasury. I mean, the details—

The Hon. K.J. Maher interjecting:

The Hon. J.M.A. LENSINK: I am not going to reveal to the honourable member in some sort of ongoing negotiation, because these are quite delicate discussions—

Members interjecting:

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

The Hon. J.M.A. LENSINK: These are delicate discussions between the South Australian government and the national government to ensure that South Australia gets a deal landed that is in the best interests of South Australia. I refer to the response that I have given in this place before that the former Labor government did sweet two-thirds of next to nothing on this, except to bleat about the issue of a media release with federal Labor states to say, 'We want more money out of the commonwealth,' when the commonwealth had quite clearly stated to the state governments, 'Put some money on the table'—at least be prepared to match them—

The Hon. I.K. Hunter: They said they're withdrawing their funding. That's what they said, and you don't stand up to them.

The Hon. J.M.A. LENSINK: I do stand up to them.

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: Chuck them out!

The PRESIDENT: Hon. Mr Ridgway, I don't need your advice. Minister, please continue your response to the question.

The Hon. J.M.A. LENSINK: Look, the Hon. Mr Hunter interjects inappropriately that we don't stand up to them. That is just complete crap!

Members interjecting:

The PRESIDENT: Leader of the Opposition, the minister is responding to your question. Let her answer it in silence.

Members interjecting:

The Hon. J.M.A. LENSINK: Are you finished?

The Hon. I.K. Hunter: Check your phone.

The Hon. J.M.A. LENSINK: No, I don't need to check my phone. I don't need to sit here and check my phone like the honourable member did as a minister.

The PRESIDENT: Minister, continue to answer the question. Do not respond to them directly, otherwise I will sit you down.

The Hon. J.M.A. LENSINK: Well, I'm just waiting for them to behave like adults, Mr President.

The PRESIDENT: There is no need for you to comment on their behaviour, that's my job.

The Hon. F. Pangallo: You'll be waiting a very long time for that!

The Hon. J.M.A. LENSINK: Well, I may well be. So, unlike honourable members opposite whose approach was to swear and carry on, make themselves a national embarrassment on a regular basis, carp and whinge and whine about what they weren't getting out of the federal government, we have been having constructive discussions which are ongoing and which I am not going to reveal the nature of until we have a firm deal on the table and some signatures on a piece of paper. That is the way we will approach this.

We are not going to conduct things in the public domain. We are not going to go out sledging people when we are trying to negotiate with them and make ourselves a national embarrassment as the honourable members did, when they were in government, on a regular basis.

NATIONAL PARTNERSHIP AGREEMENT ON REMOTE INDIGENOUS HOUSING

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Further supplementary: given that the honourable member has two-thirds of sweet all—

The PRESIDENT: Do not put supposition into the question. Ask a simple question.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Hon. Mr Ridgway, I don't require your assistance.

The Hon. K.J. MAHER: Can the honourable member outline how much the federal government has provided for Aboriginal housing, and is it the $3.3 billion over nine years that she claimed yesterday and, if not, how much?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:24): The honourable member clearly is taking what I said out of context. He can read the *Hansard* from the House of Representatives.

The Hon. K.J. Maher: How much then?

The Hon. J.M.A. LENSINK: I didn't claim anything. I was reporting—

The Hon. K.J. Maher: You don't have a clue, do you?

The Hon. J.M.A. LENSINK: Well, I do.

The Hon. K.J. Maher: So how much—how much?

The PRESIDENT: Don't engage with the Leader of the Opposition directly. Through me.

The Hon. J.M.A. LENSINK: It is as I reported it yesterday. The honourable member can read the *Hansard*. I took this issue so seriously that, as a member of Her Majesty's Loyal Opposition, I was making representations while I was still a member of Her Majesty's Loyal Opposition to the federal government, because that is what I thought was the appropriate thing to do. This is a really important program.

I do hope that what the honourable member said yesterday about what he has been doing on the lands, going and scaring people, is not true. I'll be very disappointed if that's the case, that he has been making it seem that their funding is about to disappear and that their particular communities are under threat. If he wants to grow up and behave like an adult, he will take responsibility for the complete inaction of the previous government, which did nothing—nothing—to put funding on the table and just put out media releases—

The Hon. I.K. Hunter: They withdrew it, Michelle, they withdrew the funding.

The PRESIDENT: Order! The Hon. Mr Hunter, restrain yourself; you're not advancing the debate.

The Hon. J.M.A. LENSINK: —media releases, complaining about how the program had ended, when clearly the commonwealth—

The Hon. I.K. Hunter: The commonwealth withdrew the funding. That's the idea; you just cough it up—'So how much, sir?'

The PRESIDENT: Hon. Mr Hunter, please, you're not assisting the debate.

The Hon. J.M.A. LENSINK: —when clearly the commonwealth was seeking the South Australian government of the day to come to the table and act like adults and negotiate and provide funding, and the Labor Party, in government, did none of that and has left us—we are still within 100 days, very early days of this government, and we are having constructive negotiations and I'm not going to go into the details of any of those discussions, because that is not the way you negotiate.

NATIONAL PARTNERSHIP AGREEMENT ON REMOTE INDIGENOUS HOUSING

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): Final supplementary, Mr President.

The PRESIDENT: It had better be a proper supplementary.

The Hon. K.J. MAHER: Can the minister inform the chamber of the name of the head of the department in Canberra they are dealing with, the name of that department or the actual amount of money that has been provided for remote Aboriginal housing—any of those three things?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:27): I don't know the name of the head of the department.

Members interjecting:

The PRESIDENT: I'm ruling it—

The Hon. J.M.A. LENSINK: I do not know his name.

The PRESIDENT: Minister—

The Hon. J.M.A. LENSINK: I do not know who it is.

The PRESIDENT: Minister, sit down. That question was out of order because it was related to the second response to the Leader of the Opposition's second supplementary.

Members interjecting:

The Hon. J.M.A. Lensink: Well, I don't. The department deals with it.

The PRESIDENT: The Hon. Ms Scriven.

The Hon. J.M.A. Lensink: Do you know how it works?

The PRESIDENT: Can the government frontbench restrain themselves as well.

CAREER EMPLOYMENT SERVICES FUNDING

The Hon. C.M. SCRIVEN (14:27): I seek leave to make a belief explanation before asking a question of the Treasurer regarding Northern Futures.

Leave granted.

The Hon. C.M. SCRIVEN: During question time in the other place yesterday, the Minister for Industry and Skills, the Hon. David Pisoni, was asked about funding cuts to career employment services, such as Northern Futures and Career Partners Plus, which were a result of the Treasurer's review of government-funded programs. The minister in that place stated:

> The facts are that there is plenty of funding for career employment services like Northern Futures. Go back to the federal budget. There is $300 million—

Investigations reveal that the Australian government tender website shows there are no relevant tenders open, and indeed the latest one closed back in May, well before the Marshall Liberal government notified these groups that their funding was being cut.

The CEO of Northern Futures has confirmed that there is no federal government funding available to their organisation. As none of the $300 million mentioned is available for career services, will the Treasurer advise the council where these organisations can access funds to support people looking for work and, if the answer is nowhere, will he reinstate the $1.9 million to support vulnerable South Australians?

The Hon. R.I. LUCAS (Treasurer) (14:28): I will answer the last question first: no. If a decision has been taken by the Minister for Industry and Skills to not continue with funding in relation to a particular program, I will not be taking action to reverse a decision of one of my ministerial colleagues.

The Hon. C.M. Scriven: It's the Treasurer's review of government-funded programs.

The Hon. R.I. LUCAS: You asked me a question as to whether I would reverse a decision and reinstitute funding—I have just given you an answer: the answer is no.

As I said, it is not going to be my role to reverse a decision a ministerial colleague has taken in terms of managing his or her departmental budget. In relation to the first aspects of the question on federal tenders, federal funding and those sort of issues, I will need to take advice from my ministerial colleague.

MENINGOCOCCAL B STRAIN VACCINATION

The Hon. E.S. BOURKE (14:29): My question is to the Minister for Health and Wellbeing. Has the minister received the report from the expert working group on funding the meningococcal B vaccine?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): Not as yet.

HOSPITAL SERVICES

The Hon. J.S.L. DAWKINS (14:29): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding hospital services.

Leave granted.

The Hon. J.S.L. DAWKINS: I have spoken in this council on many occasions about issues concerning families and children, including, of course, altruistic surrogacy. Will the minister update the council about the work of the Women's and Children's Hospital?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:30): Through you, Mr President, I thank the honourable member for his question and his ongoing interest in public health.

Yesterday marked the day in 1878 when the foundation stone was laid for Adelaide's first Children's Hospital, marking 140 years of caring for South Australian children. The services that the Women's and Children's Hospital offers to South Australians today stand on the shoulders of 14 decades of care. The need for the original Children's Hospital was highlighted in *The Register* of 6 December 1876, and it read:

> In 1875 the death rate in the City of Adelaide was more than 40 per cent greater than in the remainder of the colony…We cannot accept the verdict, 'Died by the visitation of God,' when the true cause is human neglect…That the causes of this excessive mortality are not far to seek any one will admit who has been familiar by experience with the vile stenches that pervade our streets, the utter want of drainage throughout the city, and the plague spots in the shape of foul slaughterhouses and ruinous overcrowded habitations, reeking with pestilence, which are found to be in Adelaide.

It was this strong public sentiment which led to the development of the hospital and, following the laying of the foundation stone, it opened to patients just a year later on 6 August 1879.

Although the Children's Hospital did not become the Women's and Children's Hospital until 1984, it has a proud history of engaging with women. The foundation committee consisted of eight women and one man. In 1893, the hospital employed South Australia's first female medical school graduate, Dr Laura Fowler.

The Queen Victoria Hospital, whose amalgamation with the Children's Hospital founded what we now know as the Women's and Children's Hospital, was not far behind the Children's Hospital. The Queen Victoria Hospital was opened on 24 May 1902, the day that would have been Queen Victoria's 103rd birthday. In 1975, the state's first neonatal intensive care unit was opened at the Queen Victoria Hospital and from its opening until its merger with the Children's Hospital nearly a quarter of a million South Australians began their lives at that hospital. Now, under the Marshall Liberal government, the Women's and Children's Hospital will get a new lease of life as we deliver on our commitment to relocate the Women's and Children's Hospital.

As promised in our 100-day plan, the Liberal government has established a high-level task force, chaired by former Women's and Children's Hospital chief executive, Mr Jim Birch. The task force will identify the capital cost of the project, the number of inpatient beds required and the statewide models of care required to support its day-to-day operations. The task force has already commenced work and I look forward to receiving their report later this year or early next year. There will be appropriate engagement with clinicians and the community as we move through this process.

During the first year of the hospital, there were, as I understand it, 168 patients. It is estimated that this year, the Women's and Children's Hospital will see 4,800 babies born, 46,000 children are estimated to present at the emergency department, 16,000 women will come to the Women's Assessment Service and 220,000 outpatients across the network will receive care.

I congratulate everyone who has contributed over the years to the work of the Women's and Children's Hospital and before it, to the Queen Victoria Hospital and the Children's Hospital. I thank the clinicians and medical staff, in the first place, and acknowledge the substantial support given by foundations associated with the hospital.

PUBLIC SECTOR

The Hon. J.A. DARLEY (14:34): I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, questions regarding the public sector.

Leave granted.

