LEGISLATIVE COUNCIL

Thursday, 14 February 2019

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.

Bills

ELECTORAL (PRISONER VOTING) AMENDMENT BILL

Conference

The Hon. R.I. LUCAS (Treasurer) (11:01): I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

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

Motion carried.

Bills

EDUCATION AND CHILDREN'S SERVICES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 12 February 2019.)

The Hon. K.J. MAHER (Leader of the Opposition) (11:03): I rise today to indicate that I am the lead speaker on the bill and that the opposition is generally supportive of the Education and Children's Services Bill 2018; however, we have filed amendments to the bill. The bill is predominantly the re-establishment of a 2017 bill of the same name, which was introduced by the then Labor government. Both now and in 2017, the bill could be described as a wholesale modernisation of legislation governing school and preschool education in South Australia.

It also is a combination of the Children's Services Act 1985 with the Education Act 1972. Under Labor, extensive consultation was undertaken on the bill and was largely supported by peak bodies and other relevant stakeholders. However, it did not pass the Legislative Council before parliament was prorogued prior to the election. The passing of the legislation was delayed due to amendments filed by the Liberal Party in this place, mainly around the removal of the Australian Education Union from important sections of the act. It is therefore little surprise that the new bill seeks again to remove the Australian Education Union from the legislative review processes used to determine the ongoing viability of schools in an area, and ultimately if a school can be forced to close, as well as vital selection panel processes in which teachers or leaders are hired or promoted.

Under the proposed new bill, the AEU will be replaced in these processes by a teacher from the school or schools in question. For a variety of reasons that I will outline, we do not support these new provisions. School review committees undertake the extremely critical role of reviewing the school's educational offerings and then make recommendations to the minister as to whether a

school should remain open or be forced to close or amalgamate. Labor strongly believes the removal of the AEU from this process will make it much more likely and easier for the minister of the day to close a school through a review process. As we know, members of Liberal governments in the past have had a track record of forcing school closures, particularly the Leader of the Government in this place.

Without the strong voice of the AEU on the review committee, small schools, schools with decreasing enrolments, or schools where voluntary amalgamations or closures have been voted against by the school community will all be at risk. The Liberal government also wants to remove the AEU from the merit selection panel when it comes to hiring principals or a teacher applying for a promotion.

The selection process of leaders and teachers in education sites is an extremely important role but potentially contentious, emotional and difficult. For many years, the presence of identified AEU representatives on specific merit selection panels has ensured that the principles of merit, including fairness and proper processes, are adhered to. For merit selection to be truly successful, there must be a high level of trust and faith in the entire process, including from the point of the establishment of the panel. Through the provision of AEU representation on merit selection panels, the Education Act currently provides a layer of protection against a manipulation in the merit process. We know that the external placement of an AEU representative on merit selection panels for leaders and teachers assists in the promotion of faith in the process and the outcome of the process.

Currently, a panel chairperson has the ability to select or influence the selection of all other members on a merit selection panel (peer or staff), while the AEU representative is the only panel member that is not and cannot be personally selected by the principal or chairperson of that panel. Furthermore, AEU policy requires that the AEU panel members have up-to-date training in merit selection.

In order to be able to participate in any merit selection panel, AEU representatives are required to attend a full-day DECD training session, followed by follow-up retraining at least every five years. DECD does not have the same requirements for non-AEU panellists (chairperson, peer or staff representatives), which can often result in panellists who have not received any merit training for up to 15 years. With a new policy implemented in 2011, this has resulted in many panellists being completely out of touch with current expectations in merit processes and therefore the panel chairperson relying on AEU advice.

It may transpire that the Leader of the Government is more minded than his lower house colleagues to restore the critically important role of the AEU. The Hon. Rob Lucas has referred to the AEU as 'my very good friends, my comrades from the Australian Education Union', so I am sure he will keep those words in mind and look to support the Labor amendments in this place.

I would like to thank all of those who are involved in the critical task of educating our children and keeping them safe when they are at school or preschool. There is little the state government does that is more important than ensuring the next generation of South Australians have the very best opportunity to be who they are meant to be and ensuring that they are contributing to this state after their education. I look forward to the passage of this bill and look forward to support on some of the very important amendments that we say will improve the bill.

The Hon. J.E. HANSON (11:09): I rise to speak very briefly. Much of what my party has had to say on this issue has already been encapsulated by the Hon. Mr Maher in this place and the member for Port Adelaide in the other. I only wish to underline the point I think Mr Maher went into in some detail, which is the selection process and individuals based on merit in regard to panels in schools, and, I guess, as the obvious point made on that, it seems the removal of the union in that regard.

This seems to be something of a pattern occurring with regard to some boards with which this government has interaction, and it is a disturbing one. I do not think the removal of unions is justified. I do not think it is justified on the basis that purely they are not liked by this government, or that they are found to be in some way an uncomfortable presence, if nothing else.

I note, as raised by the Hon. Mr Maher, the Treasurer has had some difficulty in his interactions with unions. Perhaps if the policies of this government were slightly adjusted, he might

find those interactions somewhat easier. Since I cannot see that happening in any budget any time soon, I think that this could be something of a theme for the next four years. I place a footnote here that, again, we are running into this same problem.

As was underscored by the Hon. Mr Maher in this debate, and by the member for Port Adelaide in another place, we have again a potentially contentious, emotional and difficult situation in the placement of leaders and teachers in education sites. For many years it has been the presence of the AEU on those merit selection panels that has ensured that fairness and proper processes are adhered to—not just the union, of course, but the presence of many people, inclusive of the union.

The selection of individuals on the basis of merit is something that sometimes can cause a bit of suspicion in workplaces, particularly in bureaucratic ones. For merit selection to be truly successful, there has to be a fair bit of trust and faith in the entire process, including at the appointment of who is on the panel. Through the provision of union representation on merit selection panels, the Education Act provides a layer of protection against manipulation in regard to the merit process.

We know that the external placement of an AEU representative on merit selection panels for leaders and teachers assists in the promotion of that trust and faith to which I am referring. I caution again this government on what seems to be a bit of a trend that is forming: certainly it was on CITB, and again we see here that it has a bit of an 'it knows best', parental attitude to merit selection panels. It seems to think that the removal of people is justified on the basis that, either it does not see merit in them or that possibly it does not like them because of policy positions taken by the government. I caution them against that. I think a broad-based view of who is on selection panels, for things as important as who is educating our children, is something where it should look at everybody in society in order to have a cross-section.

In particular, I encourage them to again look to unions, such as the Education Union. They do represent a very broad cross-section of the profession, and a very broad cross-section of society. Simply removing unions because you find them ideologically uncomfortable is not a good reason to exclude them in their entirety. Even if you only look at some sectors, they represent up to 10 per cent of the workforce. I can guarantee you that, during my time working with employers, most employers who could find anyone who represented 10 per cent of their workforce were quite happy to find them and quite happy to talk to them because that meant that, quite frankly, they had less work to do in talking to the remainder of their workforce.

I encourage the government to take another look at what it is doing. I note also the comments made by Mr Maher here, and by the member for Port Adelaide in the other place, with regard to training, which is performed on their delegates versus some of the other people who form that merit-based panel. Training is performed at a minimum of every five years. That is certainly better than what we see with regard to some of the other panel members, who do not openly receive any training (that is not to say they do not have relevant experience from day to day); nonetheless, refresher training is always encouraged and certainly is looked at well by corporations such as the Australian Institute of Company Directors. Something that should form the basis of everybody's merit on that board, I think, is regular and updated training. I do not think it is good enough for someone to, for instance, not have received any training for up to 15 years.

So that underlines a lot of the points I wanted to make. I sound the larger warning to this government around its ongoing attitude to unions. I do not think it is a progressive or helpful attitude to have. I know there is the debate that may rage in newspapers and amongst ideological talking heads outside of this place that may get you a quick few headlines. I do not think that is going to help you in regard to the economy of South Australia. I do not think it is going to help you in regard to keeping the policy settings that I assume any government wants, in order to be fair and consistent, applied evenly to all South Australians in regard to how it wants its economy and society to run.

I encourage the government to involve everyone in its decision-making, and whether it necessarily ideologically likes them or not that really should include their very good friends in the union movement.

The Hon. C. BONAROS (11:16): I rise to speak, perhaps not so briefly, in support of the second reading of the Education and Children's Services Bill 2018. The bill, as we know, repeals the Education Act 1972 and the Children's Services Act 1985 and substantially reforms a number of other areas of legislation that deal with the administration and registration of teaching to support the educational institutions and standards of those in South Australia.

The bill, of course, has its genesis in the previous parliament. The former Labor government progressed it through the House of Assembly before the last election, but parliament was prorogued before the bill could be considered in this chamber. Naturally, the bill before us is not in exactly the same terms as the earlier iteration of the bill, and indeed there are several material differences which I will refer to during this contribution.

The bill's purpose is, as we know, to modernise our approach to education, comprising the school years but also the vital early childhood years, and do so in a way that makes the services and approach as seamless as possible, given the very nature of early childhood being a shared responsibility with the federal government. This modernisation by those who have worked tirelessly on the bill is to be commended and needs to be supported. Education should be a fundamental right in every society. Sadly, in many parts of the world it is not, but we are extremely fortunate in Australia to have one of the world's best education systems.

Quality education is a universal right of all South Australian children, no matter what your postcode or which school you attend, whether in the public or independent system. It is also a great leveller. For a Greek-Australian kid like me, it has opened a range of doors and presented me with a range of wonderful opportunities I once thought never possible. I echo the sentiments of the Hon. Irene Pnevmatikos when she said in her first speech:

> Education has been my gateway. It has afforded me opportunities and broadened my work and life experiences…Education was a gateway for me but also for migrant women and migrant workers.

These words echo my own experience as the daughter of migrants who came here in search of a better life for their family and for future generations. Education and ingenuity have provided families with the key to a better life.

I was the first person in my family to progress to university. I am very pleased to say that I certainly was not the last. It was all those years of learning that led me to working in this place and ultimately to being elected to the Legislative Council many years later. It is also why having my family in this place when I was sworn in, particularly my beloved mother and father, was such a significant moment. It was the culmination of all the sacrifices they made for me to receive a quality education in the public system, to go on to university and study law and arts and a graduate diploma before eventually taking my place in this chamber. I am forever grateful to them for their commitment and for the gifts my education has given me. I hope other children also continue to benefit from such sacrifice on the part of their own families.

I turn now to the contentious aspects of the bill, the first of which is clause 82, which deals with religious and cultural activities. Of course, religion is already taught in our schools. It is part of the Australian curriculum. An understanding of comparative religion necessarily forms part of our attempts to understand society, the society in which we live and operate. This is not an issue. However, we should not be seeking to politicise the education of our children because to do so would jeopardise their futures. To use children and their developing minds for political pointscoring is dangerous and reckless and, in my view, is what has occurred with this clause—not just now but over many years.

There has been a furore in the media over arguments about an opt-out clause that exists in the bill under clause 82 versus an opt-in clause that had been moved by others with respect to religious and cultural activities and that certain persons and groups wanted to do away with Christmas carols in our schools. That is simply not the case. Indeed, Christmas assemblies and concerts are conducted in public schools. They are conducted in parishes and private schools across the state, where they feature many wonderful Christmas songs, whether they be solemn and moving, joyous and uplifting, or fun and festive.

This issue is not Christmas songs or the celebration of religious or cultural feasts and festivals, as these are to be celebrated in the culturally diverse state and nation we are all lucky to

call our home. The issue has vexed the opposition, with the shadow minister for education, Dr Susan Close MP, circulating a draft amendment, dated 4 July 2018, and subsequently providing a briefing on 5 September to deal with the issue, along with other amendments to the bill.

We know that the draft provided an opt-in clause with respect to religious or cultural activity, that is, with express written consent. The draft was subsequently abandoned, some would argue unfairly, perhaps, with the media accusing the opposition of flip-flopping on the issue. As I have said, the issue is not Christmas carols, cultural feasts or festivals celebrated by so many South Australians, like Diwali, the Hindu Festival of Light, or even Chinese New Year, which the Hon. Jing Lee spoke about this week in this place, among others. These types of celebrations should be encouraged in such an ethnically diverse community as ours. Indeed, part 2, clause 7(4)(h) of the bill, which specifies the objects and principles of the act, provides, and I quote:

> subject to this and any other Act or law, schools, preschools and children's services centres are free to celebrate events that are of significance to their communities (including, for example, by singing Christmas carols).

The real issue is religious instruction, that is, the teaching of faith to our children in public schools, how this is to be managed and whether this should require express consent. This iteration of the bill features the new term 'religious activity', which remains undefined. The department has advised us that, and I quote:

> A religious or cultural activity for the purposes of clause 82 is not specifically defined under the Act but is intended to include activities that relate to specific religious or cultural beliefs or practices conducted by persons prescribed by the regulations, which could include clergy or representatives of churches or other religions or cultural groups [and] it could include a range of activities, workshops or performances with content relevant to the beliefs or practices of…

The current regulations, with respect to the issue, are now out of date and is of great concern to me that the content of material provided by faith persons wanting to come and provide religious instruction to children in public schools is not vetted by the Department for Education. We have been advised that these persons will have to be prescribed persons for the purposes of the regulations, but there is absolutely no detail around the criteria for prescribed persons. Consequently, I will be asking questions around the updating of the regulations and what they will look like when the bill enters its committee stage.

I note that the Hon. Tammy Franks, on behalf of the Greens, has filed an amendment that seeks to tackle the issue and separate religious instruction, further defining the term and also providing that religious instruction is to occur during specified periods outside of the regular curricula instruction.

The Hon. John Darley has two sets of amendments on this issue, and I have also filed an amendment which seeks to dispense with the clause altogether. As I understand it, the particular clause at issue will be recommitted when the Legislative Council resumes after a week's break, and I will have some more to say on those amendments at that time.

I note that the previous iteration of the bill, as introduced by the former Labor government, talked about religious and intercultural instruction. This bill, instead, refers to religious activities, an undefined and oblique term. I will be interested, at the committee stage, to inquire about the development of that term for inclusion in the bill.

Most of us would agree that proselytising to children, that is, the conversion or attempting to convert children to a particular faith, has no place in our public schools. As this clause will be recommitted when we resume after the break, the minister has undertaken to look at this issue of proselytising in terms of potential legislative drafting, and I look forward to further discussions with him in relation to that.

However, I make the point—and this is a very important point—that the making of this problem is political. It has been driven by politics and politicians over many years, some of whom have been accused of putting their own personal beliefs above the good of our schools and, of course, it has been fuelled by the media. What is certain is that for way too many years now we have all tied ourselves up in knots over what is or is not religion, and what is or is not cultural, at the expense of our children.

I want to make one final point before moving on from this topic about the importance of ethics being taught in our schools. Ethical questions are questions about what we ought to do and how we ought to live. Secular ethics explores these fundamental questions by means of reasoned arguments about values and principles rather than an appeal to religion or cultural norms. This secular approach has a long history, reaching back to Socrates and Aristotle, and is sometimes described as philosophical ethics—something I was very pleased to study at university.

Ethics classes have been provided in New South Wales public primary schools for several years now, as an opt-in alternative to religious instruction for children, with great success. In New South Wales, primary school ethics classes are run by a team of dedicated volunteers designed to support children to develop their moral reasoning capabilities. The focus of those teachings is on skill development rather than the promotion of any particular view. It is exactly what we should be teaching our children: how to arrive at their own independent, considered views.