The Hon. J.A. DARLEY: The Department of the Premier and Cabinet Circular 43 states that the public sector agencies are required to provide a substantive response to correspondence within four weeks. This is on the condition that the correspondence has been addressed to a minister or agency senior executive and that it is reasonable to expect the information, a decision or a policy position from the government. However, this time frame does not apply if the correspondence is between government agencies. My questions to the Premier are:

1. Can the Premier advise if this policy applies to correspondence from members of parliament?

2. Why does this policy not apply for correspondence between government agencies?

3. What is the expected time frame that correspondence between government agencies should receive a response?

4. What is the policy time frame for responses to members of parliament?

The Hon. R.I. LUCAS (Treasurer) (14:35): I am happy to take the honourable member's question on notice and bring back an expeditious reply, in line with the new requirements in this chamber. I would make a brief comment, however. I think the honourable member does raise a very interesting question. One of the bodies of work which does not have as high a priority as, obviously, preparing the September budget but which we are having a look at is the considerable number of Treasurer's Instructions, DPC circulars, commissioner's determinations and premier's directions, and a variety of other directives which govern the operations of government departments and agencies.

Frankly, in my view it is ripe for some reform and some consolidation in terms of what should be good practice and good governance. The member has just referred to one particular aspect, and I make no comment about that. The point I make is that I think these determinations, decisions, circulars and instructions have grown like Topsy over many decades, and no-one at any stage has actually sat down and had a good hard look at them: which ones are still useful and appurtenant; which ones have outgrown their usefulness; which ones ought to be reformed, reviewed or updated; and which ones, frankly, might need to be discarded in the modern day environment.

That is a body of work I have commenced. I have advised my ministerial colleagues of the current arrangements that apply but that at some stage in the future I believe we should have a look at this process. We have started some work on the Treasurer's Instructions already, but in relation to the other areas they will be the subject of further discussion and review. I would invite the honourable member, who is an assiduous reader of some of these, and indeed any others, if they have views in relation to the usefulness or otherwise of some of the current determinations, decisions, circulars and instructions, I would be pleased to receive them.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. T.T. NGO (14:37): I seek leave to make a brief explanation before asking a question of the Assistant Minister to the Premier about the South Australian Multicultural and Ethnic Affairs Commission, or SAMEAC.

Leave granted.

The Hon. T.T. NGO: Recently, it has been reported in the media that the government has sent emails to board members of SAMEAC advising them that their terms would not be extended past 30 June 2018. My questions to the assistant minister to the Premier are:

1. How many of the 14 board members had been advised via email by the government that they had effectively been sacked as of 30 June this year?

2. What were the stated reasons behind these sackings?

The Hon. J.S. LEE (14:38): I didn't hear the second part of your question; can you just repeat the second part?

The Hon. T.T. NGO: The second part was just the reasons behind these sackings.

The Hon. J.S. LEE: I thank the honourable member for his question. The term of service for the SAMEAC board actually expires on 30 June, so it is not really a sacking by the government at all.

Members interjecting:

The Hon. J.S. LEE: Not a sacking, not a sacking. The term of service expires on 30 June. I recall that the member said there were 14 board members; there are actually essentially only 12 members, and their terms have expired on 30 June. It has not been renewed because, with the

new government coming into power and office, there are so many quality and high-calibre individuals within the multicultural sector the government would like to work with.

Members interjecting:

The Hon. J.S. LEE: The multicultural community does not consist of 12 individuals. The community consists of high-calibre community board members; members across the board who want to work with the new government. We must give them the opportunity, we must give everyone equal opportunity to be able to come on board to contribute to the South Australian multicultural community.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. T.T. NGO (14:40): Mr President, I have a supplementary. The emails that were sent out to the board that got the sacking, did they come from the Premier or from the department?

Members interjecting:

The PRESIDENT: Leader of the Opposition, I don't require your advice. Is there a formal point of order or not? I am going to allow the question because the answer was comprehensive and touched upon the reason the board members were vacated.

The Hon. J.S. LEE (14:40): The letter came from the Department of the Premier and Cabinet.

OVERSEAS TRADE OFFICES

The Hon. D.G.E. HOOD (14:40): My question is to the Minister for Trade, Tourism and Investment. Can the minister inform the council about how the Marshall Liberal government is delivering on its first 100 days commitment to commence the process of establishing South Australia's new network of trade offices?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:41): I thank the honourable member for his ongoing interest in growing our state's economy and establishing a network of overseas trade offices. The South Australian government, Mr President, as you know—and I am sure the members opposite are disappointed in it—is committed to creating jobs and boosting South Australia's international trade and supporting our exporters. Unlike the previous government who shut all but two of our overseas trade offices—they left one in Jinan and one in London—we are committed to creating a more extensive network of overseas trade offices for South Australia's exporters. We will open new offices in key commercial centres across the globe. Growing trade is vital to growing our economy and the new Liberal government has a positive outward-looking agenda to grow exports.

Mr President, as I am sure you will recall as part of our first 100-day plan, we made a lot of commitments to the people of South Australia. It was an ambitious list of projects but we make no apologies for that. Part of that plan was a commitment to commence the process to establish South Australian trade offices in Shanghai, Japan, Malaysia, Dubai and the United States. We are not opening all of these offices at once. A staged approach is being employed to establish the offices so that we can refine and sharpen how we service South Australia's export community.

The initial emphasis is on South Australia's largest two-way trading partner, China. Of course, as members would know, the Premier and I have both made one trip each overseas since the election and, in both cases it has been to China. I was fortunate enough to go to Quingdao, Jinan, Shandong and Shanghai, and the Premier went to Shanghai for some very important business meetings and also, of course, to support the football match between Port Power and the Gold Coast Suns.

We have already shown a very strong commitment to China and a very strong commitment to growing trade with our largest trading partner. I am pleased today to announce that yesterday the state government released an expression of interest on the internet across the business community in Shanghai to seek a regional director to lead the new South Australian office and to oversee activities across China. We have expressed interest to see who is in the market. It will be an experienced business development professional with extensive networks across the Chinese business and government community with strong representational skills, and an ability to promote the state at the highest levels will also be expected.

The recruitment process is being conducted in partnership with the Australian Chamber of Commerce in Shanghai which, at the moment, is being chaired by Craig Aldous, who headed up Elders Fine Foods for many years in China and now I think works for Treasury Wine Estates. He chairs the Australian Chamber of Commerce in Shanghai and they are very happy to help us try to recruit some expert people. We also have the support of the Australian Trade Commission. We hope to draw on all of their extensive network and the high-calibre people that they know to identify the very best person to represent South Australia.

We are very proud of our initiative in Shanghai. The new director will assist us in rapidly putting arrangements in place for our new office and it will be the start of a positive journey for South Australians seeking deeper and longer term engagement with China. I am pleased to say that we have well and truly begun establishing our overseas network of trade offices and I look forward to seeing them open the doors and begin to deliver for the businesses of South Australia.

OVERSEAS TRADE OFFICES

The Hon. K.J. MAHER (Leader of the Opposition) (14:44): Supplementary arising directly from the response: has the minister, or to the minister's knowledge anyone on behalf of the minister, held any discussions with potential candidates situated in country or from Australia to be placed in the office he referred to or any other of his trade offices?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:45): Not that I'm aware, no.

OVERSEAS TRADE OFFICES

The Hon. K.J. MAHER (Leader of the Opposition) (14:45): Supplementary arising from the answer: will the minister take that on notice and check whether anyone from the minister's office, or on behalf of the minister, has held such discussions, and will he guarantee that all of those placements will be based on a merit-based selection process?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:45): I will make inquiries, but, again, I don't believe anybody from the minister's office has had any discussions with anybody in relation to those positions. Certainly, we have gone out for an expression of interest. We want to see who is in the market in Shanghai. Of course, it will be a merit-based appointment.

OVERSEAS TRADE OFFICES

The Hon. I.K. HUNTER (14:45): Supplementary arising from the original answer: what additional funding has been provided to open these new trade offices, as promised during the election campaign? Or, if no additional funding has been provided, what current programs currently provided by the minister's agencies will cease in order to fund the opening of these new trade offices?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:46): The opening of the new trade offices, as the honourable member would be aware, was an election commitment and we are funding our election commitments as part of the 4 September budget. All the final details of the exact amount of funding that goes to this particular trade office, and all the others that we intend to open, will be revealed in the budget on 4 September.

ROYAL ADELAIDE HOSPITAL

The Hon. F. PANGALLO (14:46): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing about the new RAH.

Leave granted.

The Hon. F. PANGALLO: I note a media report today stating that:

> SA Health is sweating on a report from federal officials which will determine whether the $2.4 billion Royal Adelaide Hospital is accredited to operate—but they say even if accreditation is not given they will continue to run the hospital as normal.

Members will remember, it follows an inspection earlier this year in the lead-up to the state election in which the hospital failed in 24 areas, including seven core areas critical to safety, which in some cases was creating risks to patient safety. The hospital was given 90 days to fix the problems, which

I believe expired earlier this month. SA Health is now awaiting the results of a second inspection, due by the end of the month.

My question to the minister is: has SA Health or your office received any notification from federal officials on the second inspection? If so, what is contained in that notification letter, including whether the new RAH passed the test this time around? Regardless, as the full force of winter looms, does the minister continue to have concerns about the hospital's capacity to function after previously saying it may be unable to function if it does not receive accreditation?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:48): I thank the honourable member for his question. In terms of the accreditation, which as honourable members would know is issued under the National Safety and Quality Health Service standards and the National Standards for Mental Health Services and by the Australian Council on Healthcare Standards, senior clinical and executive staff developed an action plan to address the seven core actions that were not met in the earlier visit.

Accreditation surveyors again visited on 30 and 31 May 2018 to undertake a reassessment. My advice was that the verbal debrief after the assessors' inspection did not raise concerns in relation to reassessment, but we do respect the fact that the assessors need to go back and prepare their report and we await that report. As the honourable member said, the report is expected at the end of June 2018 and that is also my latest advice.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. I. PNEVMATIKOS (14:49): I seek leave to make a brief explanation before asking a question of the assistant minister to the Premier regarding the South Australian Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. I. PNEVMATIKOS: The primary function of the South Australian Multicultural and Ethnic Affairs Commission (SAMEAC) is to increase awareness and understanding of the ethnic diversity of the South Australian community and the implications of that diversity. It is concerning to read the report this week, during Refugee Week, that board members of SAMEAC have been notified by email that their terms won't be extended past their 30 June expiration.

My questions are: will the assistant minister to the Premier provide detail to this council as to what role she, as well as the Premier, played in the decision not to renew existing appointments? Further, will the assistant minister to the Premier advise if and when these vacant positions on the SAMEAC board will be filled and, if so, what criteria is being used in the recruitment process?

The Hon. J.S. LEE (14:50): I thank the honourable member for her question. It is a very important question. The legislation of SAMEAC was incorporated in 1980, and there has been no serious or significant review done since 1989. If you look at the legislation as well as the review period, we are looking at a 30 to 40-year period during which no significant review on SAMEAC has been done. The new government has come into power under Premier Steven Marshall—

The PRESIDENT: The member for Dunstan, Hon. Ms Lee.

The Hon. J.S. LEE: The member for Dunstan, in the other place. It is a great opportunity for us to really look at some of the new directions to create opportunities for our vibrant, multicultural community. I believe the opposition needs to get their facts right. The fact is that we have not sacked anybody on the board; their term will come to expire on 30 June.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S. LEE: Like I said earlier, in response to the other council member, there are so many capable individuals who want to make a contribution to serve the new government. True leaders of the community will serve the community regardless of whether they are on the board or not. Some of those members have made contributions as part of the board for periods of 15 years, 14 years, 10 years, 11 years, 8 years or 6 years. They have been on the SAMEAC board for a long time and we, the new government, thank them sincerely for their efforts and contributions to service.

We, the new government, together with Premier Steven Marshall, hosted an appreciation lunch yesterday to thank the outgoing SAMEAC members. My role in this is that I have consulted with the wider community, the multicultural community, and spoken to many community members who have come forward with recommendations. The new board members have actually been appointed and letters have been sent out. You will read about them in a statement very soon.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. I. PNEVMATIKOS (14:54): Supplementary arising from the original answer: as I asked previously—and I'm not talking about any sackings—what criteria has the government used in selecting the various members of the board that you indicate are being notified? Is it criteria based on functions that community organisations hold, or invitations that we might get to those functions?

The Hon. J.S. LEE (14:54): I wonder what criteria the former Labor government ever had when they appointed former minister Grace Portolesi onto the SAMEAC board. What criteria did they apply, I wonder?

The Hon. I.K. Hunter: Can't you answer the question?

The Hon. J.S. LEE: Our criteria is much more transparent. Our criteria is about consulting with stakeholders.

The Hon. I.K. Hunter: Where is it? Put it up on the website.

The Hon. J.S. LEE: Those criteria are a broad representation from the multicultural community.

Members interjecting:

The Hon. J.S. LEE: The criteria is not about making it up; we are not like you guys. Our criteria is about choosing the most outstanding, high calibre, quality community leaders to be on the board so they know that they can transfer their skills, knowledge and experience to serve the new government; that is the criteria.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. R.P. WORTLEY (14:55): Can the assistant minister advise us who the new board members are?

The Hon. J.S. LEE (14:56): You will read about it in a statement that will be made by the government. It will be a cross-representation. Those quality of people you will be endorsing when you see their names.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. K.J. MAHER (Leader of the Opposition) (14:56): Final supplementary relating to the original answer: the honourable member bemoaned that there has not been a review of the commission for the last 30 years. Can the honourable member outline the review this government is proposing to undertake, who will head the review and how much it will cost?

The Hon. J.S. LEE (14:56): The details of the review will be soon coming out and you will read about them.

The PRESIDENT: The Hon. Ms Lee, you have the next question.

DISABILITY INCLUSION

The Hon. J.S. LEE (14:57): Thank you, sir, for the call. My question is to the Minister for Human Services. Can the minister please advise the chamber the next steps in implementing the disability inclusion legislation?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:57): I thank the honourable member for her question and I thank all honourable members in this place and the other place for supporting this very important piece of legislation. The Disability Inclusion Bill was introduced on 9 May and was passed by both houses on 6 June, in advance of one of our election commitments to

introduce the bill and have it passed. It received assent on 14 June 2018, with the intention to bring it into operation on 1 July 2018, to commit its administration to myself as Minister for Human Services.

I am delighted that it was the first piece of legislation to pass this parliament, as such an important part of the inclusion and access agenda for people with disabilities. I acknowledge the work that was done by the previous government, in particular Ms Katrine Hildyard, who had it introduced into this place where it unfortunately was not able to be passed.

I also acknowledge the input of the Hon. Kelly Vincent and Dr David Caudrey as very important and influential people within the disability community. I was very pleased to see yourself, Mr President, on social media, looking resplendent on your passage to Government House to ensure that this important first bill passed by the new parliament received royal assent.

The Disability Inclusion Act 2018 contains a number of head powers to enable regulations to be drafted, and drafting instructions are currently being prepared to ensure that the disability access and inclusion plans are put in place by state authorities, including local councils. It is proposed that a targeted consultation of state authorities regarding the regulations will occur. The regulation drafting may take up to some six weeks to complete.

The act requires that there be a state disability inclusion plan that allows for guidelines to be published in relation to the preparation and contents of disability action and inclusion plans, which is in the early stages of development and will be completed following finalisation of regulations. Extensive statewide consultation will then occur with all interested parties, especially with people with disabilities and their families. Local councils will not be expected to produce their first disability action inclusion plans before the end of 2019.

A range of information is currently being developed to inform key stakeholders of the passage of the bill, now an act, and its purposes, which will include people with disability, government, councils and statutory authorities. Local government and state authorities that are required to produce disability action inclusion plans will be provided with support, guidelines and information. Updates will be made available through a newsletter from the Department of Human Services.

I look forward to everyone's participation in this very important process as we prepare the journey for the next stage for people with disabilities and their families to ensure that they have access to full citizenship in their lives in South Australia.

DISABILITY INCLUSION

The Hon. C.M. SCRIVEN (15:00): Supplementary: can the minister advise what she is doing in terms of advancing the cause of a disability advocate, which is something she said she supported in principle, although would not vote in favour of, during the discussions on the bill?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:00): I thank the honourable member for her supplementary. As I advised the house I think several times during the debate, this was originally a Labor commitment in the election campaign, which I was horrified to discover was not actually in the forward estimates, as was led to be believed from the reporting of this. I have been diligently working towards including it as a budget bid, and that will be revealed in the fullness of time on 4 September.

SUPPORTED ACCOMMODATION

The Hon. T.A. FRANKS (15:01): I seek leave to make a brief explanation before addressing a question to the Minister for Human Services on the topic of supported accommodation.

Leave granted.

The Hon. T.A. FRANKS: The public sector currently takes care of some of the most vulnerable people with disabilities who require significant support, often because no NGO can provide that adequate support because of the costs involved. In fact, I understand that currently there are some 500 residents and 1,400 staff involved in this. That is why the Weatherill government and former minister Katrine Hildyard announced in February last year that the state government supported community accommodations to become a commercial trading entity to be able to operate under the NDIS to give certainty through that public corporation that the residential supported

accommodation of these particular people would remain part of the state government's responsibilities and be part of the public sector system.

The then minister went on to appoint a board to produce regulations, and since that time these residents, their families and the staff have operated under the belief that that proposal for supported community accommodation would not be outsourced to the NGO sector. However, on 14 June, in a missive from the CE from the new state government, it is now the case that the plan has completely changed. Indeed, at this stage there is great uncertainty of this new policy position. There was a meeting of staff affected—some 1,400—last week on 14 June and a follow-up meeting today at noon at the Strathmont centre.

Questions remain as to how this new NGO accommodation plan will be rolled out, not just for those who are currently employed in the public sector but also for residents and their families. My questions are:

1. Can the minister confirm that this will affect 500 residents and 1,400 staff?

2. How have the residents been informed?

3. When will the staff know their futures?

4. In what way will this plan be rolled out?

5. In what time frames will it take effect?

6. What is the communications plan to ensure that people are given certainty into their futures?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:04): I thank the honourable member for her question. During the election campaign, the then Liberal opposition committed to establishing a timetable to transfer all state disability services to the non-government sector, including group homes. That was in our 100-day plan, so it was quite clear. Group homes are often also referred to as supported community accommodation.

The transfer of supported community accommodation to the non-government sector is in line with the approach that has been taken under the previous government for other disability services and, as the service was ultimately to transfer, as envisaged by the NDIS and the state and commonwealth approach to the NDIS, it was the intention that these services would ultimately transfer to the non-government sector.

It has been deemed by the current government that the public corporation was not required as part of this transition, so the board and the chief executive of the corporation have been informed of this decision and thanked for their outstanding strategic leadership and vision over the period in which they were engaged. I have also written to both the unions involved to inform them that there have been a range of meetings organised, as the honourable member referred to in her question.

It is intended that it be business as usual. It is the intention of this government to consult very widely, both with the people employed within group homes and with the people with disabilities and their families as well, and that will shape how this process goes forward. We are guided by several principles, and those include continuity of quality client services and retention of skilled and experienced employees in the disability sector. We are also mindful of the capacity of the local non-government sector.

Those will be the principles that will guide us at this stage. It is business as usual, and it is our intention to consult very closely with all the relevant stakeholders, including the union, as this process goes forward.

SUPPORTED ACCOMMODATION

The Hon. T.A. FRANKS (15:06): Supplementary: when were residents and their families informed of this decision?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:06): I will have to double-check those details for the honourable member and get back.

SUPPORTED ACCOMMODATION

The Hon. T.A. FRANKS (15:07): Supplementary: have residents and families been informed of this decision?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): I will need to double-check that. I don't want to mislead the honourable member either way, but I will double-check that for her and get a response for her.

SUPPORTED ACCOMMODATION

The Hon. T.A. FRANKS (15:07): Supplementary: have staff who are about to lose their jobs been informed that they must be the ones who inform residents and their families, and has that not happened to this date?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): I don't accept the premise of that question, because staff are not about to lose their jobs. This is going to be a respectful and careful process. We want to retain those skilled workers in the sector, and we will ensure that consultation is conducted in the most respectful manner forward.

It is not an easy process, given the number of people who are involved. It is unfortunate if people are made aware of things not through the proper process and in an alarmist manner, but I am quite confident that the department, as the employer of these employees and the one that has the responsibility for the care and wellbeing of the residents and their families, is conducting this with the utmost sensitivity.

SUPPORTED ACCOMMODATION

The Hon. R.P. WORTLEY (15:08): Supplementary question.

Members interjecting:

The PRESIDENT: Yes. The Hon. Mr Wortley, get on with it.

The Hon. R.P. WORTLEY: Can the minister guarantee this council that there will be no job losses as a result of the privatisation of the supported disability accommodation properties?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:08): Again, I don't accept the premise of that particular question, because there are a range of decisions that are yet to be made, so it is an ongoing process.

The Hon. K.J. Maher: So jobs are in danger is what you're saying?

The Hon. J.M.A. LENSINK: No, I am not saying that. I am not saying that at all.

Members interjecting:

The PRESIDENT: Minister.

The Hon. J.M.A. LENSINK: Mr President, it is quite clear that members opposite really don't have a grasp of the NDIS. The projections under the NDIS are that there is going to be a massive expansion of services in South Australia. We need skilled workers in this sector—they are highly valued. The projections for the people who are to enter NDIS at full scheme is something like 32,000—a doubling of the sector workforce in South Australia. There is a massive need for skilled workers under the NDIS. The negotiations are going to be respectful and consultative with all of the people who are involved in this process. We want to retain people in this sector.

The Hon. I.K. Hunter: So there's going to be job losses.

The Hon. R.P. Wortley: Job losses as well—guaranteed.

The Hon. J.M.A. LENSINK: No, I utterly reject the premise of what honourable members opposite are trying to portray. I do trust that they are not being part of some alarmist process.

Members interjecting:

The PRESIDENT: Order! Let the minister answer.

The Hon. J.M.A. LENSINK: Whether or not the process under the NDIS proceeded under the public corporation which was established by the previous government, it was always the intention that services would ultimately shift to the non-government sector. So the honourable members may wish to speak to the Hon. Katrine Hildyard about what her plans were under this process, or prior to that the Hon. Leesa Vlahos, or they may actually care to reflect on their own cabinet submission that they probably signed off on as the NDIS proceeded in South Australia, and work out what their ultimate plans were there.