Students are encouraged and supported to make their own judgements about whether something is right or wrong, whether something is good or bad, and to explain why, using evidence and reason. In my view, the most important lessons we can teach our children are resilience and critical thinking. The ability to think, reason, discuss and debate are wonderful, useful skills that we should be teaching our children. The government, I think, should consider introducing these ethics into the existing curriculum, raising ethical issues in relation to issues around science or history as an example, or even as stand-alone classes. I think that is something that would be very worthy of consideration by our department and our minister.

I turn now to another aspect of the bill which is the subject of several amendments and which has caused a great degree of controversy, that being the role of the Australian Education Union in participating in decisions, including in merit selection panels, contained in clause 54 of the bill. The member for Hurtle Vale, the Hon. Nat Cook, said in her second reading speech on the bill:

> In order to be eligible to participate in any merit selection panel, AEU representatives are required to attend a full-day education training session with the department, followed by follow-up retraining, at least every five years.
>
> The Department for Education does not have the same requirement for non-AEU panellists, which can often result in panellists who have not received any merit training being involved for up to 15 years. It is clearly a poorly conceived and executed attempt to stamp out unionism from the South Australian education sector. Should this bill succeed in its current form, our schools, teachers and students will be a force for it.

This explanation was proffered so as to justify the provision of AEU representation on merit selection panels. I was told the same thing when we met with the Australian Education Union; however, I think we have to question some of the claims that are made and whether in fact they are true. The comments made by the member for Hurtle Vale were checked with the minister's office and also with the South Australian State School Leaders Association (SASSLA).

I was advised by the minister's office that the people and culture division of the Department for Education oversee the training program for panellists. That program runs for an entire day and the input from the AEU into that full day of training is about one to two hours in duration. Further, SASSLA advised that undertaking the training is a prerequisite for participating on a selection panel. I certainly do accept that the union may do its own separate training, but I think it is a little bit misleading to suggest that there is no formal departmental training, and that is certainly the impression I was left with when I first met with AEU representatives.

There are also amendments that deal with clause 106, which deals with promotional level appointments. Clause 106(2)(b) seeks to change the structure of school leadership panels to enable the opportunity for all eligible staff to participate as staff representatives on panels for promotional level positions. Under the existing Education Act and regulations, the staff position on these panels is reserved for a nominee of the president of the AEU. As I previously noted, I have met with the AEU on more than one occasion and I have also met with Hands Up and SASSLA to discuss elements of the bill.

The AEU has outlined its views on the need to maintain exclusive union representation on these panels, that they represent 70 per cent of teachers who are members, a figure disputed by the government, and that its representatives are charged with representing the views of their members. The government, on the other hand, argues that this excludes a large cohort of teachers who would otherwise like to be involved in the process, and indeed the minister provided me with an example

of the school where 24 non-union teachers out of a total of 30 teachers are precluded from participation.

The minister also questions whether indeed union membership is as high as the AEU claims, but I think it is fair to say that, despite the difference in the numbers, even the government would accept that these numbers sit somewhere near the range of 50 per cent at the very least. SASSLA made the point that the removal of union representation exclusivity would provide an opportunity for all eligible staff to participate in staff selection processes as well as providing different staff exposure to the merit process, which builds an understanding of these processes across a wider selection of site-based staff. In addition, it would prevent the potential of a single staff representative having, or perceived to be having, undue influence on selection outcomes.

As we know, there have been a number of amendments filed dealing with this issue of union representation and other significant issues, including an education ombudsman. I note the value that union representation provides for teachers with grievances, especially where a power imbalance exists with school leadership. I also note, perhaps for the benefit of the Hon. Tammy Franks, that in relation to the issue of an education ombudsman, I have requested and am awaiting written correspondence from the Ombudsman through the minister's office outlining their view in relation to the need for a separate education ombudsman. I would say if there are any advisers listening, which I know there are, I hope that that information becomes available before we get to the relevant provisions of the bill.

I look forward to the committee stage of the bill when many of the issues will be fleshed out and the proponents of those amendments will advance their arguments when they come to move them.

I have also filed amendments on behalf of SA-Best to clause 32 and clause 83 of the bill which deal with the issue of corporal punishment. Corporal punishment of students is, as we know, the intentional infliction of pain or discomfort and/or the use of physical force upon a student with the intention of causing the student to experience bodily pain so as to correct or punish the student's behaviour. There might be some members here who are old enough to remember the strap or the wooden paddle and that is certainly in keeping with the practice of corporal punishment. It is a technique that is, and over the years has been, easily abused, and one which leads to physical injury and which, of course, can cause serious and long-lasting emotional harm.

Corporal punishment does not belong in any of our schools, and I note that the practice has been outlawed at the federal level, which has created an inconsistency. Parents who send their children to parish and private schools, I think, would be horrified to know that the practice is still legal in those schools, at least on our statute books. Just by way of reference, corporal punishment in public schools has been banned since 1991, and with good cause. However, the practice of allowing corporal punishment in non-government schools has persisted in legislation and it is finally time to dispense with this archaic and brutal practice.

It is worth noting that South Australia is one of only two jurisdictions that still allows corporal punishment in non-government schools to remain on its statute books, the other being Queensland. I am utterly dismayed and shocked, as many parents are or would be, that this outdated practice is allowed to exist and that successive governments have not moved to outlaw the practice earlier. To that end my amendments to the clause will bring non-government schools into line with SA's public schools and the majority of other states.

The last known official report of corporal punishment was in one of the state's private schools, and it occurred as recently as 2014. While it may not be being used in non-government schools, it should unequivocally be banned altogether and removed from legislation. It is draconian, and it belongs in history and not in the modern era of education.

As I understand it—and I hope I am correct—the government and the opposition have come on board and will support my amendments in relation to that effect. I thank them, if indeed that is the case when we come to it. With those words, I commend the bill to the chamber and look forward to the committee stage debate.

The Hon. I. PNEVMATIKOS (11:36): I too rise to speak on the Education and Children's Services Bill 2018. I acknowledge the comments made by members of this council, as well as the member for Port Adelaide in the other house. I am firmly committed to protecting the integrity of our education system because I understand just how fundamental education is in shaping both individuals and society. We must ensure that those working in education are given the support they need to deliver the best outcomes for young people in this state. A system that does not support and encourage cooperation and understanding between management, leadership, teachers, support staff and parents will only be letting down our students.

The bill we are discussing today is essentially a re-establishment of a bill introduced by Labor in 2017 that was designed to modernise and update the legislation governing school and preschool education in South Australia. But at that time the legislation was held up because the Liberals insisted on amendments that would remove the Australian Education Union from important sections of the act. Fast forward to today, and it should come as no surprise that the Liberal government has used this new bill to remove the Australian Education Union from the legislative review process as well as the selection panel process in which teachers or leaders are hired or promoted.

I will support measures that ensure the best possible outcome for our students, but I cannot accept measures that are purely politically motivated and will have no benefit to student outcomes or the integrity of the education system.

Let us take a look at the facts. Over recent years, there has been a move to greater autonomy within schools, allowing the leadership team more freedom to shape the culture of that school. This has been a big change and, as with all substantial reforms, there have been challenges. I am certain that with the right cooperative leadership, a school can thrive. However, there is a growing number of teachers who feel increasingly frustrated and disenfranchised by leadership styles that are undemocratic and non-inclusive.

An article published by *The Sydney Morning Herald* in October of last year stated that close to half of all bullying incidents reported by teachers involved problems with 'an immediate supervisor or senior manager'. Statistics indicate that 40 to 50 per cent of Australian teachers leave the profession within the first five years of their employment. That is an astounding number and, quite frankly, we should be doing everything in our power to stem this loss instead of making conditions even more difficult for teachers.

I recently met with a group of teachers who have set up an online community called hashtag #handsup. This group was established because teachers who felt they had justified grievances were finding new avenues to voice their complaints and be taken seriously. Hashtag #handsup gives teachers a voice and the opportunity to share their experiences with others in an effort to reform the grievance process. In just a few short months, the group has grown to around 90 members. Some of these teachers are AEU members but many are not. However, the one thing they have in common is a passion for teaching and the feeling that they are increasingly unable to have their opinions heard.

In light of the current climate, it would seem to me the most sensible thing would be to ensure a high level of transparency and accountability for all. Yet, this bill seeks to remove the independent AEU representative, the one person who can ensure transparency and accountability, from both the legislative review process and the merit selection process. The selection of leaders and teachers in schools is extremely important but also potentially contentious and emotional. For many years, the presence of an identified AEU representative on specific merit selection panels has ensured that the principles of merit, including fairness and proper process, are adhered to.

For merit selection to be truly successful, there must be a high level of trust and faith in the entire process, including from the point of establishment of the panel. By safeguarding AEU representation on merit selection panels, the Education Act currently provides a layer of protection against manipulation in a merit process. Currently, a panel chairperson has the ability to select or influence the selection of all other members on a merit selection panel, peer or staff, while the AEU representative is the only panel member who is not and cannot be personally selected by the principal or chairperson of the panel.

I have also recently met with AEU representatives who have reiterated their commitment to ensuring that all AEU panel members have current and ongoing training in merit selection, education department policies and procedures. This includes a full-day DECD training session followed by follow-up retraining at least every five years. Teachers deserve our respect and our support. They need to have faith in the system they work within, and they need to have a system in place in which their concerns are heard and taken seriously.

By removing AEU involvement in these essential processes within schools, we would be undermining these needs and removing a layer of accountability. We need to strengthen the trust that exists within school communities, not chip away at it because of political ideology. That will not help teachers prepare the next generation of South Australians to reach their full potential. For this reason, I support the amendments to the bill that we are proposing.

The Hon. R.I. LUCAS (Treasurer) (11:43): I thank the Hon. Mr Darley, the Hon. Ms Franks, the Hon. Mr Maher, the Hon. Ms Bonaros, the Hon. Mr Hanson and the Hon. Ms Pnevmatikos, who have all spoken at varying stages at the second reading of the bill. I have had brief discussions with members in relation to the progress of this bill. I think the Hon. Ms Bonaros has outlined her understanding of how the government would like to proceed with the bill.

We would like to go through the committee stage today but not vote on the third reading of the bill today. That is, at the end of the committee stage, I would report progress. That is for the reason that, at least on three specific clauses and two issues—religious instruction and corporal punishment—amendments have been filed in the last week. Whilst I am in the position to at least share the initial views of the minister in relation to this, we, at least on our side of the council—I am not sure about the Labor Party's side of the council—have not had the opportunity for our party room to look at the amendments and to consider their position in relation to the amendments.

The issue of religious instruction is a complicated one with a range of competing and contrasting amendments and, certainly from the party room's viewpoint, they are entitled to at least have a say and we will be in a position on Tuesday when next we sit to conclude the debate in that particular area. The issue of corporal punishment has always been a controversial one. Again, our party room will want to have the opportunity to put a point of view in relation to what the government's position is on the amendments that have been moved in the last few days in relation to this particular issue.

On behalf of the minister and the government, I would like to address some of the issues that have been raised on behalf of the Minister for Education. The first broad area where there has been considerable debate and contention for a number of years now is the issue of the Australian Education Union's position on school review committees and selection committees for promotional-level teaching positions.

Both the Hon. Mr Maher and the Hon. Ms Franks have filed amendments with respect to the representation of the AEU on committees considering closure or amalgamation of schools and selection committees for promotional-level teaching positions. It is the government's position that, while representation of staff in these matters is critically important, the very fact of somebody's membership or otherwise of an individual body should not determine their eligibility to represent their fellow staff members.

As has been articulated on a number of occasions, the government's position is that identifying the AEU specifically in the bill is contrary to the government's preferred position. The bill should not specifically reserve a place for the AEU in relation to these matters. The government has amended clause 54(2) to provide that a school review committee will consist of a number of members, one of whom will be a person representing the staff of each school to which the review relates, elected or nominated by the staff of each such school in accordance with regulations.

Clause 106(2) has been amended to provide that a selection committee must include members appointed by the chief executive, at least one of whom must be an officer of the teaching service elected or nominated by other officers of the teaching service to represent them on such committees in accordance with the regulations. The government does not support any changes being made to these provisions. They already provide for appropriate staff representation on these committees.

I thank the Hon. Ms Bonaros for outlining to the committee in part a response to the claims that are being made that it is only the AEU representatives who are in some way trained in merit-based selection. The Hon. Ms Bonaros was provided with information, either directly or indirectly, through the department in relation to the training that goes on. I can even remember, in my day—and I am not sure whether it continues—that one of the two parent bodies, which I think at that stage was SAASPC (the South Australian Association of School Parent Clubs) was provided with government funding for them to train parent representatives on panels. I am not sure whether that practice still continues or whether someone else has taken over that particular role.

Certainly, the notion of appropriate training for panel members or review committee members is one that governments, Liberal and Labor, have taken pretty seriously over the years in relation to appropriate practice that should be adopted. I thank the Hon. Ms Bonaros for placing on the record the information that had been provided to her in relation to the issue. Certainly, the government's strong position—certainly, a position that I endorse strongly—is that, ultimately, staff, in this case generally teachers, should be represented on these panels.

It is my view that, given the high percentage of AEU membership in significant parts of the state—not everywhere but in significant parts of the state—it is highly likely that an AEU representative would be the person elected by the staff at the particular school as being the appropriate person to represent the staff on the panel, if the government's amendments were successful. The government has no objection to that at all; that is, if the staff at the school think that a particular person is their best representative on a merit-based panel process, then that is a democratic process and why not let the views of the staff prevail?

However, equally I would say—and this might be in a minority of circumstances—if there is an outstanding teaching advocate in a particular school who, for whatever reason, has either never been a member of the AEU or has fallen out of love with the AEU and resigned from the AEU on a matter of principle or something, and the staff at that school would like that particular person to represent them on a panel because they think they are the best possible person, then why on earth should not that particular person be entitled to be supported and elected by their peers at the school in terms of representing them on the panel? It seems not only unfair but incongruous that a person nominated democratically by staff as being the best person to represent them on a panel, whether they are AEU members or not, should be precluded by legislation from being able to represent the staff at the school.

What is so wrong with staff at a school having the opportunity to vote for their representative on a panel? I think the simple answer to that is there should be nothing. But why should we as a parliament legislate to say, 'If you want to go on a panel, even if you're the best person for the job, you actually have to sign up and become a member of an industrial organisation'? Whatever your personal beliefs are, the only way you can be on a merit-based selection panel is if you sign up, pay your membership fee and become a member of the Australian Education Union. I think that is the kernel of the argument that we will have when we get into the committee stage of the bill as to the inherent unfairness of the current arrangements and the arrangements that the Labor Party and others are supporting.

I also absolutely refute the notion that the only protection for a fair, merit-based process is by having an AEU representative on a panel. With the greatest of respect to my comrades and friends in the Australian Education Union, with whom I have had a long association over many years and continue to have cordial discussions with on a regular basis, I am sure even they would not go so far as to say that they could guarantee that every one of their members was as pure as the driven snow and that every one of their members had a much greater level of integrity than other teachers in the teaching force who, for whatever reason, have chosen not to become members of the Australian Education Union.

It may well be the case that in many cases that is correct, that the AEU representative is the best person to ensure the integrity of the panel process, but no-one can guarantee that there is not a member of the Australian Education Union who may not hold the integrity of the selection panel processes in the way that the vast majority of them would. There are always rogues in any organisation. There are rogues in the parliament, both past and present, I suspect. There are rogues

in the legal profession. There are rogues in the judiciary. There are rogues in the medical profession. And, sadly, there are rogues within the union movement as well.

The mere fact of saying that, because you happen to be a member of the Australian Education Union, ipso facto you guarantee integrity of the selection process, is nonsensical and ludicrous, to use a phrase that has gained some popularity in other discussions. As I said, in the vast majority of cases it can certainly be defended, but in some cases it cannot. In circumstances like that, why not allow the local staff and the local school to be able to accept or reject a particular person as their nominee on a selection panel?