I can continue to repeat that we intend consulting widely on this process as it goes forward. It is going to be a delicate process. We understand there are a lot of sensitivities for people, but the NDIS is here to stay in South Australia. So we must proceed on that basis and work things ultimately in consultation with people as best we can going forward.

SUPPORTED ACCOMMODATION

The Hon. R.P. WORTLEY (15:11): Supplementary: apart from the fact that there has been no consultation—

The PRESIDENT: Don't put words in the minister's mouth. Just ask the question.

The Hon. R.P. WORTLEY: It's part of my question—okay. Apart from the fact that you won't guarantee jobs—

Members interjecting:

The PRESIDENT: Order! I can't hear the Hon. Mr Wortley.

The Hon. R.P. WORTLEY: Can the minister guarantee this council that no client will be forced to relocate or, indeed, lose their accommodation place within the supported disability accommodation property that they currently occupy?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:12): Yes.

The Hon. R.P. Wortley: Well, why can't you guarantee their jobs?

The Hon. J.M.A. Lensink: It's up to them what they do.

MODBURY HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (15:12): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding hospitals.

Leave granted.

The Hon. K.J. MAHER: This week the minister tabled an answer to a question regarding the Modbury Hospital high dependency unit. The minister's answer is as follows:

> I can confirm I received advice from SA Health indicating in the absence of establishing a new intensive care unit at Modbury Hospital, appropriate levels of clinical safety may not be achieved with the establishment of a stand-alone high dependency unit.

Yet, in answer to a question asked of the minister in this place on 17 May this year about whether any safety concerns had been raised by officers within his department, the minister responded:

> I am not aware of any specific concerns being raised.

My questions to the minister are:

1. Will the minister now admit he has misled parliament?

2. Will the minister explain why he has answered the same question in two very different ways?

3. On what date was the minister advised of the specific concerns that appropriate levels of clinical safety may not be achieved with the establishment of a stand-alone high dependency unit at the Modbury Hospital?

4. If the minister received this in an incoming government briefing, what other advice has he received from his department that his plan may not be safe?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:13): My recollection of my answer on 17 May—I am taking the date from you, but I do remember mentioning the phrase 'specific concerns'—and my understanding of that question was 'specific concerns'; in other words, did I receive a list of specific clinical risks that might eventuate from the establishment of a HDU at the time the incoming brief was written. I am not aware of any list of specific clinical risks that were raised in my incoming brief.

Members interjecting:

The PRESIDENT: Leader of the Opposition, please do not give ongoing commentary. I would like to listen to the minister. Is the minister finished?

The Hon. S.G. WADE: Yes.

The Hon. K.J. Maher interjecting:

The PRESIDENT: I do not need your advice, Leader of the Opposition. The Hon. Mr Stephens, please let's have your question.

SHOP TRADING HOURS

The Hon. T.J. STEPHENS (15:14): My question is to the Treasurer regarding shop trading hours. How many requests has the Treasurer received from consumers in country towns, such as Whyalla, to take away their ability to shop during unrestricted trading hours and to revert to draconian regulated shopping hours that Adelaide consumers are lumbered with?

The Hon. R.I. LUCAS (Treasurer) (15:15): I think there's a simple answer to that: none, nil, nought, zero, zip, zilch, diddly squat, and there are probably a few others I could have slotted in there as well, but they are the only ones I could think of quickly. Certainly, those country consumers, and obviously the Hon. Mr Stephens knows Whyalla very well—I have spoken previously about an area I know very well, which is Mount Gambier—and the trading hours in Whyalla, Mount Gambier and Victor Harbor are 24 hours a day, seven days a week. They can—

The Hon. K.J. MAHER: Point of order: the honourable member asked a question and it has been well and truly answered in the first nine words.

The PRESIDENT: The minister is entitled to answer the question as he sees fit, but thank you for the point of order.

The Hon. R.I. LUCAS: I think the leader should take his medicine, Mr President. The good residents of Whyalla, whom the Hon. Mr Stephens knows well, and Mount Gambier, whom I know well, enjoy the absolute freedom to shop when traders decide they want to trade. So when traders want to trade and when shoppers want to shop in Whyalla, Mount Gambier and other places like that, they are able to do so.

There is, and the honourable member would know better than I, feedback from Whyalla, but certainly I can speak for Mount Gambier, that there is no complaint from workers and families down there about people being forced to work. In fact, there are people who are delighted to work in those particular retail outlets at the times that those traders decide to trade. The traders are quite happy to trade. In many cases they don't trade on Good Friday or Christmas Day, even though they are entitled to do so under the laws of the land as they stand at the moment.

In Whyalla, and the Hon. Mr Stephens would know better than I, I suspect there are Foodland and IGA stores—

The Hon. T.J. Stephens: That is correct.

The Hon. R.I. LUCAS: —actually Foodland and IGA stores trading successfully with Coles and Woolworths—in Whyalla. I know that is certainly the case in Mount Gambier and they haven't been sent to the wall. They have been trading quite successfully against Coles and Woolworths in those regional cities, and trading, obviously, quite successfully in those particular areas.

The traders are prepared to trade, the workers are prepared to work, the shoppers and the families are delighted to shop and the law allows them to do so in those particular areas. So no, I haven't been flooded with any, or a single one, complaint from the areas of Whyalla and Mount

Gambier in relation to problems or concerns about the unrestricted trading laws in those particular areas.

That will be the challenge for this chamber on 2 or 3 July, whenever it is—and I have already given notice today—when the shop trading hours legislation is introduced into this chamber. There will be an opportunity for members to be able to express their point of view and I think also respond to the questions that will be put to them in relation to why it is able to happen in places as far distant from CBD Adelaide as Mount Barker, where Foodland and co trade happily with Coles and Woolworths, and as far distant as Whyalla and Mount Gambier.

The world has not fallen in and there doesn't appear to have been the widespread concerns of businesses being wiped out. The Foodlands and IGAs of this world seem to be quite happily able to trade in those particular areas, even in a completely deregulated environment, bearing in mind that the government isn't going to completely deregulate in the metropolitan area because there will still be restrictions on Good Friday, there will still be restrictions on Christmas Day and there will still be restrictions on ANZAC Day morning in metropolitan Adelaide as a result of the possible passage of the legislation.

Personal Explanation

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. I. PNEVMATIKOS (15:20): I ask that the assistant minister to the Premier withdraw her erroneous comments and misrepresentation of my question to her on the SAMEAC board, as at no stage did I make reference to sackings.

The PRESIDENT: As a personal explanation, I will take that part of it and admit that part of it which related to that you did not make those comments. As for putting a question to the minister, that can be done at a time when there are questions without notice or on notice.

Matter of Privilege

LOCAL HEALTH NETWORKS

The Hon. K.J. MAHER (Leader of the Opposition) (15:20): On the basis that the opposition is satisfied that the minister has learnt his lesson not to take this chamber for granted and will probably find it much more difficult negotiating with the opposition or crossbench on legislation, I wish to inform the chamber that at this time the opposition will not be proceeding with this motion.

Bills

CONTROLLED SUBSTANCES (YOUTH TREATMENT ORDERS) AMENDMENT BILL

Introduction and First Reading

The PRESIDENT: Minister, you have the call.

The Hon. S.G. WADE: I feel inclined—

The PRESIDENT: No, no, we are on another matter now. We are on health to move, leave to introduce a bill. We have moved on.

The Hon. S.G. WADE: Now the gutless prick's backed away. What a gutless prick.

The PRESIDENT: Minister, I heard that. It is not appropriate. Withdraw that comment.

The Hon. K.J. MAHER: Mr President, point of order.

The Hon. S.G. WADE: I withdraw.

The PRESIDENT: The Leader of the Opposition needs protection.

Members interjecting:

The PRESIDENT: Opposition benches, do not provoke the minister.

The Hon. K.J. Maher: He's done wrong. He knows it.

The PRESIDENT: The Leader of the Opposition, please, I do not need commentary.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:22): Obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

Second Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:23): I move:

That this bill be now read a second time.

The Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 that I introduce into parliament today gives effect to the government's commitment to provide children and young people with drug dependency problems residency at a treatment facility for up to 12 months and to enable parents to legally force their children to attend drug treatment programs.

The bill amends the Controlled Substances Act 1984 to permit an application to be made to the Youth Court for a series of orders in relation to a child or young person under the age of 18 years with a drug dependency. The Youth Court is the jurisdiction in this state with specialist expertise in matters relating to persons under the age of 18 years.

Applicants may be family members or certain other interested persons. Applications will also be able to be made by a person prosecuting the respondent for an offence and by officers involved in youth corrections and child protection. This reflects the likelihood in some cases that a respondent may already be before the Youth Court in relation to an offence or child protection proceedings, or may be in detention in a youth training facility, at the time that an application for a youth treatment order is considered appropriate. Applications will also be able to be made by a medical practitioner providing treatment to the respondent in relation to their use of controlled drugs. The Youth Court itself may also make orders of its own motion if there are proceedings before the court involving the respondent.

The bill anticipates that the court would first make an assessment order requiring a respondent to attend at a nominated assessment service. To make an assessment, the court would need to be satisfied that there is a reasonable likelihood that the respondent is habitually using one or more controlled drugs and that the respondent may be a danger to himself or herself or to others and that the respondent is unlikely to voluntarily seek a relevant assessment. The assessment service will be required to report to the applicant and to the court following its assessment.

Following the making of an assessment order, the court may make a treatment order requiring the respondent to attend a nominated treatment service. For the court to make a treatment order the respondent must have been assessed, whether pursuant to an assessment order or otherwise, as being dependent on one or more controlled drugs, and the court must be satisfied that the respondent must be a danger to himself or herself or to others and that the respondent is unlikely to voluntarily seek relevant treatment. The treatment service will be required to report to the applicant and to the court following its treatment of the respondent.

To provide guidance to the court, assessment services and others involved in the implementation of these reforms, the bill provides that the question of dependency on controlled drugs is to be determined by reference to diagnostic criteria for a dependence syndrome published by the World Health Organization.

The chief executive of the Department for Child Protection, as the department administering the Children and Young People (Safety) Act 2017, must be given notice of proceedings relating to a respondent in his or her custody or under his or her guardianship and an opportunity to make submissions in the proceedings. A respondent may be assessed or given treatment, and reports provided, despite the absence or refusal of consent by the respondent.

If the respondent has failed to comply with an assessment or treatment order, the court may make a detention order authorising the detention of the respondent for the purpose of ensuring compliance with the relevant order. An order made by the court is not binding on the respondent unless it is served personally on him or her. The court will only be able to make an assessment, treatment or detention order in relation to a person under the age of 18 years. However, an order for assessment or treatment will continue to have effect after the respondent reaches the age of 18 years, subject to a contrary order by the court. An order made by the court can only operate for a maximum of 12 months.

Aside from the general regulation-making power in section 63 of the act, the bill inserts specific regulation-making powers for the purposes of youth treatment orders. Regulations will be able to be made to regulate any matter relating to assessments or treatment provided pursuant to an order to make provision in relation to the apprehension and detention of respondents subject to a detention order, and to provide for reporting by assessment services and treatment services to the minister or any other person.

Section 63 itself is amended to allow for the regulations to prescribe penalties that might include up to two years' imprisonment for breach of or noncompliance with any regulation. For example, regulations might be made prescribing standards for assessment and treatment services and impose significant penalties for serious misconduct by an assessment or treatment service.

The bill also makes other provisions of an administrative or consequential nature, including for the court proceeding in the absence of the respondent, for costs and for the variation or revocation of orders. To determine the impact and effectiveness of the new legislation on young people, their families and the health and justice systems, there will be a statutory review of the operation of the new legislation three years after its commencement.

The legislation will commence on a day to be fixed by proclamation but the usual two-year rule for commencement of legislation in section 7(5) of the Acts Interpretation Act 2015 will not apply and has been expressly excluded in this bill as this will allow time to identify the necessary facilities and programs. The effective implementation of this legislative reform will require close consultation with and collaboration between health, child protection and justice agencies in the private and public sector. I commend the bill to members and seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Controlled Substances Act 1984*

4—Amendment of section 4—Interpretation

This clause inserts a definition of *treatment service* for the purposes of new Part 7A and makes a consequential amendment.

5—Repeal of section 35

This clause deletes section 35 as a new provision on accreditation of drug assessment and treatment services is being inserted in Part 8.

6—Amendment of section 38—Undertakings

This clause is consequential to the new definition of treatment service.

7—Insertion of Part 7A

This clause inserts a new Part 7A as follows:

Part 7A—Youth treatment orders

54—Interpretation

This clause inserts definitions for proposed new Part 7A.

54A—Orders that may be made under this Part

This clause empowers the Youth Court of South Australia to make an order requiring a person under 18 years of age (the *respondent*) to attend a nominated assessment service (an *assessment order*) or treatment service (a *treatment order*). The Court may also make detention orders to ensure compliance with an assessment or treatment order. Such orders may not operate for longer than 12 months.

54B—Application for order

This clause allows the Court to make an order of its own motion or on application by a person of a listed class.

54C—Making of orders

This clause outlines the factors that the Court must be satisfied of before making an assessment or treatment order. This clause also provides that the Court may make a detention order if the respondent is non-compliant with an assessment or treatment order. This clause empowers the Court to request information from the Department and requires the Court, before making an order in relation to a respondent who is in the custody, or under the guardianship, of the Chief Executive of the administrative unit of the Public Service responsible for assisting a Minister in the administration of the *Children and Young People (Safety) Act 2017*, to ensure that Chief Executive has been given notice of the proceedings and has been given an opportunity to make submissions in the proceedings.

54D—Proceedings in the absence of respondent

This clause empowers the court to make an order under the Part in the absence of the respondent, irrespective of whether the respondent was summoned (but in the case of the respondent not being summoned, the Court must summon the respondent to appear to show cause why the order should not be confirmed). The date for the hearing to which the respondent is summoned must be within 7 days of the date of the order. Evidence may be given by affidavit, but the deponent must make themselves available to give oral evidence if the respondent so requires. The Court may adjourn the hearing, for a period of usually not longer than 7 days. Another judicial officer may constitute the Court at the adjourned hearing. At the hearing, the Court may confirm or amend the order.

54E—Variation or revocation of order

This clause empowers the Court to vary or revoke an order of its own motion or on application by the persons set out at clause 54B. An application may also be made by the respondent with the permission of the Court, which may only be granted in the event of a substantial change in circumstances. The Court must allow all parties to be heard.

54F—Service

This clause provides that an order must be personally served on the respondent, and is not binding until so served. The same holds true for any confirmation of an order in amended form or any variation of an order. An assessment or treatment order must be given to the assessment or treatment service nominated in the order.

54G—Effect of order

This clause provides that, in accordance with the Part, a respondent may, in the absence or refusal of their consent, be assessed or be given treatment, and reports may be provided. A respondent to whom a treatment order applies may be given treatment for dependency on controlled drugs, or any other condition or illness of a kind authorised by an examining medical practitioner. Subclause (3) provides that treatment under this clause is limited by the regulations.

54H—Treatment may continue after respondent's 18th birthday

This clause provides for the continuance of assessment or treatment after the respondent reaches 18 years of age, if the Court did not specify that an order was to expire on the respondent reaching 18 years of age.

54I—Costs of assessment or treatment

This clause gives the Court a discretion to make orders in relation to the costs of any assessment, treatment, or report. However the Court cannot make an order requiring payment of such costs by the respondent or an agency or instrumentality of the Crown. A person subject to an order for payment of costs may apply for variation or revocation of the order.

54J—Regulations

This clause provides that the regulations may regulate any matter relating to assessment, treatment, detention, and reporting. This clause does not derogate from the general regulation making power in section 63.

54K—Review of Part

This clause provides for a review and report to be completed after the third, but before the fourth, anniversary of the commencement of the clause. A copy of the report must be laid before both Houses of Parliament within 6 sitting days.

8—Insertion of section 56A

This clause inserts a section (as a replacement for the current section 35 which relates to simple possession offences) allowing for accreditation by the Minister of drug assessment services or drug treatment services.

9—Amendment of section 63—Regulations

This clause makes consequential changes to the regulation making power.

Schedule 1—Transitional provision

The Schedule preserves accreditations in force under section 35 of the *Controlled Substances Act 1984* immediately before the commencement of clause 8.

Debate adjourned on motion of Hon. I.K. Hunter.

EVIDENCE (JOURNALISTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 May 2018.)

The Hon. D.G.E. HOOD (15:30): I rise to speak in support of this bill which seeks to introduce provisions to protect journalists and their confidential sources and to ultimately foster a free press in South Australia. As I have mentioned previously in this place, I am proud to be part of the Marshall Liberal government, which is endeavouring to conduct its duties to the best of its ability with transparency and accountability.

The introduction of this bill constitutes just one aspect of an array of initiatives that this government has committed to at the last election to fulfil its mandate of governing openly with robust and informed public debate. It appreciates that one of the most fundamental means of ensuring that this can occur is through enabling journalists to provide information to the community when it is in the public's interest, without fear of punitive action for adhering to the principles and code of ethics by refusing to reveal confidential sources—something journalists hold dear, and I strongly believe for precisely the right reasons.

As you are aware, sir, the Liberal Party has a history of relentlessly attempting to introduce shield laws, as the provisions we are debating are commonly known as, throughout its time in opposition. Indeed, I note the provisions contained in this bill are essentially a reflection of similar bills that were previously introduced in 2013, 2014 and 2015, which had the same intent of affording journalists and their sources with necessary legal protections. I was strongly supportive of the proposed measures presented on all of these occasions when I was on the crossbench and I was disappointed that the previous government did not recognise the need to mitigate the threat to the free flow of information to the public that has been impeded by current legislative restraints.

The new Liberal government is, of course, pleased that the Labor opposition has reconsidered its position and adjusted it to enable the passage of this bill in the other place, particularly since almost every other jurisdiction in Australia has adopted some form of shield laws for journalists similar, or, in some cases, mirroring this particular legislation. The fact that these laws are already in place across most of the nation is indicative of popular opinion on this issue, both within the media industry and throughout the wider community. There is evidently a strong case for South Australia to implement changes at the earliest opportunity to meet these apparent and legitimate expectations. I strongly support the bill.

The bill before us, though, seeks to amend the Evidence Act to create a default rule preventing journalists from incurring civil or even criminal liability for failing to provide information in relation to the identity of one of their sources. This would however—and I think sensibly—be subject to a public interest test, where the court may order the disclosure of informants should it determine that the benefits of this information being made public outweighs any likely detriment to the source, or any other person, or to the value of maintaining a free press. This is rightly a decision for the courts and this bill makes it so.

I understand the Attorney-General expects that this ruling would be a very rare occurrence in practice, and I consider the proposed reforms to strike the right balance between maintaining a

free flow of information and providing the courts with the power, in very limited circumstances—and, as I said, expected to be very rare circumstances—to intervene where necessary.

It is important to note that these provisions were developed in consultation with the Independent Commissioner Against Corruption, the Ombudsman, the South Australian police force, the Criminal Intelligence Commission, the Chief Justice, the Director of Public Prosecutions, the Crown Solicitor and the Law Society, obviously as well as media stakeholders.

The term 'journalist' in this bill is carefully defined, and this is important as it has been a source of some consternation in previous attempts to alter the legislation. In this bill, it is carefully defined as:

> …a person engaged in the profession or occupation of journalism in connection with the publication of information in a news medium;

where 'news medium' is in turn defined as:

> …any medium for the dissemination to the public, or a section of the public, of news and observations on news;

Although this definition of the profession is flexible enough to adapt to the rapidly evolving channels of communication, unlike the commonwealth's definition, which refers to any person engaged and active in the publication of news, it does not encompass people such as bloggers, who are not recognised as legitimate journalists in many cases and may be less scrupulous, hence their exclusion from this legislation. Indeed, this is becoming increasingly important in an era where so-called fake news can be rife and accounts of events can easily be fabricated, citing undisclosed and therefore unverifiable sources. This happens all too often and often for sinister purposes.

It is certainly not the intent of these proposed shield laws to protect keyboard warriors with ill intent, but rather to enable respectable journalists to undertake their duty of reporting and disseminating important information to the public without breaking the trust of their anonymous sources. In fact, members of parliament—indeed, I am sure all honourable members of this place—would have an appreciation for the media at various levels and the pivotal role that journalists play with regard to our own profession and the dissemination of information from this place and in the broader community.

The importance of developing and maintaining trust with those we engage with throughout the media industry to achieve mutual objectives is, of course, vital. On a personal note, the journalists I have worked with over my more than 12 years in this place—and I have had the privilege of working with many of them over the years—I have found, really without exception, to be men and women who take their positions of influence very seriously. They all share an understanding that their reputations can make or break their success and indeed the success or harm of others.

In my experience, journalists share a common resolve to maintain credibility through conveying facts to the best of their knowledge and would like nothing more than to do so without fear or favour. No doubt, members in this and the other place with backgrounds in journalism, such as the Hon. Frank Pangallo, would appreciate that the threat of criminal sanctions would serve to be a gross impediment to achieving this when the protection of loyal, confidential sources is very important.

I will just add, on a personal note, that after some 12 years in this place, I have only been misquoted on one occasion, that I am aware of, by a particular individual. That journalist acknowledged that I had been misquoted and corrected it. The correction, of course, is sometimes not as useful as getting it right in the first place, but of the literally thousands of quotes I would have provided over the years, there is only one occasion on which I am aware of ever having been misquoted. To me, that is a very strong record of success on the part of the journalists that I have dealt with over that period of time.

The results that journalists can achieve on behalf of the most vulnerable in our community cannot be underestimated and should not be undervalued, in my view. Since my election, I have had countless constituents seek my help, sometimes in desperation and dire predicaments. After doing all I could as an individual member of parliament to advocate on their behalf to the relevant authorities, whether they be ministers in the previous government, departments or whatever, in the

absence of a satisfactory outcome the only remaining option is to raise the issue in the media, which I have done on multiple occasions.

More often that not when I have done so, no matter how distressed these constituents may be, they can choose to speak or not to speak. However, I have found that, when I brought these matters to the attention of the media, the outcome was often positive. In the rare cases in which some people choose not to engage with the media, it falls on the individual member of parliament to do what they can behind the scenes. There are also cases when individuals choose to engage with the media, confidentially or otherwise, and the desired results are usually positive.