The second broad area that has attracted some debate has been the area of religious and cultural activities in schools and special religious instruction. We now have amendments from the Hon. Ms Franks, the Hon. Mr Darley and the Hon. Ms Bonaros, all filing various versions of amendments to clause 82. The Hon. Ms Franks' amendment proposes to amend clause 82 to remove references to cultural activities, so that this provision would only deal with special religious instruction and restrict its delivery to time outside the formal school day and at lunch times.

Inherent in the Hon. Ms Franks' amendment is a debate that also continued in the House of Assembly in relation to the new phrasing or wording in the government's bill, as opposed to the phrasing and wording that existed in the current act. I think the former government's bill made mention of 'intercultural'. The new government has used the phrase 'religious and cultural activities'. I suspect, when we come to the debate, there will be questions, as there were in the House of Assembly. I think the Hon. Ms Bonaros raised the issue of what is the actual definition of 'religious or cultural activity', and I am sure we will be asked to explore that in the committee stage of the debate as well.

The government supports provision for a school principal to determine whether to permit religious or cultural groups to conduct activities at their school that are relevant to the needs and interests of their particular school community, and that time be set aside for such activities. Under clause 82 of the bill, parents would be notified of any particular activities and could request that their child be exempted from participation on conscientious grounds.

The Hon. Mr Darley recently filed two amendments to clause 82: the first would require the conduct of religious and cultural activities in a school to be approved by the school's governing council and the second seeks to ensure that religious or cultural activities conducted for students under the provision are not of an instructive nature but rather for the purpose of providing information or knowledge about a culture or religion.

These amendments, and those of the Hon. Ms Bonaros, are amendments that the government's party room has not yet considered. I am able to share that, certainly on the minister's initial reading or viewing of these amendments, from his viewpoint he is unlikely to be recommending support for the Hon. Mr Darley's first amendment, the argument being that it makes it possible for the views of a small number of parents to dictate whether these activities are offered at a school rather than allowing individual families to decide whether their child or children should be exempt from participation in these activities on conscientious grounds.

In relation to the Hon. Mr Darley's amendment, the minister's initial feeling (and, again, as I said, we need to have a debate in the government's party room in relation to this) is that there is certainly an argument that this would make the provision unworkable in practice, and that argument would be that it is likely that most religious or cultural activities will, to some degree, be instructive in nature, whether that is morally or ethically instructive or practically instructive in respect of some of the practices or traditions of a particular religion or culture. Requiring principals to discern whether an activity proposed merely imparts information and knowledge or would be instructive in nature would likely be unreasonable in the circumstances and may make the provision of religious and cultural activities unworkable.

I can see what the Hon. Mr Darley is seeking to do in his amendment, but I think the minister's initial response is that the drafting of what he seeks to do is extraordinarily difficult, and certainly the drafting that is currently in that particular amendment, in our view, or in the minister's view, would make the whole provision potentially unworkable. I am not sure that is actually what the Hon. Mr Darley is seeking to do by way of his amendment. He is seeking to clarify, and the minister's

initial advice is that rather than clarifying it may well just make it all so difficult that there would be no prospect of religious or cultural activities being able to be provided.

Also recently, the Hon. Ms Bonaros has filed an amendment that is opposing clause 82. Again, our party room has not considered the Hon. Ms Bonaros's amendment. The minister's initial reading of it is that certainly from his viewpoint he is unlikely to recommend support for the amendment, but as I said our party room has not yet had the opportunity to have that particular debate.

In relation to progressing the issues today, the government will be moving through clause 82. It may well be that at clause 1 there is a series of questions that might relate to this issue, where we can answer questions at clause 1. We will propose that we move through clause 82, but with the commitment that we will not be going to a third reading today, and with the commitment that on the next Tuesday of sitting we will recommit clause 82 for the purposes of considering the amendments that have been moved. Indeed, for that matter, if as a result of the debate and further discussion a particular member wanted to refine their amendment they could, as long as they do it in plenty of time prior to the next Tuesday.

Rather than us arriving at the next sitting week with an amendment about to be filed, I ask the Hon. Mr Darley and the Hon. Ms Bonaros, if they on reflection decide to amend, to give all of us plenty of notice before our party room meetings. In our case, it is on the Monday prior to the sitting. In the Labor Party's case, it is the Tuesday morning, I think. Their shadow cabinet, I suspect, meets on the Monday afternoon and may will consider it, but it is up to the Labor Party to look at their processes. Certainly, from the government's party room viewpoint, we meet on the Monday prior to the next Tuesday of sitting, and so if any member wanted to refine, improve or clarify their particular amendment, I would respectfully ask them to provide advice to the minister and the government prior to that Monday.

The next area where there has been some debate is in relation to the education ombudsman. The Hon. Ms Franks has filed amendments to establish an education ombudsman. The government's position is that it will oppose the proposal. The minister advises that feedback from the state Ombudsman, the chief executive of the Association of Independent Schools of South Australia, the Director of Catholic Education South Australia and the Department for Education concurs with the government's position.

The state Ombudsman has jurisdiction over complaints in relation to government schools and children's services and does handle such complaints, and has provided the following comments in relation to the proposal to establish an education ombudsman. This is, for the benefit of the Hon. Ms Bonaros, I am advised, a direct quote from the state Ombudsman in relation to the education ombudsman:

> I advise that I do not believe it is in the public interest to establish a separate education ombudsman. My position on this is informed by the following considerations.
>
> In 2017-18 my office fielded 171 complaints about the Department for Education (the department). In the last four financial years the department has contributed $200,000 per annum towards my budget. This has been sufficient to cover this volume of complaints. On these figures, a separate office dedicated to complaints about the department is not economically justified and, certainly, the cost of creating a new office will far exceed the $200,000 per annum currently provided to my office for external oversight of the department.
>
> My office is in regular contact with the department's Education Complaints Unit and is aware of their efforts to resolve complaints from parents and caregivers on a range of school and education matters. In my view, the department has a reasonably good internal complaint management system which the department is continually seeking to improve.
>
> Relevant to this, I advise that I am currently monitoring the final stages of the implementation of recommendations from my November 2016 audit of the Department for Education's education-related complaint handling practices. To date I am satisfied that the department has responded appropriately to my recommendations to improve its complaint handling practices.
>
> Given that the department is being proactive in its responsibilities to address complaints, the creation of an external oversight mechanism such as an education ombudsman, that is, in addition to the current oversight bodies, is unnecessary.

I understand that the Hon. Tammy Franks MLC has a particular concern about the department's handling of complaints about student bullying and I note that the proposed amendment filed in 2017 had a focus on investigating issues associated with school discipline. In regard to that issue I make the following points.

Only a small proportion of complaints received by this office about the department relate to its handling of student bullying issues—38 of 171 complaints about the department. To create a new office primarily in response to this issue is a blunt mechanism and a heavy-handed response to such a specific concern.

As was evident at the recent Keeping Children Safe from Bullying Conference in Adelaide, the department is actively working to empower schools to prevent, identify and respond to bullying between children and young people. I believe these efforts need to be given time to take effect before any decision is made to establish an education ombudsman.

Under the Children and Young People (Oversight and Advocacy Bodies) Act 2016 the Office of the Commissioner for Children and Young People and the Child Death and Serious Injury Review Committee have only recently been established. Both these bodies have functions that are relevant to exercising oversight of the department in that they have responsibilities regarding the safety and wellbeing of children.

Under section 40 of the act the committee may refer a matter for inquiry by the commissioner under section 15 of the act, and under section 42 the commissioner may make a complaint on behalf of a child or young person to my office. To add an education ombudsman to this framework will result in duplication of oversight and potentially undermine the responsibilities of the commissioner and committee.

I understand that one of the arguments in support of establishing an education ombudsman is that it would provide a specialist complaint mechanism with expertise in the education sector. I advise that Ombudsman SA has been dealing with complaints about the state's education system for decades and has the experience and skill necessary for assessing and investigating such complaints. Where necessary and relevant, investigators within the office do call upon other authorities, such as the Commissioner for Children and Young People or the Guardian for Children and Young People, for their specialised perspective on an issue related to an investigation. I do not believe a specialised education ombudsman could add anything more to the process.

That is a very long quotation from, I am advised, correspondence from the state Ombudsman on the issue of the education ombudsman.

There are many other issues of course but the final major issue is the one in relation to corporal punishment. The Hon. Ms Bonaros has filed amendments to clauses 32 and 83 in recent days concerning the prohibition of corporal punishment in preschools, children's service centres and schools. As I indicated, the government's party room has not considered these particular amendments; however, I understand that the minister, certainly in discussions with the Hon. Ms Bonaros, is minded to recommend support for the principles behind those particular amendments. However, as I said, that will be an issue for the government party room to have its view and come to a final decision, having listened to the expert opinion of the Minister for Education on the particular issues.

I can share some information in relation to the minister's view on these new amendments. He says it is worth noting that offences already exist under the Education and Care Services National Law that prohibit the use of corporal punishment in both government and non-government preschool services. Clause 32 of the bill will prohibit the use of corporal punishment and enable it to be dealt with as assault under the Criminal Law Consolidation Act 1935. There is the potential for higher penalties under the Criminal Law Consolidation Act compared to those under the national law. The proposed amendment at clause 83 further clarifies that the clause is intended to prohibit the imposition of corporal punishment in both government and non-government schools.

Clause 4 of the bill, the minister advises, sets out which provisions of the bill are intended to apply only to government schools and outlines that all other provisions are to apply to non-government schools. However, the minister is indicating that, whilst clause 4 exists, his personal view is that he would not be opposing inclusion of this extra clarification in respect of clause 83. He indicates that representatives of the non-government schooling sector have indicated to him that they have no objection to the amendments, and I put that on the public record in relation to the information that the minister has on those recent amendments. With that, I look forward to the committee stage of the debate, and the process will be as I outlined earlier in my second reading closing contribution.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. T.A. FRANKS: Could you provide, as the representative of the government, what the position on this bill is from the Commissioner for Children and Young People?

The Hon. R.I. LUCAS: On the whole bill?

The Hon. T.A. FRANKS: Well, with specific reference to bullying and the Ombudsman.

The Hon. R.I. LUCAS: My advice is that we do not have anything specific from the commissioner in relation to the bill or the particular aspects of the bill to which the honourable member has referred.

The Hon. T.A. FRANKS: Is the government aware of the letter of 15 October 2018 from the Commissioner for Children and Young People with regard to this bill?

The Hon. R.I. LUCAS: The letter to whom?

The Hon. T.A. FRANKS: To the Minister for Education with regard to this bill.

The Hon. R.I. LUCAS: I do not have a copy of the letter the honourable member has referred to but if the letter is addressed to the minister then clearly the minister would have received it, and if it was dated October, I assume the minister has responded. My advice is that there might have been some reference in the debate in the House of Assembly that there was some amendment as a result of the commissioner's letter to the principles of the bill, which was raised, evidently, in the commissioner's letter. Again, I do not have a copy of the commissioner's letter. If the information that I have just placed on the record is incorrect, I am happy to correct the record when we return either this afternoon or when we reconvene on the next Tuesday of sitting.

The Hon. T.A. FRANKS: Can the government outline when they consulted the Commissioner for Children and Young People with regard to this bill, on what dates and in what format, and why they have no knowledge of the correspondence of 15 October?

The Hon. R.I. LUCAS: Can I clarify: clearly, the minister would have had knowledge of the letter of 15 October because the letter was written to him. I do not have the minister here advising me at the moment. I have an officer from within the department. It is a very big department so I am sure the honourable member would understand that if the question was directed to the minister responsible then I am sure he would have been in a position to give the member a more specific and definitive reply.

From that viewpoint, the minister would have been aware of the letter I am sure and, as I said, I assume he has responded to the letter. In relation to whether—in the first instance when this bill was being constructed by either the former government or the new government—the commissioner was specifically asked for comment, the answer to that is, my advice is, no, the commissioner was not consulted in terms of the original drafting of the bill.

The Hon. T.A. FRANKS: Was the commissioner consulted with the Marshall government drafting of the bill?

The Hon. R.I. LUCAS: Sorry, I assumed that was the question you were asking me. I could not speak—

The Hon. T.A. FRANKS: No, this is another question altogether. You have just said the previous government was involved.

The Hon. R.I. LUCAS: I am not in a position to know what the former government did in relation to consulting. I was answering the question in relation to this government. The advice was, in relation to this government, no, we did not consult with the commissioner in relation to the Marshall government's bill. I cannot answer for what the former government did or did not do in relation to the commissioner.

The Hon. T.A. FRANKS: Why did the Marshall government not undertake any consultation with the Commissioner for Children and Young People with regard to the bill?

The Hon. R.I. LUCAS: Was that when or why?

The Hon. T.A. FRANKS: Why did this Marshall government, which is now the government and which has the responsibility for consulting on their legislation, not consult with the Commissioner for Children and Young People with regard to the bill?

The Hon. R.I. LUCAS: All I can share with the member is some comments made by the Minister for Education, as I understand it, in another place when the issue was raised about consultation and changes to the bill. The minister said, I am advised, as follows: that the changes to this bill from that introduced by the previous Labor government reflect amendments which were moved in parliament in 2017 when the bill was debated in the other place. It also reflects some technical amendments which were identified by the Crown Solicitor's Office and parliamentary counsel.

I note that the minister has said this bill is significantly similar to the bill previously introduced by the former government, albeit that there are significant amendments in some areas. The minister continued, saying that he noted that the version of the bill brought to parliament by the member for Port Adelaide was also released for public consultation on the YourSAy website early in 2017, prior to the commencement of the sitting year. The then opposition, the now government, took the opportunity at that stage to consult widely as well. We spoke to a wide range of stakeholders, and those stakeholders had an opportunity to talk to us in opposition. This consultation informed the amendments that were moved in 2017.

There was further consultation on the fact that there was an election. Indeed the people of South Australia were well aware of the Liberal Party's position on these amendments. It was our commitment in many public fora before the election that we would be reintroducing the bill, and the member for Morialta—the then member for Morialta—indicated in a number of those speeches at events during the election period that we would be introducing the bill with such amendments. So the opportunity for people to be aware that the opposition would be reintroducing this bill in the amended form as identified was very clear before the election, and the election itself is, of course, the ultimate form of consultation, etc.

The minister's position, in summary, was: there was a former government bill and he and the opposition consulted at the time with a range of stakeholders. Whether the former government consulted with the commissioner in the drafting of the original bill I cannot indicate, but essentially the process the new minister and the new government adopted was: here was a bill, we announced the sort of positions we were going to adopt, everyone knew what our positions were and the bill went through that particular process.

It was not as if we went to a consultation process with everyone right back to first stages and consulted every stakeholder in education and those who are not directly in education but might have a view on things, like the commissioner. That was not the process the government adopted with this particular bill because it had been through the process that the minister had outlined.

The Hon. T.A. FRANKS: It is my recollection that from my first question I asked what was the view of the Commissioner for Children and Young People on this bill, and I was told with specific reference to an education ombudsman and bullying that there was no view. Can the minister clarify that that was his original answer on behalf of this government?

The Hon. R.I. LUCAS: No, that was not my original answer. The original answer, and I am happy to check the *Hansard*, was: was I aware of the letter of 18—

The Hon. T.A. FRANKS: No; that was several questions in, after. I said, 'What were the views of the commissioner with regard specifically to bullying and the ombudsman on this bill?' and I was told in the very first question that there was no—

The Hon. R.I. LUCAS: No. Mr Chairman, with great respect, and we can check the *Hansard*, that was not the first question in relation to bullying and harassment. I am happy for the *Hansard* record to stand. I was asked a question in relation to whether the commissioner had been consulted in relation to the issue, or something along those lines. My advice at the time was that, no, there had not been and then you indicated, 'What about this letter?' from whatever date in October in relation to those issues. That was the subsequent question. I am happy for the *Hansard* record to be checked, if the member would like to query those particular interpretations of the events. In relation to specific

questions about bullying and harassment, I do not have a copy of the letter. The member does. If she wants to share the particular questions—

The Hon. T.A. FRANKS: It was sent to the minister. I am cc'd into it.

The Hon. R.I. LUCAS: I accept that it was sent to the minister but I am not the minister, the Hon. Ms Franks.

The Hon. T.A. FRANKS: You are the government.

The Hon. R.I. LUCAS: Of course I am, but I do not have a copy of every piece of correspondence the Minister for Education receives on a particular bill. It might surprise the Hon. Ms Franks, but I do not have a copy of every piece of correspondence the Minister for Education has received on the bill. I stand here on behalf of the government and the minister with an adviser from within the department, not within the minister's office, to do the best we can to try to assist the member in terms of responding to her particular questions. That is all I can do and I am happy to do the best I can in relation to assisting the member in clarifying any questions or issues that she might have.

The Hon. T.A. FRANKS: What is the position of the Commissioner for Children and Young People on this bill?

The Hon. R.I. LUCAS: I am happy to get a copy of the letter—the member obviously has a copy of the letter—and to read the letter—

The Hon. T.A. FRANKS: I think there is more than one letter. I just got one following up from the first letter.

The Hon. R.I. LUCAS: Again, it might surprise the Hon. Ms Franks that I do not have all the correspondence that the Minister for Education has received. So I do not know what specific concerns, if any, the commissioner has in relation to provisions of the bill. The member can ask me as many questions as she likes but I do not know the specific answers to that particular question. I am happy over the lunch break to try to get copies of the correspondence, to read the correspondence and, when we reconvene this afternoon, to wax lyrical about the issues that the commissioner may or may not have raised in letters to the minister late last year in relation to aspects of the bill.

The Hon. T.A. FRANKS: Could we be provided with a list of the organisations and individuals who have provided feedback on this bill, including in its previous incarnation, or if you do not have control over that information, certainly under the Marshall government and minister Gardner? I note that I asked what the position of the commissioner was on the overall bill as a first question but you asked for a bit of clarification, so I reduced it simply to be about the ombudsman and bullying. I was not expecting an answer that there was not any information regarding a position by the Commissioner for Children and Young People because I was cc'd into a letter written to the government in October 2018, which states:

Dear Minister

As South Australia's Commissioner for Children and Young People my mandate under the Children and Young People (Oversight and Advocacy Bodies) Act 2006 (the Act) is to advocate for the rights, interests and wellbeing of all children and young people in South Australia. It is also my role to ensure that the State, at all levels of government satisfies its international obligations under the Convention on the Rights of the Child (CRC). Under this Act each State authority must, in carrying out its functions or exercising its powers, protect, respect and seek to give effect to the rights set out in the CRC.

I am writing to update my position on the Education and Children's Services Bill. Since my previous correspondence I have had many conversations about bullying with multiple stakeholders. Through these I have been made aware that it is intended this Bill be used as a tool to address bullying, mainly through the use of suspensions, expulsions and exclusions. This has prompted me to provide additional feedback and recommendations.

My concern with this Bill is that children's fundamental rights will be overlooked to address behavioural issues through measures to 'teach children lessons'. The literature has shown that excluding children.[1] Children who are excluded from education by any of the above-mentioned methods are less likely to do well at school, are more disengaged and are more likely to leave school earlier. Children who are already doing it tough and marginalised are more likely to be targeted with these types of interventions.

Article 29 of the CRC states the education should develop the child's personality, talents and mental and physical abilities to their fullest potential, State parties have a duty to develop children's and young people's respect for the human rights and fundamental freedoms enshrined in the Charter in the United Nations. This is reaffirmed in the UN Declaration on Human Rights, Education and Training. The State also has a duty to develop children's respect for themselves, the environment and other people. I believe using suspensions, exclusions and expulsions as tools to address bullying behaviour will not achieve these ends.

The letter goes on and is obviously signed off by the Commissioner for Children and Young People, Helen Connolly. My question to the government is: what actions have they taken with regard to the bill and the serious concerns raised by the Commissioner for Children and Young People that the provisions in the bill are not acceptable to the Commissioner, based on her work on bullying?

Further, I note that when I raised the issue of an ombudsman it was then brought back that this was somehow about bullying. In my second reading speech I referred to the commissioner's work on bullying. That is not the only reason for having an ombudsman and certainly not the main reason for having an ombudsman.

I also express my deep concern that in the very first question, when I asked what the position of the Commissioner for Children and Young People is on the bill, the government purported that there was none, yet this commissioner has raised serious concerns about the impact of the approaches to bullying and the behavioural management techniques currently used and to be enshrined in the bill. I am quite concerned that an important voice in this debate has not been heard and I ask what the government's response is to ensure that the commissioner's concerns have been addressed.

The Hon. R.I. LUCAS: I can only repeat, again, that it is incorrect to say that when asked the first question I said that the commissioner had no views at all about the issue. The Hon. Ms Franks can make that claim as often as she wishes, but it is incorrect. I never said that, and her repeating the statement that I did does not make it fact. In relation to the commissioner, I will take advice from the minister over the Christmas break—sorry, over the lunch break.

The Hon. T.A. Franks: No Christmas carols today!

The Hon. R.I. LUCAS: Exactly—over the lunch break. Let me speak as an individual member of the government, therefore not formally speaking on behalf of the government but as a former minister for education who has a little experience in terms of running schools in this state and having heard the concerns of parents and students in relation to the management of schools.

It is fair to say I have only heard one of her letters and it may well be that she is referring, as the member indicates, to previous letters, but if the commissioner's view is that in some way there is something wrong with exclusion, suspension and expulsion, ultimately, in terms of managing bullying behaviour, I do not think, frankly, they are views that would be supported by the vast majority of parents, where the education of the vast majority of students in a particular classroom may be significantly impacted.

Not only their education but their wellbeing may be significantly impacted by the bullying behaviour of a particular student in a particular class. My previous experience with education is that sometimes even the most magnificent of teachers and the most magnificently run of schools can just not cope in the normal classroom environment with the bullying activities and behaviour of a particular student in a classroom. That becomes a subject of complaint by every other student and parent of those students in the classroom.

It is just a natural result of the system that in some way, on some occasions, despite the best endeavours of teachers and staff, that a student who refuses to change his or her behaviour has to be either excluded or suspended, otherwise, as I said, the education and the physical and mental wellbeing of every other student in the class is significantly and negatively impacted by that particular behaviour.

I listened to the letter being quoted by the honourable member, but if the view of the commissioner is leading to an argument, as it appeared to, at least on the surface, that in some way we should be reducing the capacity for suspension, exclusion and expulsion, then personally, as a former minister for education, I do not think that is a view that most parents and teachers would support. Inevitably, as part of managing student behaviour and wellbeing within schools, yes, you

must consider what is best for the individual student who might be engaging in the bullying behaviour, but equally for every other student in the class who is not engaging in bullying behaviour, their rights and entitlements to an education and to physical wellbeing conducive to good education should be considered as well.

It is possible—and let me consult with the minister—that the minister respectfully listened to the commissioner's views and in the end did not agree with the particular views on the exclusion, expulsion and suspension provisions of the bill. I cannot speak for the minister because I have not had a discussion with him. I will have the discussion with his office to clarify what his response was in relation to that. But if that was his position, it would be an entirely reasonable position to put and one I think would be supported by the majority of parents and teachers within our schools in terms of how you manage what is sometimes the entirely unreasonable behaviour of bullies within our schools.

The Hon. T.A. FRANKS: That is all very nice, but I asked for the government's position not an individual, personal belief of a particular member of this chamber. If the minister representing the minister could bring that back, that would be much appreciated.

My next question is: will the government be exercising a conscience vote on the religious instruction provisions in this bill?

The Hon. R.I. LUCAS: It is an interesting question and one that I should have an answer for. I am happy to take advice from the minister in relation to this issue. Our general process in relation to this is that on any issue a member of the Liberal Party has the entitlement to vote according to his or her conscience anyway, so it is an entirely moot point, as has been demonstrated relatively recently in relation to other legislation. Members are entitled to vote according to their conscience and they do not get expelled from the party. However, as the honourable member would be aware, we do nominate particular issues as being conscience issues for members of the Liberal Party. I cannot recall whether the issue of religious instruction was nominated as a conscience issue when we first discussed this a couple of years ago when it was a government bill. I suspect it might have been, but I will check that over the lunchtime break and bring a reply back to the member after lunch.

The Hon. T.A. FRANKS: Can I ask through the Chair for the minister: what is the position of the South Australian Association of State School Organisations Incorporated on an education ombudsman?

The CHAIR: The Hon. Ms Bonaros, while the Treasurer is taking advice, you are seeking the call. Is it on this issue or another issue?

The Hon. C. BONAROS: I have questions in relation to the Commissioner for Children and Young People and also the education ombudsman.

The CHAIR: I will give you the call after this.

The Hon. R.I. LUCAS: Again, I am happy to consult with the minister to see whether he has received correspondence from SAASSO on the issue of an education ombudsman. I am advised that the honourable member in her contribution did indicate that SAASSO supported the concept or proposal for an education ombudsman, so if that is an accurate reflection of the honourable member's second reading contribution, then she might be aware that they do support it, if that is her claim.

The Hon. C. BONAROS: I appreciate the advice of the Ombudsman that has been placed on the record, and I will have to think back to it now that I am asking this question. I think the Treasurer indicated that there were 171 complaints: is there a breakdown in relation to how many of those pertain to children and how many pertain to teachers?

The Hon. R.I. LUCAS: My advice is, no, not that we are aware of. I am assuming the Ombudsman might be able to provide that, but we are not aware of that breakdown at this stage.

The Hon. C. BONAROS: Is the Treasurer aware, or can we find out perhaps, how many matters the Commissioner for Children and Young People has dealt with that pertain to education issues, as opposed to the Ombudsman's office?

The Hon. R.I. LUCAS: Again, my advice is that we are not aware of that at the moment. It may well be possible, between now and the next Tuesday of sitting, to seek information from the

commissioner to see whether they are in a position to give us some information on that, and maybe within the same time frame we might be able to get some information from the state Ombudsman. I am not sure how searchable their database is, or how easy it is for them to answer the honourable member's question, but I am sure that through the minister's office, given that we have a week and a bit between today's sitting and the next Tuesday, if there is any information we can share with the honourable member in the committee stage, we will endeavour to do so.

The Hon. C. BONAROS: I would be particularly keen, if it is possible to get those figures, to also consider the question of the proportion of complaints that are actually related to bullying versus other issues. I mentioned, during my second reading contribution, hashtag #handsup, the Voices of Educators group, which I understand has had ongoing complaints regarding bullying issues that pertain to teachers in particular, so if any of those complaints have been made to the Ombudsman I would like, if we can, to get an indication of how many relate to bullying versus other matters, and the same for the Commissioner for Children and Young People.

The Hon. R.I. LUCAS: We would need to seek some advice from the state Ombudsman in relation to that. As I understand what the honourable member is saying, there may well be bullying complaints that relate to children, but there might be bullying complaints from staff, that is, being bullied by other staff, by the principal, by the department, by parents, or whatever it might happen to be, which might have been characterised as bullying.

When the Ombudsman's office referred to 38 of the 171 as being bullying, I guess we will need to seek clarification as to whether they have characterised that as bullying of students, which seemed to be the subject of the earlier questioning from the Hon. Ms Franks, or whether it relates to bullying generally and might include also the second category, that is, where teachers or staff perhaps have been bullied by, as I said, possibly another teacher, a parent, a principal, or, I suppose, even a senior student. We will have to seek clarification from the state Ombudsman's office. All I have is that direct quote from the Ombudsman's letter, which referred to 38 out of 171.

The Hon. I. PNEVMATIKOS: In terms of that clarification that is being sought, can we also get some clarification in terms of the nature of not just students, children and teachers but also SSO support staff, because there may be complaints by them?

The Hon. R.I. LUCAS: I am happy to, through the minister's office, see what information we can share in relation to all of these issues that the honourable members have raised, and if the Ombudsman is in a position to provide greater clarity about the numbers and the breakdown of those, and also the separate question about the commissioner, we will seek that information. We, of course, do not have direct access to it. We will be reliant on them responding, but we do have a little bit of time between now and the next Tuesday.

The Hon. T.A. FRANKS: I want to put on the record that my concerns about an ombudsman were not specifically with regard only to bullying. The Ombudsman's response with regard to feedback about the bullying statistics are appreciated, but I would also note that I had the 171 figure last year from my briefing with the government, which I am grateful for, and I was told that a further breakdown would be provided. It has been some months since I was given that information, so I would expect that before we continue this debate we actually have a breakdown of that information.

Also, could the government update the council with regard to what consultation they have undertaken with the South Australian Association of State School Organisations, in particular their quite strongly expressed views that the Department for Education's internal dispute resolution processes are failing as far as that organisation is concerned?

The Hon. R.I. LUCAS: Just on the first issue, I am reading again the quote from the Ombudsman's letter. They do actually say, 'the department relate to its handling of student bullying issues—38 of 171 complaints about the department.' That would appear to lead us to believe that that is the specific category of student bullying. I will seek further information in relation to the issue of teachers, SSOs, principals and others who might be complaining about being bullied.

In relation to the issue of SAASSO's attitudes about complaint handling and to the education ombudsman, as I indicated earlier, I am happy to seek advice from the minister as to what, if any,

advice he has received in relation to their views about either the education ombudsman or concerns about complaint handling within the department.

It may well be that something as broad as complaint handling may be a general concern that they have expressed, not specifically in relation to a piece of legislation, and therefore will rely on the minister being able to track that down. Whether they have expressed it to him would be easy enough for him to track down; if they have had actually had discussions with officers at some level within the department it might be a little more difficult to track down.

Certainly, if they have expressed a view to him, as the commissioner did by way of correspondence to him, that is directly within his purview and responsibility and knowledge, he should be in a position to say, 'Yes, SAASSO has written to me or emailed me and expressed concerns about complaint handling or support for the education ombudsman or not.' We undertake to ask the minister and his office to see whether they can assist the member in terms of an answer to that question.

The Hon. C. BONAROS: Can I just go back to the issue of exclusion of students for a moment. I note that under the bill there is a requirement that students not be excluded for more than 10 consecutive weeks, but that must follow a five consecutive days' suspension. Is the Treasurer aware whether it is indeed the practice that there is always a five-day suspension before that is actually imposed, and does the Treasurer have any numbers in relation to the numbers of students who have been excluded?

The Hon. R.I. LUCAS: Reading from the little blue and white book, which is the Education Regulations 2012, regulation 45(3) states:

> Before excluding a student under this regulation, the head teacher must first suspend the student from attendance at the school for a period not exceeding 5 consecutive school days.

It is clear, according to the regulations, that they must first suspend before excluding. So excluding is not the first option: you suspend and then exclude. In relation to the numbers, the department has advised me that summary statistics for term 2 of 2018 show that 231 students were excluded. This represents 0.13 per cent of the student population. There were 56 fewer students excluded in term 2 of 2018 than in term 2 of 2017, a 19.5 per cent decrease. On that basis, there must have been 287 students excluded in term 2 of 2017 and then 231 excluded during term 2 of 2018.