If sources were afforded greater protection, I have every confidence we would have more South Australians willing to come forward with their grievances, which could potentially mitigate serious shortcomings within both the public and private sectors. We only need to consider the deplorable situations we have seen in recent years involving serious allegations of child abuse in our state system and maladministration in our aged-care facilities to acknowledge that the passage of this bill is warranted to prevent any potential atrocities from occurring or escalating in the future.

This government is not afraid of scrutiny; in fact, it is determined to use its own power to instigate changes where necessary to ensure it is kept to account to advance effective leadership and governance in our state. Shield laws are vital to this process, and I trust all honourable members will see value in supporting the proposed measures before us in the best interests of South Australia. This is good law; I supported it when I was on the crossbench and I support it now.

Debate adjourned on motion of Hon. I.K. Hunter.

CRIMINAL LAW CONSOLIDATION (DISHONEST COMMUNICATION WITH CHILDREN) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 5 June 2018.)

The Hon. J.A. DARLEY (15:39): I rise in support of this bill. The bill is very simple, in that it creates an offence to lie about your age when communicating with a child online. There is also a secondary greater offence to lie about your age with the intention to commit an offence against the child. The bill is as a result of the tragic death of Carly Ryan in 2007. Carly was 15 when a 50-year-old man pretended to be a 20-year-old American called Brandon. Brandon did not exist and the man, Garry Francis Newman, became enraged when Carly refused his sexual advances and murdered her.

Carly's story has been well documented, so I have not gone into the particulars here. Since her death, Carly's mother, Sonya, has worked tirelessly to promote online safety and for this law, Carly's law, to pass through parliament. I thank Ms Ryan for her efforts and can only hope that the work we do will honour the memory of her daughter. Increasingly, children are getting online from a younger and younger age. I have witnessed two year olds being very proficient in unlocking and navigating iPads in order to bring up *Peppa Pig* videos.

Children often think they know best, are bulletproof and do not need protection. At the same time, there seems to be a growing cohort of perverts who are using the internet to facilitate their sick sexual desires. Children are often innocent and naive to the lies that these predators tell them. It is not the fault of the children as they have not yet been exposed to such matters. The fault lies entirely and squarely with those who deliberately deceive them for their own personal gain. This bill will make it easier to prosecute those with nefarious intentions.

As members may be aware, I introduced a very similar bill in 2013, which had general support from both Labor and Liberal; however, the bill lapsed due to prorogation. It is a pity it has taken so long for this parliament to see another version of this bill. However, given that the federal government passed similar laws last year, I commend the government for introducing them into this parliament. It is better late than never.

The Hon. F. PANGALLO (15:42): I rise to proudly speak in support of the Criminal Law Consolidation (Dishonest Communication with Children) Amendment Bill 2018, which amends the Criminal Law Consolidation Act 1935. Specifically, the amendments seek to include two new offences where an adult communicates with a child and lies about their age or identity, seeking to meet with the child or with the intent to commit an offence against the child. These two new offences will carry maximum penalties of five years and 10 years respectively.

Of course, the bill is prompted by the tragic death of 15-year-old Carly Ryan in 2007. In her mother's own words, Carly was a beautiful, sensitive, loving and amazing young girl with a world of possibilities before her. Cruelly, Carly's promising future was taken away by a selfish, pathetic, deviant paedophile. When Carly was 14, she started chatting online to someone in Victoria she was made to believe was a 20-year-old man by the name of Brandon Kane.

Carly thought Brandon, who portrayed himself as a young guitarist, was her ideal boyfriend. Carly was young and impressionable and developed strong feelings for Brandon as their online relationship grew. But what Carly did not know was that Brandon never existed. Brandon was a fake persona constructed to dupe her by the evil predator who murdered her. In truth, Brandon was actually 47-year-old paedophile predator Garry Francis Newman. Newman masqueraded as Brandon in a perverted plan to secure her and her mother's trust, both of whom were completely unaware of his sinister motivations and intent.

This cyberspace alter ego was cunningly used by Newman to create and maintain a connection with Carly. The fictitious Brandon was one of up to 200 fake online identities Newman created in a bid to communicate and have sex with young girls. That should send chills down the spine of all normal decent-minded human beings.

The deception of Carly continued, with Newman showing up at Carly's 15th birthday under the guise of another fake identity, that of Brandon's adoptive father, in place of the fake Brandon, who was conveniently overseas. Carly's mum, Sonya, warned Newman to stay away from her daughter, but he continued to relentlessly pursue her with the fake Brandon persona. Carly's deception at Newman's hands extended to her friends, with one of her friends, Katie West, recently speaking for the first time about Newman isolating Carly from her friends while making up rumours about her online and attributing these to her friends.

Newman eventually lured Carly to a supposed meeting with Brandon on 19 February 2007 at Horseshoe Bay near Victor Harbor. There, Carly was viciously assaulted and left to die. It took police 11 days to locate Newman. On the day of his arrest, he was logged onto his computer as Brandon, manipulating another 14-year-old girl located in Western Australia. Police also found a stash of child abuse material on his computer and evidence of his pursuit of young girls here and overseas. Newman was found guilty of murdering Carly and is now serving a sentence with a 29-year non-parole period.

It is astonishing that, up to his fateful meeting with Carly at Horseshoe Bay, none of Newman's activity was illegal. Newman was able to manipulate, lie and deceive Carly online, and there was nothing the law could do to protect Carly or give the police, had they known, the ability to intervene. This issue was taken up federally by Nick Xenophon, who fought for years to have Carly's law introduced by amending the commonwealth criminal code to make such conduct a crime.

My upper house colleague, the Hon. John Darley, also worked tirelessly for years to introduce Carly's law in previous state parliaments, to no avail. Nick, along with former senator Skye Kakoschke-Moore, worked with the federal government to finally see the passage of the federal version of Carly's law in June 2017. The federal law introduced by the Turnbull government makes it a crime to plan to harm a child under 16, and in particular targets predators who misrepresent their age. It has already been used by law enforcement as a valuable tool in their arsenal to keep scum like Newman away from children.

The bill before us today mirrors the law as it was originally drafted to make it an offence for a person over 18 to intentionally misrepresent their age in online communications with minors for the purposes of encouraging a physical meeting with the intention of committing another offence. This bill formed part of SA-Best's policy on cyber safety during the 2018 state election. I thank the government for introducing the bill with such speed following the election. This bill should have been

made law years ago and finally closes an important loophole in the law. There is no reason for an adult to knowingly misrepresent their age to someone they believe is under 17, particularly if they believe doing so will make it easier to meet or to commit another offence.

Carly's dedicated mother, Sonya, has campaigned tirelessly since the murder of her daughter for stronger laws to protect young people online. It is to her that we owe the most gratitude for never giving up. This bill is a testament to her courage and tenacity to want to protect children. Sonya has displayed extraordinary strength and dedication to ensure the safety of our children in the online space. Predators will go to extreme lengths to manipulate children during the grooming process. What happened to Carly can happen to any child. We must forever be vigilant regarding the safety of our children.

The internet is constantly evolving and changing. The pace of technological growth means that children are now almost always more comfortable in their online communication than their parents are. What we adults still see as new and different is almost as essential to them as breathing. We know there is an ever increasing online presence of Australian children and an associated increased threat from online predators.

The education session Sonya provides through the Carly Ryan Foundation is compelling and is a must for all children and parents to stay ahead of the risks and stay safe online. New forms of communications mean that we need laws that keep up with those changes to protect our children. As politicians we cannot stand idly by while our criminal law lags behind technological advances. We need to be at the forefront of these changes.

This bill provides an additional and crucial line of defence in combating online predatory behaviour. It should not have taken the state election for Carly's Law to finally become a reality in South Australia. That said, we now look to the other states to follow our lead. Thank you, Mr President.

Debate adjourned on motion of Hon. C.M. Scriven.

CRIMINAL LAW CONSOLIDATION (CHILDREN AND VULNERABLE ADULTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 7 June 2018.)

The Hon. J.A. DARLEY (15:51): This bill amends the Criminal Law Consolidation Act to better assist prosecutors to establish criminal neglect. Definitions will change to better define cognitive impairment and vulnerable adults, as well as outlining that criminal neglect can occur if there is an omission of an action, such as failing to provide food, clothing and accommodation.

The bill makes amendments to stipulate that criminal neglect can occur if harm is caused to children or vulnerable adults, rather than serious harm. I understand that this is to reflect the fact that there are cases where harm is inflicted on children which would be considered serious harm to an adult. However, because children have a greater capacity to heal it is often not considered to be serious harm, notwithstanding the same action was inflicted.

There are also changes to remove the requirement that criminal neglect can only be as a result of unlawful actions. The bill will outline that criminal neglect can occur as a result of actions, whether they are lawful or not. I am supportive of this bill and believe it is important for the parliament to make changes to the law where it becomes clear that there are deficiencies.

It is important that we protect those in our community who cannot protect themselves. If there are individuals who are neglectful of children or vulnerable adults, it is important that the law is there to support prosecutions to send a message that we as a community do not support those actions and there should be punishment for this sort of behaviour. With that, I support the bill.

The Hon. F. PANGALLO (15:52): I rise to speak in support of the Criminal Law Consolidation (Children and Vulnerable Adults) Amendment Bill 2018. The bill, of course, has been

introduced into this parliament because the same bill lapsed in the Legislative Council upon the dissolution of the former parliament.

This is a vital piece of legislation as it addresses crucial gaps in the law to ensure that people who inflict serious injuries on children or vulnerable adults will not escape punishment. The bill amends the offence of criminal neglect in section 14 of the Criminal Law Consolidation Act 1935 to address difficulties experienced in the prosecution of offenders for that offence. It also creates a general offence of child neglect.

Currently, section 14 attributes criminal liability to carers of children under 16 and vulnerable adults where the child or adult dies or is seriously harmed as a result of an unlawful act. The offence occurs where the accused had a duty of care to the victim but failed to protect that person from harm that the accused should have foreseen.

This bill addresses the deficiencies experienced in practice by law enforcement officers and the DPP arising from the meaning of 'serious harm' as it applies to children who are the victims of the offending. The issues with the current legislation as it stands have made it difficult to establish the elements of the offence, particularly that the child has suffered serious harm as defined.

In reality, this has meant that, where a victim has suffered harm, for example, multiple broken bones, and healed quickly, as often occurs with children, it has been nearly impossible to establish that the victim had suffered serious harm. This has meant in practice that offenders have not been able to be prosecuted in a way that reflects the harm caused to children in particular.

The issues with serious harm have also highlighted that the current law operates in such a way that an abusive parent or carer can only be prosecuted if there is either criminal neglect leading to death or serious harm, or there is clear proof of an actual assault or a definitive act giving rise to a real risk of harm or serious harm. There is no general offence of child abuse, cruelty or neglect as there is in some other jurisdictions.

The only relevant local offences are the offences in section 14 and the limited and rarely used minor indictable offence under section 30 of the Criminal Law Consolidation Act 1935, which this bill renumbers as section 14A of 'failing to provide a child or other vulnerable person with necessary food, clothing or shelter'.

This means that currently in South Australia the situation must reach the point where there is clear proof of some specific offence, rather than proof of cruelty or a sustained course of abuse or neglect before an abusive or neglectful parent or carer can be prosecuted. This undermines the protection that the criminal law should extend to children and other vulnerable persons and the ability to punish abusive parents and carers.