The Hon. C. BONAROS: I appreciate that is what the regulations say. Is there any action that can be taken if the regulation is not adhered to by the school in terms of the five consecutive days' suspension being imposed prior to an exclusion being imposed? The bill has clear provisions in relation to a penalty that could apply if a student does not comply. Is there something similar for the school itself?

The Hon. R.I. LUCAS: The regulations, guidelines and practices of the department do provide for an appeal process. This is not specifically about the question from the member, I know. If a parent, for example, wants to appeal against what they think is an unfair decision to exclude, even if they have been suspended for five days, there is an appeal process that you can go through. If someone was automatically excluded, that is, they were not suspended, they can also appeal because there is an appeal process.

However, in relation to the specific question from the member, again, I probably need to get some legal advice on this but if a principal breaches the Education Act or education regulations, that is, he or she has just automatically excluded someone without actually following the regulation that says you have to suspend, and if there is no other provision which allows in extenuating circumstances that sort of action to be taken—for the safety of other students in the class or something, but let's assume that is not the case, there is no exemption provision—then I would imagine that principal would be subject to the potential for disciplinary procedures.

He or she has breached the Education Act or regulations under the Education Act in terms of an appropriate process. If, during an appeal process, it was clear that they had not suspended the student when they were meant to have suspended the student before exclusion, not only might the decision be overturned in relation to the individual student, but I would imagine that that particular

principal would leave themselves open to disciplinary action by the chief executive ultimately, under whatever disciplinary processes the education department has.

I can really only answer generally, but that would be my expectation, that if a principal does not abide by the law, and acts contrary to the law, then they would, under the normal processes of either the Education Act or other processes, be subject to potential disciplinary action.

The Hon. C. BONAROS: I have a couple more questions on this particular issue, and I appreciate the Treasurer's comments in relation to those disruptive behavioural issues but, of course, there is often a whole array of issues which might result in a student being excluded. Specifically, my question is: given that a student can be excluded for up to 10 weeks, and even if it is only half that, what role or, indeed, whose role is it to ensure that there are alternative arrangements for those students in terms of being placed somewhere for something during normal school hours, and not less than school hours, and are those arrangements actually meeting the demand, especially given the figures that have been provided?

The Hon. R.I. LUCAS: The honourable member raises an important question. There is a requirement under the Education Act for students of compulsory schooling age that the department, if it excludes someone from a mainstream classroom—if I can refer to it that way—has to be provided with alternative education options. The member may or may not be familiar with various alternatives—they used to be called behavioural learning centres in my day but they have probably been modernised and called something else now, alternative learning centres or something. It would appear that they are now called learning centres or an alternative program.

Students under 16 may be moved to another school, so you could actually be excluded from one school and if a principal at another school is prepared to take on this particular student that can occur or they could be referred to a learning centre or an alternative program. There is a range of very successful learning centres, behavioural learning centres, as they used to be called, or alternative programs where you have highly trained staff, skilled in managing what may be difficult young children or young adults but nevertheless, at the same time, trying to provide them with training. It is sometimes related to trade training options or various other options like that. They have flexible arrangements in terms of their learning programs and they have much smaller class sizes and student to class ratios.

There are a number of very successful options. In terms of whether they are meeting the demand, I will take advice on that, but I am assuming the answer to that will be yes, in relation to it, particularly as the numbers in 2018 are significantly less than the numbers in 2017. If there has been a 20 per cent reduction in the numbers in term 2 then whatever the capacity there was in 2017 would be still there in 2018. I am not aware of any changes or reductions that the new minister has made in relation to learning centres or alternative programs but there has been a 20 per cent reduction, at least in term 2, year on year, in terms of options.

Can I move, with great respect to the honourable member—and that way she can think of other questions on this particular clause after the break—that we report progress, Mr Chairman.

Progress reported; committee to sit again.

Sitting suspended from 13:00 to 14:15.

Petitions

BUS SERVICES

The Hon. C. BONAROS: Presented a petition signed by 68 residents of South Australia requesting the council to urge the government to take immediate action to not cut the 835 bus route Lobethal to Mount Barker.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Capital City Committee, Report—2016-17
Capital City Committee, Report—2017-18
Determination and Report of the Remuneration Tribunal No. 13 of 2018—Salary Sacrifice Arrangements for Judges, Court Officers and Statutory Officers
Determination and Report of the Remuneration Tribunal No. 14 of 2018—Accommodation and Meal Allowances—Judges, Court Officers and Statutory Officers
Determination and Report of the Remuneration Tribunal No. 15 of 2018—Conveyance Allowance—Judges, Court Officers and Statutory Officers
Remuneration Tribunal Report No. 16 of 2018—2018 Review of Judicial Security Allowance

Question Time

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:17): My question is to the Minister for Human Services. Minister, when were you first made aware of concerns of abuse, neglect and maladministration at Minda, what were the nature of these concerns and what steps have you taken as minister to ensure the safety of Minda clients?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:18): I thank the honourable member for his question. I received a letter last year from—I will need to retrieve the issues because he is asking me about some specific issues and when I was made aware of them. Last year, when I was made aware of them, we referred them to the relevant authority. I have been concerned that there have not been specific details provided about this and so have urged those who have written to me to provide the details, particularly the member for Hurtle Vale, and that information has not been forthcoming.

I think it is very concerning when allegations are raised. We take them very seriously. We refer them to the relevant sections of our department, or the relevant commonwealth authorities, for investigation. I think it is inappropriate and placing people at risk if members of parliament or anybody else does not do the same—it is potentially placing people at risk.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:19): Supplementary arising from the answer: is the minister saying she had no information about specific clients who could be at risk?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:19): I have been sent information not providing the details of particular names of clients. That, obviously, is very, very important in terms of being able to investigate the matter. I think it is beginning to form a pattern of a very sad strategy in South Australia when Labor members of parliament raise issues of concern but do not provide details so that they can be investigated by the authorities. We have gone back to the member for Hurtle Vale—

Members interjecting:

The PRESIDENT: Order! Let the minister speak.

The Hon. R.P. Wortley: Six hundred disabled kids waiting for a swimming lesson; you close the Strathmont pool. So don't cry at us.

The PRESIDENT: The Hon. Mr Wortley, could you just leave the Strathmore pool alone for a moment.

The Hon. R.P. Wortley: Strathmont.

The PRESIDENT: Strathmont.

The Hon. J.M.A. LENSINK: We have gone back to the member for Hurtle Vale and asked her to urgently provide us with those details so that we can be satisfied that those matters are being raised and investigations concerned, and those have not been forthcoming. I think it is actually quite inappropriate for a member of parliament, who has a duty of care, to behave in that manner.

The PRESIDENT: The Leader of the Opposition, a further supplementary.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:20): Arising from the original answer: is it the minister's contention that she did not indicate to the member for Hurtle Vale that investigations were already underway into the matter that was raised?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:21): Once again, members of the Labor Party are trying to put words in ministers' mouths. That's not what I said.

SHINE SA

The Hon. I.K. HUNTER (14:21): My question is to the Minister for Health and Wellbeing. Will the minister heed the calls of the 11 community organisations which are signatory to an open letter calling on the government to reverse its savage cuts to SHINE SA, and what is the minister's response to the over 400 clinicians who signed an open letter warning that these cuts would lead to an increase in STIs and unplanned pregnancies?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:21): The decision to close the two sites at Davoren Park and Noarlunga was that of SHINE and not the government of South Australia. The government considers that with greater utilisation of the Medicare Benefits Scheme funding SHINE SA should be able to operate sustainably and maintain services. I raised my concerns with SHINE SA late last year, and in that context SHINE SA has advised me that they have revised their plans and sexual health services will be continuing in 2019 in both the southern and northern suburbs, though in a different configuration.

A SHINE SA sexual health counsellor will be located in the Onkaparinga Headspace on Thursdays, commencing 21 February 2019, and at the Metro Youth Health office in Elizabeth on Fridays, commencing 1 March 2019. SA Health continues to work closely with SHINE to explore arrangements for ensuring the sexual health needs of those communities impacted by the clinic closures are met.

SHINE SA

The Hon. I.K. HUNTER (14:22): Supplementary, sir, arising from the non-answer: is the minister suggesting that doctors like Dr Erin O'Connor of Doctors for SHINE SA are lying when they say the services provided at SHINE cannot be appropriately covered under a normal GP consult or under Medicare rebates, as the honourable minister has said to the chamber?

The Hon. K.J. Maher: Are you lying or is she lying?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:23): It's rather staggering—

The PRESIDENT: Careful, Leader of the Opposition, careful. There is a limit—

Members interjecting:

The Hon. S.G. WADE: It's rather staggering—

The PRESIDENT: You're getting close to unparliamentary language. Excuse me, minister. You're getting very close to unparliamentary language, and I will pull you up if necessary. Minister, let us have your answer.

The Hon. S.G. WADE: I would remind the honourable member that the former Labor government reduced funding to SHINE by 5 per cent, and it specifically said that SHINE should rely more on Medicare funding. We are doing no more, no less than the former Labor government did.

SHINE SA

The Hon. I.K. HUNTER (14:23): A supplementary again: where does the minister now suggest that the hundreds of people relying on SHINE SA's Davoren Park and Noarlunga Centre clinics now go if they are only going to be opening for one day or half a day a week or a month? Where do the rest of them go? Where does the minister suggest they visit—their own family GP?

The PRESIDENT: The Hon. Mr Hunter, the supplementary has been asked.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:24): The South Australian government is continuing to fund SHINE SA. Anyone in South Australia, regardless of where they live, can call SHINE SA on 1300 794 584 and a staff member will assist them in getting the sexual health services they require.

In terms of the funding SA Health gives to SHINE, $4½ million of an annual grant, a significant portion of that is about education and training in clinical sexual health services to GPs. This is so that GPs across South Australia are supported to provide sexual health services to their communities, whether that be prescribing contraception, inserting IUDs or testing for STIs. Savings realised will be reallocated to prioritise South Australian government funding on sexual health and relationships education in the community and workforce development for clinicians managing people at risk of or diagnosed with a sexually transmitted infection.

The PRESIDENT: The Hon. Mr Hunter, a further supplementary.

SHINE SA

The Hon. I.K. HUNTER (14:25): I would like to suggest that the minister consider answering the second part of my original question, and that was: does he not have any views or concerns about the opinions expressed by clinicians that his cuts to funding to SHINE, resulting in the closing of centres and a reduction in services, will mean there will be an increase in STIs and unplanned pregnancies?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:25): I would remind the honourable member that the program in relation to sexually transmitted infections and bloodborne viruses is actually to six organisations.

The Hon. I.K. Hunter: So why have you picked on SHINE? Why have you cut theirs more than everybody else's?

The PRESIDENT: The Hon. Mr Hunter, you have an opportunity to ask another supplementary.

The Hon. I.K. Hunter: Four times as heavy a cut.

The PRESIDENT: Please restrain yourself, the Hon. Mr Hunter.

The Hon. I.K. Hunter: Four times as heavy a cut to SHINE. What have you got against them?

The PRESIDENT: The Hon. Mr Hunter, you have asked your question, allow him to answer.

The Hon. S.G. WADE: My understanding is that all of the six organisations funded under the program experienced cuts between efficiencies—

Members interjecting:

The PRESIDENT: The Hon. Mr Hunter, allow the minister to answer. Leader of the Opposition, restrain yourself as well.

The Hon. S.G. WADE: I don't know what figures the honourable member is referring to because I am certainly not advised that that is the case. I am advised that the cuts were between 5 and 9 per cent. These efficiencies are being asked right across the program and in that sense, even if you are at the upper end, 9.5 per cent is less than double, if you like, in terms of the ratio. In terms of factuality—

Members interjecting:

The PRESIDENT: Order, the opposition benches! I cannot hear the minister.

The Hon. S.G. WADE: The member's assertion was that there was a dramatically higher cut for SHINE SA than other participants in the program, but this is not true. Labor reduced funding by 5 per cent to SHINE. Obviously, Labor felt that SHINE SA could make efficiencies. When we have a situation where we have the CALHN overspend at $300 million a year—that's 30 times, the overspend in CALHN alone is 30 times our annual spend in this program. So you have to say, Labor

wants to continue with gay abandon the budget inefficiencies of CALHN and then expecting that there won't be any action to reduce inefficiencies.

The reality is that we expect all of the health system to work more efficiently. That includes our non-government partners, that includes SHINE. We are not getting the same pushback from other partners that we are from SHINE SA. There is demonstrable evidence that they can increase their revenue, they can become more efficient. We expect that of SHINE, we expect that of all of our partners.

ROYAL ADELAIDE HOSPITAL SLEEP SERVICE

The Hon. C.M. SCRIVEN (14:28): My question is to the Minister for Health and Wellbeing. Will the minister advise whether the Central Adelaide Local Health Network will proceed with a sleep service at the RAH as was agreed with clinicians before the election, and, if so, when?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:28): Agreed with clinicians before the election? This is a party that built a Royal Adelaide Hospital which did not even have inpatient sleep facilities. They had an outpatient facilities space that was reduced by 60 per cent. Well, I am sorry, you can't cut a service—

Members interjecting:

The Hon. S.G. WADE: You are the guys who cut the space. You cut 60 per cent out of the outpatient space at the Royal Adelaide and you expect people to work efficiently. You guys left the Chest Clinic at the other end of North Terrace and expected people with cystic fibrosis—

Members interjecting:

The PRESIDENT: Minister, there is a point of order from the Hon. Mr Hunter.

The Hon. I.K. HUNTER: The honourable minister on his feet is hysterically accusing you of making all of these cuts. He should be addressing himself to you, sir, and not to the gallery, and he should be addressing his remarks in a more parliamentary manner.

The PRESIDENT: Perhaps, minister, refrain from using the term 'you guys', and refer to the opposition benches as such.

The Hon. R.I. Lucas: 'The discredited former Labor government'—would that be alright?

The PRESIDENT: Yes, 'former Labor government' is okay.

The Hon. D.W. Ridgway: What about 'worst government this century'?

The PRESIDENT: The Hon. Mr Ridgway, do not push it so far. The President is not amused. Minister.

The Hon. S.G. WADE: I would simply say that the cystic fibrosis patients, who found that their services were stranded at the east end of North Terrace, were far more hysterical than I have ever been, because they felt betrayed. They were told by the former Labor government—I think Jack Snelling did it just before the 2014 election: the promise was that every service in the old RAH would be provided in the new RAH. What a lie! How can you cut outpatient services by 60 per cent and maintain services? That is why the Chest Clinic was stranded at the east end of North Terrace, and it was only on 10 December this year—

The Hon. C.M. SCRIVEN: Point of order.

The PRESIDENT: The Hon. Ms Scriven, a point of order. Minister, just sit down, there is a point of order, please.

The Hon. C.M. SCRIVEN: The point of order is in regard to relevance: we were talking about sleep services rather than chests or cystic fibrosis.

The PRESIDENT: The minister has some leeway. I assume he will get to those services in a minute.

The Hon. S.G. WADE: Let us go directly to those services. Labor built the new Royal Adelaide Hospital with no space for sleep labs. That was a service that was at the old RAH. What

was Snelling's promise? That all services at the old RAH would be at the new RAH. It was not true. The plans had already been drafted. You cannot tell me that in 2014 he did not have the plans drafted for the new Royal Adelaide Hospital, and there was no space for sleep labs.

This is what the government was confronted with: 60 per cent less space for outpatient services, the Chest Clinic stranded at the East End and no room for sleep labs. And what do we get from Labor? Carping, carping, carping! I am sorry, it was not me who left out the sleep labs, it was your team—sorry, the former Labor government, a disgraced former Labor government. Labor built a hospital, they built out sleep services. It is no time for this party to preach—

The Hon. K.J. MAHER: Point of order.

The Hon. S.G. Wade: I've finished my answer.

The PRESIDENT: He's finished his answer, so there is no point of order.

The Hon. K.J. MAHER: My point of order was going to be that we have all tried to heed your advice, sir, to keep answers short and not be as hysterical as we sometimes are.

The PRESIDENT: That is not a sensible point of order. The Hon. Ms Scriven, do you have a supplementary?

ROYAL ADELAIDE HOSPITAL SLEEP SERVICE

The Hon. C.M. SCRIVEN (14:32): I do have a supplementary. Point of clarification: was that last 10 minutes of diatribe intended to mean no?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:32): No, it was an appalling former Labor government—I would agree with that.

ROYAL ADELAIDE HOSPITAL SLEEP SERVICE

The Hon. C.M. SCRIVEN (14:32): Further supplementary: further clarification that the minister will not be proceeding with a sleep service at the RAH, as was agreed by him before the election? Will the minister advise whether clinicians—

The PRESIDENT: That is a supplementary, the Hon. Ms Scriven. If you have another supplementary, I will consider allowing you to ask it. Let the minister answer that one.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:33): That was a complete fabrication of what I said. I said that the former Labor government built out sleep services at the RAH. In relation to the Chest Clinic services, we have succeeded where Labor failed. As of 10 December, all Chest Clinic services are provided at the RAH. In terms of sleep services, we have not made a decision. A consultation paper was provided to clinicians and staff in December 2018 for their input prior to any decision being made. Consultation is now closed and submissions are being considered.

The Hon. I.K. Hunter: That's all you had to say 10 minutes ago.

The PRESIDENT: The Hon. Mr Hunter, the Hon. Ms Scriven is on her feet; show some respect for your front bench.

ROYAL ADELAIDE HOSPITAL SLEEP SERVICE

The Hon. C.M. SCRIVEN (14:34): Further supplementary: will the minister advise whether clinicians at the RAH agree with the proposition that there will be capacity to send people to The QEH to be treated, and has the AMA expressed a view to the minister?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:34): As I said, consultation has now closed. I look forward to the outcome of that consultation, unlike the former Labor government, which continually locked out clinicians. They locked out clinicians in the design of the Royal Adelaide Hospital. That's why we had a 60 per cent cut in outpatient services, that's why we had no inpatient sleep labs built into the facility, and that's why we had a disaster with EPAS. This government does not apologise for consulting with clinicians, and I look forward to their views being presented to CALHN and for me to be advised of the outcome of it.

ROYAL ADELAIDE HOSPITAL SLEEP SERVICE

The Hon. C.M. SCRIVEN (14:34): Has the minister been informed by the College of Physicians that the absence of a sleep service will lead to the removal of accreditation of the unit?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:35): It's gobsmacking, isn't it? The Labor Party seems to be determined to highlight their incompetence. Accreditation issues arise only because the former Labor government built no space for sleep labs in the new RAH. We will be maintaining all inpatient services within CALHN. The way we do it is the subject of consultation as we speak.

TOUR DOWN UNDER

The Hon. D.G.E. HOOD (14:35): My question is to the Minister for Trade, Tourism and Investment.

Members interjecting:

The Hon. D.G.E. HOOD: Yes, another hard-hitting question. Can the minister update—

Members interjecting:

The PRESIDENT: Order! Let the member ask the question.

The Hon. D.G.E. HOOD: Thank you for your protection, Mr President.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Leader of the Opposition, please!

The Hon. D.G.E. HOOD: Thank you, Mr President. Can the minister update the chamber about the outcome of the 2019 Tour Down Under and the tribute to Paul Sherwen?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:36): I thank the honourable member for his ongoing interest in cycling. Of course, as members can recall, I spoke about the success of the women's Tour Down Under on Tuesday. Now I would like to touch, if I may, on the wonderful men's Tour Down Under. I have already discussed how the overall event is going from strength to strength and cited some of the key statistics on visitation and media. I will repeat that figure: 300,000 people streamed it live on their mobile devices on the first day.

The men's event this year saw 133 riders from 28 countries covering some 900 kilometres across six stages plus, of course, the classic event around the Adelaide Parklands. We had some of the world's best riders in town: Peter Sagan, Richie Porte, Rohan Dennis and Caleb Ewan. Of course, also included on that list was past TDU winner Daryl Impey, who took out the overall race again this year.

As with the women's event, there were a number of firsts for the men's race too. The MAC Stage 6 finished at the top of Willunga Hill. About 133,000 spectators lined the route at Willunga Hill on the closing day. That was a fabulous endorsement of what was, I think, a change of location because of the construction work that is happening at the rear of Parliament House at the moment; it was endorsed wholeheartedly by the travelling public.

Port Adelaide also hosted a finish for the first time. North Adelaide returned as the start location for the first time almost since the inaugural Tour Down Under, and a new 13.9 kilometre circuit around Uraidla was introduced. It was also great to see the Challenge in full swing again, with more accommodating weather this year. There were some 3,792 entrants and only one ended up in hospital, which I think was a broken collarbone. I suspect nearly every Saturday, sadly, somebody comes to grief on their bike, so it was pleasing that there was only one. Every rider this time that was not injured or decided not to finish made it to the finish line before the pros. In other years, we have had stragglers having to be taken off the road to let the professionals reign.

Unfortunately, this year's event did have a bittersweet tone, with the unexpected passing of Paul Sherwen. Paul Sherwen was a much-loved member of the TDU family who will be greatly missed. He was a true professional who brought great insight to the fans. He was generous and always had a smile on his face. Paul had a deep passion and care for the work that he did and the

people he worked with, including the riders and the fans. Paul has a place in the hearts of all those at the TDU and around the world in cycling, as evidenced by the outpouring of grief following his death.

Phil Liggett and Paul Sherwen carry so much of our story, which is why a series of tributes went on throughout the event. In fact, they were great supporters of Tour Down Under from the very first event itself. At the Legends Night dinner, Phil Liggett gave a very touching and personal tribute to Paul Sherwen.

There were also some very uplifting stories from this year's event. At Willunga Hill, I met a young man, Dan Rembold. He had an American accent. He said he was from Texas. He had been in bed in hospital two years ago. My recollection is that he told me it was some type of nasty leukaemia, but a cancer of some magnitude. He was given some very radical treatment. His doctors told them that if it didn't work he may only live for the next three or four days.

That night, while going through the treatment, he was looking for something to watch—he loves cycling—and he found the Tour Down Under. He streamed it on his iPad and watched it while he was having treatment throughout the night. He then said to his wife the next day, 'If I live through this problem we are facing now, we're going to Australia to watch the Tour Down Under.' Luckily, he survived. He and his wife have five children. They left the children home with the grandparents and came here for 10 days. He could not believe what a wonderful event it was. He has reached out to me on LinkedIn since, and he is somebody I am going to invite back because it is a great story and an endorsement of a great event.

I would also like to thank some of the sponsors. In particular, I would like to mention FE Sports, FIVEaa, Novatech, Nova 919 and, of course, Ziptrack. I think it is also important to reiterate how wonderful it is to have Santos back on board for another three years. It is a real vote of confidence for the event and the state. I know the team at Santos are very keen to try to lift the women's event to a world UCI event.

We also must pay a little bit of tribute and thanks to Mike Turtur. He has announced that he will retire soon. Of course, Mike was the original race director. He was the one who came to the Liberal government more than 20 years ago and put the concept to them. It took a little while to prove it up. I was not aware of the logistics. To get an event of that magnitude up meant we had to send police and a whole range of people to the Tour de France to learn about how you put on and run an event like this. It wasn't just something whereby they made a decision and then next week they put it on. There was a lot of build-up to it. Even for Mike, as much as he is very passionate about the event, it was somewhat beyond his wildest dreams that we would have the biggest race in the world outside of Europe here in South Australia.

The PRESIDENT: The Hon. Mr Ridgway, we have gone four minutes.

The Hon. D.W. RIDGWAY: I know, but, Mr President—

The PRESIDENT: The hourglass, which I have had running—the last sand has just fallen through. I will allow you a couple of sentences to wind up.

The Hon. D.W. RIDGWAY: The government is committed to the ongoing growth of the TDU. In closing, Mr President, I would like to thank again the volunteers, the Tourism Commission, the South Australian public and all the visitors, the police, the emergency services, all of the people that are really important. Volunteering is a part of the culture and the psyche of South Australia—all the people that volunteer to make this great event as good as it is.

SUPERLOOP ADELAIDE 500

The Hon. T.A. FRANKS (14:42): I seek leave to make a brief explanation before addressing a question to the Minister for Trade, Tourism and Investment on the subject of ticket sales for the Adelaide 500.

Leave granted.

The Hon. T.A. FRANKS: Last December, I asked the minister—and it was taken on notice in this place—what were the number of tickets sold for the Adelaide motorsports festival. I was told that as a sponsor this information is not the property of the SATC in terms of the ticket sales for that

event. My questions today to the minister I do hope will elicit a number in response rather than an anecdote. I know that the minister, when he announced the Superloop sponsorship for the Adelaide 500, claimed that the Adelaide 500 is the 'largest domestic-ticketed motorsport' event in our country.

My question to the minister is, then: what were the ticket sales last year, paid and given away, and will he be able to tell us in a few weeks what the ticket sales were, paid and given away, for this year's event?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:43): I thank the honourable member for her ongoing interest in motorsport. I get the most questions from her around the motorsports, so I am delighted to answer this one. The Superloop Adelaide 500 is on in a couple of weeks. I don't have the figures for last year's event at my fingertips, but I will certainly bring back some information on those figures and provide the member with some information.

Of course, at this year's event the Red Hot Chili Peppers is the attraction for the concert on the Sunday night. The informal advice about ticket sales for the Sunday is that it's already a sell-out, so we have got particular interest in that day. But in relation to the actual numbers for last year, I will bring some information either back to the chamber or provide it to the member. I am sure, when all of the ticket sales are completed after this year's event, I will be happy to provide what information I can to the honourable member.

SUPERLOOP ADELAIDE 500

The Hon. T.A. FRANKS (14:44): Supplementary: given, by the minister's own admission, he has just said that the Adelaide Superloop 500 has been buffered by the Red Hot Chili Peppers concert, how does the department analyse the success in tickets sales of the music events as opposed to the motorsports?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:44): Again, I thank the member for her ongoing interest in motorsport. As the member would know, the general admission tickets are, I think, $99 for Sunday and for the other days it is a similar price. We don't sell a ticket just to the concert or just to the motorsport festival. It is a festival of entertainment, a festival of speed, a festival of thrills, and you can access it all if you buy a ticket. If you choose not to go to the Red Hot Chili Peppers you can just go to the race for the day or vice versa; you can choose to go to the concert at the end of the evening and not participate in the motorsport.

Last year, Robbie Williams was the final night's entertainment and, again, I think people made those decisions—it was a record number. I think they shut the gates at about 3 o'clock because the venue had reached capacity. We don't divide the ticket sales up into music or motorsport; it is a festival of entertainment over four days. There is some of the most exciting motorsport that we ever see in this state and, as always, there is a concert at the end of each day. Again, I think we will see this year's event approaching record numbers because the South Australian public and interstate and international visitors will flock to Adelaide to enjoy the event.

The PRESIDENT: The Hon. Mr Hunter, a supplementary.

SUPERLOOP ADELAIDE 500

The Hon. I.K. HUNTER (14:46): Yes, arising from the answer: the minister indicated that he will either bring back a response to the member directly or to the chamber. Given the question was raised in the chamber can I ask him to commit to bringing the answer back to the chamber as well, even if he does communicate directly with the member.

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:46): I thought that is what I would do, Mr President, bring it back to the chamber. If I provided the information then I wouldn't see any need to provide it in writing to the member. I like to keep people happy and make sure that they are not grumpy and yelling at me, so I'm very happy to do whatever you would like.

COUNTRY HEALTH SERVICES

The Hon. E.S. BOURKE (14:46): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about regional health care.

Leave granted.

The Hon. E.S. BOURKE: As published in the *Yorke Peninsula Country Times* on 6 November 2018, the member for Narungga said:

> Mr Ellis said he had spoken with the state Minister for Health Stephen Wade, arguing there must be a more cost-effective, permanent and patient-friendly option than full-time locum staffing.

The local Kadina GPs were also quoted as saying:

> What it does mean is CHSA [Country Health SA] is now forced to take over entirely the servicing of the Wallaroo Hospital ED an outcome that is expensive and, additionally, not ideal for patients who will be treated by a revolving door of…locums.

My question to the minister is: do you still stand by your comments made yesterday that the Marshall Liberal government will continue to give a high priority to the needs of South Australians who live in country areas when not even a regional Liberal member of parliament or regional health providers agree with you?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:48): I thank the honourable member for her question. I always appreciate Dorothy Dixers. The honourable member rightly highlights that I was able to outline to the council the neglect of the former Labor government in relation to capital works in country areas, and I thank her for the opportunity to highlight the neglect of the former Labor government in relation to the rural health workforce.

The Marshall Liberal team, in opposition, realised the dire straits of the rural health workforce in South Australia and that's why we committed to a $20 million rural health workforce strategy over four years. In January, the first instalment of that investment was announced. It dealt with $840,000 to deliver direct support for clinicians through an expanded digital telehealth network; $200,000 for country clinicians in relation to simulation and training equipment; $180,000 for mental health education for suicide prevention and patient management; $370,000 to improve services for long-term, high-quality maternity care; $260,000 for further specialised training for allied health professionals; and $140,000 to provide additional training and career opportunities for Aboriginal and Torres Strait Islander health professionals.

In terms of the rural health workforce strategy, the steering committee that we formed to assess the various options brought forward established a project team to develop long-term plans in relation to sustainable medical models. The honourable member is absolutely correct to say that a locum-based service is much more expensive than GP services. That's why it's so important we maintain GP services. The challenge is to make sure that we match the lifestyle needs of our GPs with the demands of country hospitals, and we are continuing to look at sustainable models going forward.

In terms of medical interns, we have more than doubled the number of medical interns in country South Australia, going from five to 12. In January 2019, just recently, seven interns commenced duties at Mount Gambier and five at Whyalla. We are very keen, through the rural health workforce strategy and in working with the commonwealth, to explore the opportunities for developing the rural generalist pathways. Under the guidance of Dr Hendrika Meyer from Country Health SA, the steering committee is looking at opportunities in that regard.

COUNTRY HEALTH SERVICES

The Hon. E.S. BOURKE (14:50): A supplementary: will the minister guarantee that there will always be doctors available for the Wallaroo and Port Pirie hospital emergency departments under the locum agreements?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:51): I am not aware of problems of us recruiting locums to Wallaroo. We are using locums at a number of hospitals, which is exactly what was happening under the former Labor government, but at least we are doing something to try to fix Labor's mess.

PUBLIC HEALTH

The Hon. J.S.L. DAWKINS (14:51): My question is directed to the Minister for Health and Wellbeing. Will the minister update the council on pressures facing the public health system?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:51): I thank the honourable member for his question. January was a busy month with higher than winter-level presentations to emergency departments across our metropolitan hospitals. But a world-class, high-performing health system should be able to cope with these surges. What we saw in January was further evidence of how badly broken the South Australian health system is after 16 years of Labor.