The bill amends section 14 of the Criminal Law Consolidation Act 1935 so that it applies to any act, whether lawful or unlawful, and where the relevant acts, omissions or course of conduct have caused either death or harm to a vulnerable child or adult. The threshold is now much lower by removing references to unlawful acts and substituting 'serious harm' with 'harm'.

These changes, along with associated penalties for the expanded section 14 being significantly increased, should result in more prosecutions and subsequent convictions. A person convicted of neglect causing death to a child or vulnerable adult now faces a maximum sentence of life imprisonment. I echo the words of Dr Jeremy Sammut that:

> …childhood is fleeting. This time of life must be optimised for children's sake, and for society's good, because bad early experiences have deleterious, life-long consequences. Because today's child is tomorrow's citizen, modern nations place a premium on the care, education and socialisation of children. That adults have a duty to nurture and not damage, disturb or distress is a universal aspiration shared by all civilised peoples.

We must do better as individuals and as a society to nurture and care for our most vulnerable, from the young to the elderly.

Sadly, we all remember too clearly the sickening death of Chloe Valentine at the hands of her mother and her mother's partner and the subsequent coronial inquest into her death. Chloe's mother—and I use that term loosely—Ashlee Polkinghorne, and her low-life, scumbag partner, received just four years non-parole for manslaughter caused by criminal negligence for Chloe's death. They are due out of prison this year.

That innocent little four-year-old girl died from injuries caused by repeatedly being forced to ride a motorbike over several days. The disgusting pair even filmed Chloe's terror as she was repeatedly put on a 50-kilogram motorbike in the backyard of the family home at Ingle Farm in January 2012, and filmed crashing into objects. Chloe suffered severe injuries and was so swollen and bruised when taken to hospital that some other family members could not even recognise her.

The pair failed to call an ambulance when this defenceless little girl fell unconscious, and only sought medical help hours later when she had stopped breathing. They could not even be bothered to be at the hospital when Chloe died from her horrific injuries. What that little girl was forced to endure in her final hours in this world defies human decency.

During the inquest into Chloe's death, Coroner Mark Johns said that Polkinghorne had a selfish lifestyle that prioritised her own interests above Chloe's and had the child been removed from Polkinghorne's care she would probably be alive today. Before her tragic and unnecessary death, more than 20 notifications were made to Families SA from family and friends who were concerned for the girl's welfare. Many of those concerns were largely ignored by the agency.

Every child in South Australia, no matter what their family background, deserves the best start in life and a loving and nurturing home to grow up in. We should always be aiming for the best level of care for our children and not what is merely adequate. At the other end of the age ledger and the need to address crucial gaps in the law to ensure that people who inflict serious injuries on children or vulnerable adults face the full wrath of the law, the Oakden scandal is another example of a permanent stain on our community and how we care for the older members of our community.

Protecting children and vulnerable adults is a priority for all of us. The changes in the law with this bill should be a salient reminder that it will now be easier to prosecute and convict deadbeat parents and carers.

Debate adjourned on motion of Hon. E.S. Bourke.

CRIMINAL PROCEDURE (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (16:01): I move:

That this bill be now read a second time.

This bill seeks to remedy a number of unintended consequences of major indictable reforms introduced by the former government in the Summary Procedure (Indictable Offences) Amendment Act 2017.The act became operative on 5 March 2018. Some issues have been highlighted by the judiciary, parliamentary counsel and Director of Public Prosecutions, who have raised concerns with some aspects of the act and its ability to achieve its stated objectives. The government has listened to the concerns and the introduction of the bill is the government's response to them. The changes in the bill will:

- reinstate the unintended repeal of a provision relating to the procedure for pleading guilty in writing introduced by the Summary Procedure (Service) Amendment Act 2017;
- rectify the unintentional exposure parties have been facing to costs orders in an historically 'no-costs' jurisdiction; and
- remove the unintentional reinstatement of the effect of repealed provisions relating to the 'discreditable conduct notices' via the new 'case statement' provisions.

A further amendment addresses a practical difficulty with the requirement to have a defendant sign a case statement in the presence of their legal representative. This is a practical measure and has been supported by the profession. The bill addresses and remedies each of the above issues.

I now turn to detail the aspects of the bill and their origins. The Service Amendment Act commenced on 4 March 2018. It included an amendment that repeals and substitutes a new section 62B dealing with the powers of magistrates to take certain action on a written plea of guilty. The Indictable Offences Amendment Act commenced the following day. It included amendments that were intended to section 62B(5) that pre-dated the introduction of the Service Amendment Act.

The provisions appeared in both acts due to there being two separate bills purporting to amend the Summary Procedure Act 1921 progressing through the parliament at the same time, with uncertainty as to commencement dates of each. As the Indictable Offences Amendment Act commenced after the Service Amendment Act, the correct section 62B(5) contained in the Service Amendment Act was inadvertently further amended the day after it commenced by the commencement of the Indictable Offences Amendment Act.

The bill reinstates the version of section 62B(5) that was intended to be the final version as provided for in the Service Amendment Act. It reinserts a provision clarifying that a defendant who has elected to enter a written guilty plea can withdraw that plea at any time prior to the hearing and the Magistrates Court may permit a withdrawal of the plea on such terms as may be just. At the moment, there is no provision allowing for this. This is a minor clause, which rectifies an issue that arose from the timing of passage of two related bills.

The next aspect of the bill addresses the issue of costs and those who are exposed to costs. Another unintended consequence introduced by the Indictable Offences Amendment Act has resulted in exposing parties to costs orders in what has historically been a no-costs jurisdiction. Prior to the amendments, parties were not entitled to costs in relation to the prosecution of major indictable matters, except in very limited circumstances. In the lower court, this was made clear by application of section 189B of the Summary Procedure Act, which provided:

> Despite any other provision of this Part, costs will not be awarded against a party to a preliminary examination of an indictable offence unless the Court is satisfied that the party has unreasonably obstructed the proceedings.

The provision was amended to remove the reference to 'preliminary examination' and replace it with the updated terminology of 'committal proceedings'. The amendment overlooked the new 'pre-committal' phase, which has now been included in the Criminal Procedure Act. There was no intention to change the scope of operation of section 189B of the Summary Procedure Act; rather, it was amended purely to update terminology.

By amending the current reference to 'committal proceedings' to 'proceedings for an indictable offence', the bill reinstates the long-held position that major indictable matters are not subject to costs. The transitional provision ensures this is the case for all matters that may have been impacted by the unintended change since commencement of the Indictable Offences Amendment Act on 5 March 2018.

I will now move to parts of the bill dealing with discreditable conduct provisions in case statements. The Indictable Offences Amendment Act introduced case statements into the Criminal Procedure Act. Section 123(2)(f) of the Criminal Procedure Act requires the prosecution case statement to set out:

> whether the prosecution intends to lead discreditable conduct evidence (within the meaning of section 34P of the Evidence Act 1929) and, if so, details of that evidence;

Prior to the commencement of the Criminal Procedure Act, section 34P of the Evidence Act 1929 governed the requirement to give notice when discreditable conduct evidence was proposed to be led. The Evidence Act was specifically amended in 2013 to ensure that the notice is only required to be given when the discreditable conduct was being sought to be led for a propensity/similar fact purpose.

The original requirement to give notice without reference to purpose had imposed an impractical burden on the Office of the Director of Public Prosecutions, because the concept of discreditable conduct captures a vast amount of evidence commonly used in court for purposes other than for a propensity/similar fact purpose. The 2013 amendment also brought the notice requirement into line with a similar requirement in Uniform Evidence Act states.

It is arguable that the way that section 123(2)(f) has been phrased has the effect of unintentionally reinstating the requirements contained in section 34P that existed prior to the 2013 amendments. This would recreate an onerous and impractical burden on the Office of the DPP which was not intended. The bill remedies this.

Finally, the bill deals with the practical aspects of signing defence case statements. Section 123(5) of the Criminal Procedure Act requires the defence case statement to be signed either by the

defendant personally or by a legal representative representing them in the presence of the defendant. Representatives of the defence profession have raised concerns about the practicality of complying with this requirement.

There are concerns that this will often not be possible, particularly where defendants are remanded in custody in a regional prison. This may impact on the ability of some defendants and legal practitioners to comply with the required time frames for filing a defence case statement on time. The bill removes the requirement that the case statement must be signed in the presence of the defendant in situations where the legal practitioner is signing on their behalf. It will remain incumbent on defence practitioners to ensure they have appropriate instructions before filing a case statement.

For the most part, this bill seeks to remedy unintended impacts arising out of the Indictable Offences Amendment Act. The amendment to better facilitate defence case statements will assist defendants to comply with their case statement obligations, which in turn will positively impact on the efficiency of the progress of the matter.

This, in turn, may positively impact on victims of crime by removing a possible contributor to delays. South Australians deserve an effective and timely justice system, which is a priority for this government. I commend the bill to members. I now seek leave to table a detailed explanation of the clauses without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Procedure Act 1921*

3—Amendment of section 62B—Powers of Magistrates Court on written plea of guilty

This clause re-enacts section 62B(5) as it was enacted by section 10 of the *Summary Procedure (Service) Amendment Act 2017*. Section 62B(5) provides that a written plea of guilty may be withdrawn on certain terms as may be just, and that an application for withdrawal is not otherwise prejudiced by the operation of section 62B.

4—Amendment of section 123—Case statements

This clause amends section 123 to specify the type of discreditable conduct evidence that must be included in a prosecution case statement. This clause also amends section 123 to provide that a defence case statement, if signed by a legal practitioner representing the defendant, need not be signed in the presence of the defendant.

5—Amendment of section 189B—Costs in pre-committal and committal proceedings

This clause amends section 189B to explicitly provide that the section applies to pre-committal and committal proceedings for an indictable offence.

Schedule 1—Transitional provision

1—Application of amendment

This clause provides for the application of the amendment to section 189B.

Debate adjourned on motion of Hon. E.S. Bourke.

FAIR TRADING (TICKET SCALPING) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (16:10): I move:

That this bill be now read a second time.

The Fair Trading (Ticket Scalping) Amendment Bill 2018 repeals section 9 of the Major Events Act 2013 and makes amendments to the Fair Trading Act 1987 to increase consumer protection in relation to ticket scalping in South Australia.

The government has committed to taking a number of strong measures to increase consumer protections in relation to ticket scalping. The Fair Trading Act 1987 is administered by Consumer and Business Services and is the appropriate legislation to amend to address the current limitations associated with existing ticket scalping provisions. Ticket scalping is the term given to the unauthorised reselling of tickets to an event at a price higher than the ticket's original face value, sold with the intention of making a profit. In addition to ticket scalping activities that take place at the location and on the day of an event, ticket scalping also occurs via a number of websites, such as eBay, Gumtree and Trading Post.

It is acknowledged that there is a need for a secondary market to allow the legitimate resale of tickets to events, for example, in circumstances where someone may no longer be able to attend an event. However, the existence of a secondary market has both a positive and negative impact for consumers. While it provides consumers with access to tickets, it also exposes them to the risks associated with the unauthorised resale of tickets, including ticket scalping.

Currently, the Major Events Act 2013 requires the government to declare major events in order for the existing ticket scalping provisions to apply. Section 9 of the Major Events Act prohibits the sale or offering for sale of tickets in a controlled area for a major event and in any other case prohibits the sale or offering for sale of tickets to a major event at a price that exceeds the original price by more than 10 per cent.