They might be calling now for the opening of beds, but during their time what did they do? They closed the Repat, cutting hundreds of beds out of the system. They downgraded services at The Queen Elizabeth Hospital, Modbury and Noarlunga. They built the new Royal Adelaide Hospital without engaging clinicians. Its design flaws are legend, including 60 per cent less space for outpatient facilities. Labor accepted ramping as normal and their Transforming Health experiment established it as a regular occurrence. The Marshall Liberal government rejects the complacency and neglect of Labor. Ramping is completely unacceptable. It's no wonder with Labor's record across the system—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter, allow the minister to answer. Please restrain yourself. Minister, please be seated. The Hon. Mr Hunter, can you restrain yourself? I cannot hear the answer to an excellently crafted supplementary from one of your own front bench. Please show courtesy to your own front bench. Minister, please complete your answer.

The Hon. S.G. WADE: It's no wonder that with Labor's record across the system that the new CEO of CALHN and the deputy chair of CALHN's transitional board—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Minister, please sit down. The Hon. Mr Hunter, you are free to ask the Leader of the Opposition to ask that question of the minister when it becomes his turn. Minister.

The Hon. R.P. Wortley interjecting:

The PRESIDENT: The Hon. Mr Wortley, you are not assisting the President.

The Hon. S.G. WADE: As I was saying, it's no wonder that, with Labor's record across the system, the new CEO of CALHN, the deputy chair of CALHN's transitional board and the representatives of KordaMentha on Monday described CALHN as culturally and financially broken. Labor's legacy is a $300 million budget overspend in CALHN in what Mark Mentha described as a shameful waste of taxpayers' money. Under Labor, CALHN's use of agency workforce was allowed to grow, taking away from continuity of care for patients and proper job security for nurses.

Under Labor, medical coding was ignored so that millions of dollars, which could have supported front-line services, was never recouped. Under Labor, bullying and a toxic work culture were allowed to develop. Labor ministers were warned of these issues over many years, including through external and internal reviews. Just as with ramping, Labor took no action. Labor allowed the health system to become desperately sick and now are trying to stop the Marshall Liberal government from turning this around.

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. D.W. RIDGWAY: You were in cabinet most of the time this was going on.

The PRESIDENT: Order, the Hon. Mr Ridgway!

The Hon. D.W. Ridgway: You and your mate in front of you were in cabinet.

The PRESIDENT: The Hon. Mr Ridgway, please desist shouting and pointing. The Hon. Mr Hunter, stop riling up the minister and the seated frontbencher.

The Hon. D.W. Ridgway: If you throw him out we won't have to point or shout.

The PRESIDENT: Are you finished, the Hon. Mr Ridgway?

The Hon. D.W. Ridgway: Yes.

The PRESIDENT: Both of you are interrupting the minister, who is answering a Labor frontbencher's question. Can we please show courtesy to the Hon. Ms Bourke. Minister.

The Hon. C.M. Scriven: It was actually Mr Dawkins' question.

The PRESIDENT: Sorry. I thought it was a supplementary.

The Hon. S.G. WADE: Thank you, Mr President. Across the health system we are appointing boards, returning more authority to the local level. Decisions will be made in communities that will be impacted, not in head office. We have opened more mental health beds and we are reactivating the Repat. In CALHN, we have appointed a transitional board and a new CEO. We brought in KordaMentha, the same people who Labor supported in Whyalla but somehow they now hate. We are addressing the backlog of medical coding.

We established a whistleblowers' hotline and we have reduced agency staff, supporting our nurses in their work and our patients with continuity of care. Just today, the CEO of CALHN has convened a ramping workshop, bringing together the staff on the frontline—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —and patient flow experts to work together—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —on finding ideas to address this complex problem. Six years of Labor mismanagement and neglect cannot be fixed in a month or even a year, but the Marshall Liberal government will clean up this mess, and we have demonstrated that we are making a difference.

The PRESIDENT: My apologies, the Hon. Mr Dawkins; that was his question, but the point still remains. I call on the Hon. Ms Bonaros.

NYRSTAR

The Hon. C. BONAROS (14:56): I seek leave to ask a question of the Treasurer regarding Nyrstar.

Leave granted.

The Hon. C. BONAROS: *The Advertiser* has just reported online—hot off the press—that Nyrstar, which owns the Port Pirie lead smelter, has had its credit rating cut and faces a very high probability of default, putting at risk $290 million in debt which has been guaranteed by South Australian taxpayers. According to the article which I am referring to, in November the Treasurer met with Nyrstar chief executive, Hilmar Rode, and struck a deal that would involve them making a $20 million payment towards its Port Pirie smelter loan, but we don't know the detail of that.

That payment was to be the first of its kind received by Nyrstar's Port Pirie financiers after it missed deadlines in May and then again in November. I understand that the Treasurer has indicated, and I quote:

> No, the Government has not received the $20 million. However, the government continues to have constructive discussions with Nyrstar as our agreed time frame, and we are working towards a successful resolution around the end of the first quarter.

My questions to the Treasurer are:

1. What does this mean in terms of the $290 million debt guaranteed by South Australian taxpayers?

2. What actions are you taking to ensure this doesn't eventuate?

3. Are you concerned that South Australian taxpayers will never see the $290 million commitment?

The Hon. R.I. LUCAS (Treasurer) (14:58): I thank the honourable member for her very important question. As the member would be aware, I have made a number of statements and responded to a number of questions, I think from the Hon. Mr Stephens and the Hon. Mr Hood, late last year on this very important issue.

As the honourable member has identified, this is an extraordinarily complicated deal that was entered into by the former Labor government, the end result of which is that taxpayers of South Australia are potentially exposed to a payment, in the worst set of circumstances, of up to just under $300 million ($291 million). We are obviously hopeful, on behalf of the taxpayers of South Australia, that that doesn't occur. Obviously, it's not in the interests of the taxpayers of South Australia but, equally, it's not in the interests of the workers and families in Port Pirie whose livelihoods clearly are significantly impacted by the success or otherwise of Nyrstar as an organisation and Nyrstar in terms of the redevelopment that is occurring there at the moment.

The only aspect of the reported statement in *The Advertiser* that I would take issue with slightly is that it does indicate that I said in November we had 'struck a deal' with Nyrstar. That is certainly not what I said at the time, and it is certainly not an indication that I would agree with now. What we did do is we had a constructive discussion with Mr Hilmar Rode, who is the chief executive officer of Nyrstar globally and that time line mapped out—hopefully concluded by the end of the first quarter of 2019, so the end of March 2019—a rearrangement of the circumstances, part of which would involve an up-front payment of $20 million. The fact that we have not received $20 million at this stage is consistent with the fact that we have not yet reached a concluded agreement by the end of the first quarter.

As I am accurately quoted there in the Adelaidenow story, my advice is that we are continuing to have constructive discussions as per the agreed time frame, which was the end of March 2019, and we are working towards what we hope will be a successful resolution in and around about that particular time period.

The story to which the honourable member refers is a story from Moody's, and another unnamed analyst as well, which certainly paints the global position of Nyrstar in a very unfavourable light in terms of its financial circumstances, but there have been in the last two days one or two similar stories in industry journals having done an analysis of Nyrstar's operations globally as well.

What we can highlight is that the problems Nyrstar is confronting globally have been acknowledged for some time by Nyrstar, and it was their plan that the success of the Port Pirie operation would not only be good for Port Pirie but would be good for Nyrstar globally as well. The cashflow that they hoped to be generated from a successful redevelopment of Nyrstar was hopefully going to generate significant cash for Nyrstar globally as well.

Some of the stories have referred to public announcements late last year from Trafigura, which is the largest shareholder within Nyrstar. Certainly, it has already been referred to that Morgan Stanley and others have been working with Nyrstar globally in terms of providing financial advice to them about restructuring their debt and equity structures within their company internationally.

So I think all that is a summary of is that it continues to be a very challenging environment for Nyrstar globally, and that clearly has implications for Nyrstar Port Pirie, and that clearly has implications for the workers and families in Port Pirie potentially, and it clearly potentially has implications for the taxpayers of South Australia to the tune of $291 million. I hasten to say we are hopeful that that will not occur, I hasten to say that our officers are working as hard as we can with Nyrstar to try to prevent that from occurring and I hasten to say that at this stage we should not just accept that all is lost in relation to this.

We should not believe everything that is being written in relation to the prospects of Nyrstar's survivability. We, of course, can't guarantee anything; it is not our position to do so. What we are seeking to do is to try to protect the taxpayers, and the workers and families and the investment in Nyrstar at Port Pirie. Given that we inherited the deal, we are doing the best we can with the deal we have inherited.

NYRSTAR

The Hon. F. PANGALLO (15:03): Supplementary: Treasurer, in light of this news, which is likely to spook stock markets and also the people in Port Pirie, will you also hasten to call Nyrstar just to get an assurance that they are on track to make that payment or to reassure the government of South Australia and taxpayers that they will get paid?

The Hon. R.I. LUCAS (Treasurer) (15:04): We have been doing that on a continuing basis since November/December of last year, and that involves senior officers from within SAFA, within Treasury and within the energy and mining department, which has had an ongoing role, evidently, in this particular deal since it was first established, and there is a senior consultant, who the former government employed, with a commercial background, who continues to advise the current government in relation to this particular deal.

If it requires me to have a further conversation with key players, I will do so, but at this stage it is being handled within the constraints of the statement that I have issued to *The Advertiser*—that is, I am advised that there is still constructive discussions; we are still hopeful of resolving the issue.

We are not in a position, until we strike a deal, to get any guarantee or assurance from Nyrstar's principals at this stage. That is what the whole discussion about the renegotiation is going on about: can we actually renegotiate our financial arrangements together with the renegotiation they are going on with with Trafigura and some of their banks and other financiers as well? So until we reach a successful conclusion or otherwise it is not going to be possible to get an assurance or a guarantee, or it would not count for much even if we got it—until you actually get binding legal documentation which is signed on both sides.

As comforting as it might be to get verbal assurances, that is not the world that I live in. The world I live in is that we have got an existing binding contractual legal obligation, and until we can get a binding legal contractual amendment to that obligation in some form or another which is able to be pursued through channels if it needs to, then nothing much has changed. Verbal assurances, as opposed to binding legal documents, do not count for much at all.

If it requires further discussions at my level, I certainly will do so, but at this stage we are hopeful that there is still the possibility of reaching a successful conclusion to the renegotiation that I first indicated back in November.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (15:06): I seek leave to make a brief explanation before directing a question to the Minister for Human Services.

Leave granted.

The Hon. K.J. MAHER: In answer to a very general question I asked about issues at Minda, the minister chose to give a very specific answer outlining that she had been written to by the member for Hurtle Vale and claimed that no specifics of concerns were given in the letter of the member for Hurtle Vale. In fact, the minister responded to the member for Hurtle Vale on 15 November saying that matters that the member for Hurtle Vale raised and the accompanying documents that the member for Hurtle Vale had sent were 'in the process of being investigated'. And that investigation, the minister informed, was being undertaken by the minister's own department's Incident Management Unit. My question to the minister is: has the minister kept herself informed of the status of that investigation, and if she hasn't, why hasn't she; and, some three months later, where is that investigation up to?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): If I can outline for the chamber what the incident management and critical client incident process is, because as I—

The Hon. K.J. Maher: Just this one. Just this incident. Where's it up to?

The Hon. J.M.A. LENSINK: Well I am actually not required to respond to the member for Hurtle Vale or to this parliament.

Members interjecting:

The Hon. J.M.A. LENSINK: No, I didn't say that—

The PRESIDENT: Minister, through me. Through me.

The Hon. J.M.A. LENSINK: I apologise, Mr President. I will attempt to respond. The Department of Human Services has a rigorous process in place to manage critical client incidents through the Incident Management Unit. A critical client incident is an event or alleged event that occurs as a result of or during the delivery of services directly provided by DHS or a funded service—

Members interjecting:

The PRESIDENT: Leader of the Opposition, opposition benches, I cannot hear the minister.

Members interjecting:

The Hon. J.M.A. LENSINK: —and has caused—

The Hon. R.P. Wortley interjecting:

The PRESIDENT: The Hon. Mr Wortley, please. I cannot hear the minister. I wish to hear her answer to the question.

The Hon. J.M.A. LENSINK: —or is likely to cause significant negative impact to the health, safety or wellbeing of a client or service recipient. CCIs will usually require a crisis response, incident management coordination—

Members interjecting:

The PRESIDENT: Opposition benches, please give the minister some respect as she attempts to answer your question.

The Hon. I.K. Hunter: She's just fobbing it off. You haven't got an answer. She's reading into *Hansard* something she's prepared earlier.

The PRESIDENT: Well, we don't know if there is not an answer because you haven't allowed her to answer it.

The Hon. D.W. Ridgway: Chuck him out, and we'll get an answer.

The PRESIDENT: I do not need assistance from you, the Hon. Mr Ridgway. Minister.

The Hon. J.M.A. LENSINK: I have lost my place; I might have to start again.

Members interjecting:

The PRESIDENT: The Hon. Mr Wortley—

The Hon. J.M.A. LENSINK: CCIs—

The PRESIDENT: Minister, sit down. The Hon. Mr Wortley, please withdraw that comment.

The Hon. R.P. WORTLEY: What comment?

The PRESIDENT: You made a comment that the minister was misleading the house. Seated or standing, it is inappropriate.

The Hon. R.P. WORTLEY: For the sake of assisting the President, I withdraw that comment.

The PRESIDENT: You would assist me further if you restrained further comment, too. Minister.

The Hon. J.M.A. LENSINK: CCIs will usually require a crisis response incident management coordination—

Members interjecting:

The Hon. J.M.A. LENSINK: —there is some context to this—and consideration of a range of risks and sensitivities. The Department of Human Services' response includes skilled incident management coordination, liaison, assessment and investigation, as well as ensuring reporting to other bodies as required. CCIs may include, but are not necessarily limited to, unexpected death, serious injury or alleged assault—

The Hon. I.K. Hunter: Answer the question! Answer the question!

The PRESIDENT: The Hon. Mr Hunter, please. I cannot hear the minister.

The Hon. J.M.A. LENSINK: —including physical or sexual abuse—

The Hon. R.P. Wortley: You might as well answer it, it's not going to go away.

The PRESIDENT: The Hon. Mr Wortley, please restrain yourself.

The Hon. J.M.A. LENSINK: —sexual assault and indecent assault of a client that occurs as a result or during the delivery of services; allegations of serious unlawful or criminal activity or conduct involving an employee, subcontractor or volunteer that has caused or has the potential to cause serious harm to clients; an incident where a client assaults or causes serious harm to others, including employees, volunteers or contractors, as a result or during the delivery of services; and a serious fire, natural disaster, accident or other incident that will or is likely to prevent a service provision or that results in closure or significant damage to premises or property or that poses a significant threat to the health and safety of clients. We have a pathway—

The Hon. K.J. MAHER: Point of order.

The PRESIDENT: We have a point of order.

The Hon. K.J. MAHER: The question was very specific and there was just one question about where this particular investigation is up to—that hasn't even been touched upon.

Members interjecting:

The PRESIDENT: The minister has some leeway. To the extent that I can hear the minister—

The Hon. R.P. WORTLEY: Point of order.

The PRESIDENT: I am dealing with one point of order at a time, the Hon. Mr Wortley, so be seated. I am dealing with one from your leader. His point of order was one of relevance. The minister has some leeway. To the extent that I have been able to hear the question, it revolves around dealing with an investigation. I am allowing the minister some leeway to answer the questions. If the opposition benches allow me the opportunity to hear the answer, I might be able to respond more willingly to their points of order. The Hon. Mr Wortley, do you have something of interest to me?

The Hon. R.P. WORTLEY: Yes. I did hear a member from the opposite side tell one of the members of the opposition to shut up. I think that's unparliamentary. I think it shouldn't be encouraged and they should withdraw it.