There are, however, clear limitations with respect to existing ticket scalping provisions, including an inability for the current provisions to be effectively enforced. Further, existing provisions under the Major Events Act do not address technological advances that enable the use of ticket bots—software applications that can perform simple actions such as purchasing a ticket at fractions of the time frame possible by an actual person. Such bots are used to purchase large amounts of tickets in a short period of time, which are later resold at a much higher price for profit. As a result, the availability of tickets to members of the general public at the original face value is significantly reduced and, in order to attend popular events, people are often forced to purchase tickets at a significantly higher amount via the secondary market.

Legislative amendments are therefore required to address these risks and limitations and to increase overall consumer protection with respect to ticket scalping in South Australia. The bill repeals section 9 of the Major Events Act and amends the Fair Trading Act to:

- broaden the scope of the legislation so that ticket scalping provisions apply to any sporting or entertainment event in South Australia that is subject to a resale restriction, removing the requirement to declare a major event;
- prohibit the advertising or hosting of an advertisement for the resale of tickets to an event in South Australia to which the provisions apply for an amount that exceeds 110 per cent of the original supply cost of the ticket;
- require that any resale advertisement must include certain information, including the original supply cost of the ticket and details of the location from which the ticket holder is authorised to view the event, including, for example, any bay number, row number or seat number for the ticket;
- restrict a person from selling tickets to an event in South Australia to which the provisions apply for an amount that exceeds 110 per cent of the original supply cost of the ticket;
- prohibit the use of software that enables or assists a person to circumvent the security measures of a website in order to purchase tickets for an event in contravention of the terms and conditions; and
- enable the minister to require an event organiser to publicly disclose certain information about a particular event, including the total number of tickets available for sale to the general public.

This bill is modelled on similar reforms that commenced in New South Wales on 31 March 2018. These reforms not only increase transparency within the primary market but also enhance consumer protections with respect to the resale of tickets via the secondary market. Consumers will be better

able to assess the availability of tickets and will have greater information available to them to make an informed decision when purchasing tickets.

Consumer and Business Services administers the Fair Trading Act and has the necessary systems, processes and structure to carry out a compliance and enforcement function in relation to ticket scalping. Authorised officers are already defined under the Fair Trading Act and subject to the passing of the bill through parliament. Consumer and Business Services authorised officers will monitor compliance with the new provisions and undertake appropriate enforcement activities.

Consumer and Business Services will also provide advice to consumers who have questions or complaints in relation to ticket scalping. Expiable offences have also been introduced to enable quick and effective enforcement in appropriate cases. This will also act as an effective deterrent for others. I commend this bill to members. I seek leave to have the detailed explanation of the clauses inserted into *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Fair Trading Act 1987*

4—Insertion of Part 4A

This clause inserts new Part 4A into the principal Act, dealing with ticket scalping:

Part 4A—Regulation of event ticket transactions

Division 1—Preliminary

37A—Interpretation

This section inserts definitions of key terms used for the purposes of new Part 4A.

37B—Tickets to which Part applies

This section specifies tickets to which new Part 4A applies, namely tickets to sporting or entertainment events in South Australia that are subject to a resale restriction. A *resale restriction* is a term or condition of a ticket that limits the circumstances in which the ticket may be resold or prohibits the resale of the ticket.

37C—Meaning of event organiser

This section defines an *event organiser*, being the person who authorises the first supply of tickets. It should be noted that an event organiser could be a performer, promoter or operator of an event venue, or a person declared by the regulations.

Division 2—Resale of tickets

37D—Interpretation

This section inserts key definitions for the purposes of the Division. A *first purchaser*, in relation to a ticket, is defined as the person to whom the ticket is first supplied by an authorised seller. It should be noted that to *sell* includes to offer or advertise to sell and to *supply* includes to offer to supply or advertise for supply. It should also be noted that a *ticket resale advertisement* is defined as an advertisement for the sale of a ticket by any person other than the authorised seller, which is pertinent to the meaning of a *prohibited advertisement* in proposed section 37F.

37E—Meaning of original supply cost

This section defines the *original supply cost* of a ticket to be the amount for which the ticket was sold to the first purchaser by an authorised seller. The original supply cost excludes any transaction costs. This definition is relevant to the offences in the measure.

37F—Meaning of prohibited advertisement

This section defines a *prohibited advertisement* to be a ticket resale advertisement (as defined in proposed section 37D) which specifies an amount for sale of a ticket that exceeds 110% of the original supply cost of the ticket or that fails to specify the original supply cost or details of the location from which the ticket holder is authorised to view the event. This definition is important for the purpose of the offence in proposed section 37I.

37G—Restriction on ticket resale profit

This section makes it an offence for a person to sell a ticket (or offer or advertise to sell a ticket) for more than 110% of the original supply cost.

37H—Supply of tickets not to be made contingent on other purchases

This section makes it an offence to supply a ticket to a person under an agreement which makes the liability of the supplier to supply the recipient with the ticket contingent upon the recipient providing the supplier with consideration for any other goods or services provided by the supplier to the recipient. An offence will not have been committed where such an agreement was authorised by an event organiser, or is an agreement prescribed by the regulations.

37I—Ticket resale advertising

This section makes it an offence for the owner of an advertising publication to publish a prohibited advertisement. A prohibited advertisement is defined in proposed section 37F.

This section defines key terms in relation to the offence, including *advertisement*, *advertising publication* and *owner*. It should be noted that for the purposes of the offence the advertisement need not be a paid advertisement to fall within the ambit of the offence.

A defence is available under subsection (2) should the offence be prosecuted; namely if the defendant establishes that certain steps were taken, including making the placement of ticket resale advertisements subject to terms or conditions prohibiting the publication of such advertisements and taking reasonable steps to remove any advertisement that contravenes the prohibition.

37J—Certain retail restrictions void

This section makes a resale restriction (as defined in proposed section 37B) void if it provides that the ticket be cancelled or rendered invalid if the ticket is resold for an amount not exceeding 110% of the original supply cost of the ticket. This restricts event organisers from providing resale restrictions that are inconsistent with the measure.

Division 3—Online purchase of tickets

37K—Prohibited conduct in relation to use of ticketing websites

This section makes it an offence to use software to enable or assist a person to circumvent security measures of a website to purchase tickets in contravention of the terms of use of the website. This section is targeted at 'ticket bots', or computer software, that purchase large amounts of tickets over a short period of time that are then resold at a later time and for a higher price.

Division 4—Public disclosure of ticketing information

37L—Minister may require notification of number of tickets available for general public sale

This section will enable greater public awareness of access to tickets, as it enables the Minister to make a declaration requiring an event organiser to give public notice of the total number of tickets available for general public sale for a particular event. The Minister can only make a declaration of this kind where the Minister is satisfied that each event organiser to which the notice applies has been notified and has been given reasonable opportunity to make submissions, and where the Minister has considered those submissions and is satisfied that it is in the public interest to make the declaration.

A ticket is not considered by this section to be available for general public sale where the authorised seller requires a person to either pay a fee (in addition to the price of the ticket and any transaction costs) or register for access for a pre-sale, publication, competition or other special offer in order to acquire the ticket.

Schedule 1—Related amendment and transitional provision

Part 1—Amendment of *Major Events Act 2013*

1—Repeal of section 9

This clause repeals section 9 of the *Major Events Act 2013*, which currently requires that a major event be declared for certain ticket scalping provisions to apply, and which will not be required once the measures in this Bill are enacted.

Part 2—Transitional provision

2—Transitional provision

This clause provides that certain provisions in relation to the resale or supply of tickets will not apply in relation to any ticket sold or otherwise supplied to a first purchaser by an authorised seller before the commencement of the clause. If a ticket is sold or supplied to a first purchaser from an authorised seller before the commencement of this clause, the specified sections will not apply to any further transactions or advertisements that take place in relation to that ticket.

Debate adjourned on motion of Hon E.S. Bourke.

SENTENCING (RELEASE ON LICENCE) AMENDMENT BILL

Final Stages

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

At 16:16 the council adjourned until Tuesday 3 July 2018 at 14:15.

Answers to Questions

MINISTERIAL STAFF

10 The Hon. K.J. MAHER (Leader of the Opposition) (29 May 2018).

1. What are the names, titles and salaries of ministerial staff working for the minister at any stage between 18 March 2018 and 15 May 2018?

2. What are the names, titles and salaries of departmental staff working in the minister's office at any stage between 18 March 2018 and 15 May 2018?

The Hon. R.I. LUCAS (Treasurer): The Attorney-General has provided the following advice:

Details of ministerial staff located in the minister's office at any stage between 18 March 2018 and 15 May 2018 as follows:

Name	Title	FTE	Salary
Jodeen Carney	Chief of Staff	1.0	$160,000
Madeleine Church	Ministerial Adviser	1.0	$109,000
Ingo Block	Ministerial Adviser	1.0	$109,000

The following information outlines the titles, classification and salaries of departmental staff working in my office at any stage between 18 March 2018 and 15 May 2018.

Title	FTE	Classification	Salary
Office Manager	0.9	ASO8	$99,455
PA to Minister	1.0	ASO6	$89,184
Senior Parliamentary Officer	0.74	ASO6	$69,962
Ministerial Liaison Officer	0.8	LEC5	$115,364
Ministerial Liaison Officer	1.0	ASO6	$89,184
Ministerial Liaison Officer	1.0	ASO6	$94,543
Cabinet Officer	1.0	ASO4	$69,135
Records / Cabinet Support	1.0	ASO3	$60,681
Correspondence Officer	1.0	ASO2	$54,408
Correspondence Officer	1.0	ASO2	$56,503
Receptionist	1.0	ASO1	$43,730

MINISTERIAL STAFF

12 The Hon. K.J. MAHER (Leader of the Opposition) (29 May 2018).

1. What are the names, titles and salaries of ministerial staff working for the minister at any stage between 18 March 2018 and 15 May 2018?

2. What are the names, titles and salaries of departmental staff working in the minister's office at any stage between 18 March 2018 and 15 May 2018?

The Hon. R.I. LUCAS (Treasurer): I have been advised:

As the Government Gazette published on 22 March 2018 records, there is no minister for Aboriginal Affairs. Ministerial and departmental staff in the premier's office support the premier in his administration of Aboriginal Affairs.

SOUTH AUSTRALIAN TOURISM COMMISSION

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (29 May 2018).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment):

In accordance with their obligations under the State Procurement Act, agencies in my portfolio undertake procurement processes which:

- provide for ethical and fair treatment of participants;
- ensure probity, accountability and transparency; and
- obtain value for money.

Furthermore, agencies in my portfolio apply the state's industry participation policy requirements which ensure that the economic benefit of procurement to the state is considered as part of evaluation criteria in selecting the preferred supplier.

It is not possible to know which companies will bid for and be successful in which procurement processes now or in the future.

Having previously served as a minister, I would have expected the honourable member to know that probity requirements mean that it is not appropriate for a minister of the Crown to involve himself or herself in the selection of individual suppliers.

Rather as minister it is my responsibility to ensure that processes are in place which ensure that we meet the requirements of the State Procurement Board policies and guidelines and the Industry Participation Policy and that procurement processes are undertaken by staff (or external advisers if necessary) with suitable experience and expertise.

Our procurement projects are contestable to companies outside South Australia in the same way as we have an expectation that South Australian companies will be able to bid and secure work from outside the state for the benefit of those businesses and South Australia.