The PRESIDENT: Thank you for that wisdom. Unfortunately, I didn't hear them say that because your side was shouting. Now, minister, please continue with your answer.

The Hon. J.M.A. LENSINK: The pathway—there are a number of steps and these are important. The first is immediate response safety.

The Hon. I.K. Hunter: What about the letter from the member for Hurtle Vale?

The Hon. J.M.A. LENSINK: This goes to the point of my earlier response.

The Hon. I.K. Hunter: Have you got an answer?

The PRESIDENT: The Hon. Mr Hunter, I cannot hear the member and it is an important question from your own leader.

The Hon. J.M.A. LENSINK: This goes to the point that I made earlier that information needs to be reported to myself. If the member does not wish to provide it directly to me they can provide it to the Incident Management Unit.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter, this is not a debate.

The Hon. E.S. Bourke interjecting:

The PRESIDENT: The Hon. Ms Bourke, you are not assisting me either.

The Hon. J.M.A. LENSINK: They can phone my office and we will follow it up.

Members interjecting:

The PRESIDENT: The Hon. Mr Hunter, the rest of us in the chamber do not have the same amount of information, obviously, that you have. If you allowed the minister to answer, then we might be on the same page. Minister.

The Hon. J.M.A. LENSINK: Information needs to be provided to us immediately to ensure that those vulnerable people are not placed at risk. What I said is there is a disturbing pattern of behaviour emerging from the member for Hurtle Vale, where allegations are made—

Members interjecting:

The Hon. J.M.A. LENSINK: Read my answer.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —to my office, we write back and ask for specifics and there is a delay in information or it is not provided at all. As far as vulnerable people are concerned, I think that is reprehensible behaviour. I could talk through each of the items on this list, but at point 6 in the pathway:

> Disclosure assessment—

this is after the issue has been investigated—

> is undertaken to determine if disclosure is warranted to other parties not directly involved in the matter, e.g. other clients and/or families…

And MPs, for that matter. So I am not required to respond to this. The Leader of the Opposition, in his first question, referred to a matter to do with—I think the word he used was 'maladministration'. I received another one of these letters, without providing specifics to me, earlier this year and those specifics were not provided. The member for Hurtle Vale has been responded to on each occasion where we have had details and been advised that we have followed up those matters. I find her behaviour quite reprehensible, particularly because this involves vulnerable people.

The PRESIDENT: The Hon. Ms Lee. The Leader of the Opposition, you are obscuring the Hon. Ms Lee—she has the call.

The Hon. D.W. Ridgway: Leader of the Government here!

The PRESIDENT: Sorry, Leader of the Government, you are obscuring the Hon. Ms Lee.

HOUSING AND HOMELESSNESS STRATEGY TASK FORCE

The Hon. J.S. LEE (15:15): My question is to the Minister for Human Services about the government's commitment to convene the state's first cross-sector housing task force. Can the minister please provide an update to the council about the progress of the task force and their work in developing a housing and homeless strategy?

Members interjecting:

The PRESIDENT: The Hon. Mr Wortley, allow the minister to answer the question.

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:16): I thank the honourable member for her interest in this very important area. The new Marshall Liberal government has set up a cross-sector housing task force for South Australia for the first time ever, which brings together a diverse group of representatives and stakeholders from across the housing sector and industry to drive new housing solutions for all South Australians, which I think everybody would welcome.

Affordable housing and its importance to South Australia's economy, as well as ideas on how to improve housing options for the community, will be a focus of the inaugural meeting of the Housing and Homelessness Strategy Task Force. The task force is chaired by the South Australian Housing

Trust Board presiding member, Mr Gary Storkey, and its members include: April Lawrie, the Commissioner for Aboriginal Children and Young People; Andrew Cairns, who is the chief executive officer for Community Sector Banking; Daniel Gannon, who is the executive director of the Property Council of Australia; Greg Troughton, who is the chief executive of the Real Estate Institute of South Australia; Helen Dyer, who is the deputy presiding member, State Commission Assessment Panel; Maria Hagias, who is the CEO for Women's Safety Services; Mel Blondell, board chair of Access 2 Place; Michael Lennon, the managing director of Housing Choices Australia; and Simon Schrapel, the chief executive of Uniting Communities.

Some 60 per cent of South Australian households are on low to moderate incomes, so many people find it difficult to purchase or rent an affordable home. The Marshall Liberal government wants to work with industry to make housing options available, especially for lower income families. Affordable housing is also important to our state's economy in terms of attracting and retaining people to live and work in South Australia.

Affordable housing gives people the stability they need to participate in the community and underpins the state's economy and population growth. The task force is considering, amongst other things, how best to improve affordable housing options for people on low and moderate incomes, including private rental and home ownership.

The development of our new housing and homelessness strategy will be a genuine partnership between government and the housing sector to find shared solutions to shared challenges. We will be undertaking community consultation as part of the development of a strategy later this year. It is to be a 10-year plan that the South Australian government is working on, so that we can actually have some oversight to this area, some of which takes some time to get on line, because planning laws and building approvals and finding the investment funds for those areas can take some time.

I look forward to engaging with the sector in this very important ongoing area, and to developing some important strategies, particularly for our younger people who, as we know, often are having trouble buying their first home. We have a lot of migrant communities in South Australia, who as new entrants to South Australia can find it challenging to purchase properties. We think it is very important also for key workers in South Australia that we actually have a range of options available, as well as, obviously, providing more stock to assist with people who are in the greatest need, that is, our homeless population.

Bills

STATUTES AMENDMENT (SCREENING) BILL

Introduction and First Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:21): Obtained leave and introduced a bill for an act to amend the Child Safety (Prohibited Persons) Act 2016, the Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017 and the Disability Inclusion Act 2018. Read a first time.

Second Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:22): I move:

That this bill be now read a second time.

I have great pleasure in introducing this important piece of legislation. The Child Safety (Prohibited Persons) Act 2016 and the Disability Inclusion Act 2018, as previously passed by this parliament, are important pieces of legislation to protect, support and include people with disability and children. The bill introduces a number of amendments that are necessary to implement policy directions, including national agreements, that have arisen since the introduction of both acts.

The Child Safety (Prohibited Persons) Act 2016 (the prohibited persons act) will commence on 1 July 2019. This act aims to minimise the risk to children posed by people who work or volunteer with them by providing a framework for the prohibition of persons who pose an unacceptable risk to children from working or volunteering with them.

Through the prohibited persons act, South Australia is releasing a new child-related worker screening scheme, which implements recommendations from both the South Australian Child Protection Systems Royal Commission (the Nyland royal commission) and the commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse (the commonwealth royal commission).

The Disability Inclusion Act 2018 aims to promote human rights and improve inclusion in the community for South Australians with disability. The act sets the state government's future direction and role in supporting people with disability, focused on rights and inclusion, in line with the United Nations Convention on the Rights of Persons with Disabilities and the National Disability Strategy. In addition to the rights and inclusion focus, part 6 of this act provides the ability to establish a disability worker screening scheme through regulations.

In preparation for the commencement of the new scheme, the Statutes Amendment (Screening) Bill 2019 amends the prohibited persons act, the Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017 and the Disability Inclusion Act to do the following four things:

- implement the election commitment to abolish fees payable for volunteers who work with children or vulnerable people in the new screening laws;
- meet nationally agreed obligations regarding working with children screening;
- establish a scheme for NDIS worker screening; and
- standardise and simplify the screening.

I will turn, firstly, to the free screening for volunteers. This government committed, through the election, to supporting volunteers by implementing free screening checks. From 1 November 2018, volunteers no longer need to pay a fee for screening services conducted by the screening unit of the Department of Human Services (DHS). This initiative has been warmly welcomed by volunteering organisations and volunteers.

To strengthen this initiative under the new screening legislative regime, the amendment bill amends the prohibited persons act and the Disability Inclusion Act to create a separate class of screening for volunteers. This will mean that a person and organisation can only use a free volunteer screening for a volunteering role and not for paid employment or as a student. This will ensure the measure directly benefits the volunteering sector. It will also prevent any potential misuse, that is, for someone signing up to be a volunteer just to avoid paying the fee. This reform will ensure that the free volunteering checks directly benefit volunteers and the volunteering sector and organisations.

The national standards and national reference system for working with children checks: the bill adopts the national standards for working with children checks that will lead to consistency of working with children check processes and assessments across Australia. This is an important national commitment that was recommended in the commonwealth royal commission into institutional abuse. It also adopts nationally agreed consistent principles and processes for working with people with disability under the National Disability Insurance Scheme.

All states and territories have worked together to achieve national consistency with both working with children checks and NDIS worker checks. The bill also enables the South Australian screening authority to share, exchange and assess information provided through the National Reference System (NRS), also as recommended by the royal commission into institutional abuse. The commonwealth, states and territories are also working together to implement the NRS, which will improve sharing of information, for example, if someone is not assessed suitable for a working with children check in one jurisdiction but applies in another.

Transitional provisions for the prohibited persons act: it is important that there are transitional provisions in place to support the commencement of the prohibited persons act on 1 July 2019. Many thousands of South Australians and many businesses and organisations will be affected by these important reforms. Many people who previously did not require a screening will now require one. Importantly, there will be new obligations on both individuals and organisations, as there will be

penalties for employing someone in either a worker or volunteer role without an appropriate screening check or for individuals who work with children without clearance.

It is important that the community is fully informed about these changes and that there is also a transition to the new regime, which gives people and organisations time to ensure the right checks are in place. The bill supports the transition to the new working with children check under the prohibited persons act by recognising an assessment of relevant history, either a national police check conducted by individual organisations or assessments of national police checks conducted for emergency services for a period of 12 months. This means that people with a current valid national police check will have 12 months or until the check expires to get a new screening assessment. This prevents thousands of South Australians from being unwittingly in breach of the new laws from 1 July 2019 and allows for an orderly transition.

The NDIS worker screening scheme: the Disability Inclusion Act currently mirrors provisions of the prohibited persons act. It creates three categories of prohibited persons: those issued with a prohibition notice by the central assessment unit, those prohibited from working with children by another jurisdiction and those found guilty of a prescribed offence. Operational details are to be provided in the accompanying regulations. The commonwealth, states and territories have also been working together to ensure a nationally consistent and portable NDIS disability screening check for those who work or volunteer with people with disability. The bill implements this new approach.

In June 2018, South Australia signed the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme (the NDIS IGA). The amendment bill inserts a new part 5A, screening of NDIS workers into the DI Act. Part 5A provides for the screening of persons providing supports or services under NDIS.

The NDIS worker check is Australia's first national worker screening scheme. Commonwealth, state and territory governments have worked collaboratively to agree on the key design, policy and operational framework. The provision of NDIS supports and services is regulated by the commonwealth's National Disability Insurance Scheme Act 2013 and associated rules. The commonwealth determines the types of NDIS work that requires a worker to hold a clearance. NDIS employers are responsible for identifying which roles within their organisations require a worker to hold a clearance.

Compliance with these requirements is a commonwealth responsibly via the NDIS Quality and Safeguards Commission. Under the IGA, all states and territories must establish an appropriate legislative scheme. The bill therefore aims to prevent persons who pose a risk of harm from working with vulnerable people and ensures employers do not engage persons who pose a risk of harm to vulnerable people. It ensures that all people who provide NDIS supports and services through a registered NDIS provider and have more than incidental contact with a participant or are key personnel with a registered NDIS provider, are required to have an NDIS worker check.

It establishes that the Central Assessment Unit, as established under the prohibited persons act, will be responsible for conducting NDIS worker checks in South Australia. Only NDIS workers can apply for an NDIS worker check. Applications must be endorsed by an NDIS employer. In addition, to avoid any legal barrier that may exist to screening persons from another jurisdiction, a person must currently reside or work or intend to reside or work in South Australia to be eligible to apply for an NDIS worker check in South Australia. Once obtained a check will be portable between states and roles.

The NDIS worker check includes a national criminal history check and workplace misconduct information from the NDIS Quality and Safeguards Commission. Child protection information will also continue to be checked for all applicants. The NDIS IGA recognises that there are certain offences that indicate a prima facie risk to people with disability, referred to as disqualification offences. Applicants who have been found guilty of such offences committed as an adult are automatically disqualified from working with people with disability. These offences include murder, serious assault and sexual assault of a child or vulnerable person.

A second category of offences, presumptively disqualifying offences, will also result in persons found guilty or who have pending charges for such offences being automatically disqualified from working with people with disability, unless there are exceptional circumstances that show that

they are not a risk to people with disability. These offences include manslaughter, neglect or ill-treatment of a person under care, fraud and deception offences. Persons granted a clearance are permitted to provide NDIS supports.

The South Australian Civil and Administrative Tribunal will have the jurisdiction to review certain decisions related to NDIS worker checks. An NDIS worker check clearance will be valid for five years and portable across jurisdictions. Where a person applies for and is issued a clearance while their current clearance is still active, the five-year validity period of the new clearance commences from the date that the previous clearance expires. This ensures that there is no penalty if a worker renews their clearance before the last clearance has expired.

The Central Assessment Unit will be empowered to suspend a person's clearance whilst a reassessment is undertaken. A suspension may be imposed if there is evidence, for example, obtained through monitoring, that the person is likely to present a risk of harm. When fully implemented, the NDIS worker check will feature national ongoing monitoring of criminal records and workplace records, not just state monitoring. All states and territories will upload the outcome of the screening decisions to a national database administered by the commonwealth.

The national database will ensure that workers who are excluded by one state or territory do not apply elsewhere. It will also allow employers to verify the clearance status of their workers and will support national continuous monitoring of workers for any new criminal workplace records. Transitional provisions will be agreed with the commonwealth and it is proposed that current disability clearances will be recognised as an NDIS check in lieu of an NDIS worker check clearance for the transitional period.

Administrative amendments: the bill aims to standardise the mechanisms of screening processes, risk assessments and decision-making. This includes:

- identifying specific categories of offences for which an applicant will be presumed to be excluded unless they can prove exceptional circumstances;
- consequential amendments to the prohibited persons act and Disability Inclusion Act to reflect the changes made by these provisions and standardise provisions between the screening types;
- enabling the screening authority to establish a scheme for worker screening through regulations for screenings other than working with children checks and NDIS worker checks; and
- facilitating information sharing between South Australia, the commonwealth and other jurisdictions when a person has been prohibited. The powers include the sharing of disciplinary, misconduct, child protection information or any other information that is relevant to the screening process or risk assessment. It also inserts provisions that facilitate the sharing and receipt of information with the commonwealth and other jurisdictions when a person has been prohibited.

I commend the bill to members. I seek leave to insert the explanation of clauses 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 Child Safety (Prohibited Persons) Act 2016

4—Amendment of section 6—Meaning of *child-related work* and *work with children*

This clause inserts new subsection (1a) into section 6 of the principal Act, clarifying that the circumstances specified do not amount to child-related work.

5—Amendment of section 9—Meaning of *excluded person*

This clause deletes paragraphs (a) and (b) from section 9(1) of the principal Act, instead addressing those matters in clause 5 by excluding them from the definition of child-related work.

6—Amendment of section 12—Interaction with other Acts and laws

This clause makes a consequential amendment to section 12 of the principal Act to reflect the changes made by new section 26A of the Act.

7—Amendment of section 21—Functions

This clause amends section 21 of the principal Act to add screening and other functions under the *Disability Inclusion Act 2018* to the functions of the central assessment unit.

8—Insertion of section 26A

This clause inserts new section 26A into the principal Act. The new section sets out provisions that will apply to the conduct of a working with children check in respect of a person who has been found guilty of a presumptive disqualification offence.

The effect of the provision is that certain persons will be presumed to pose an unacceptable risk to children, and will be prohibited from working with children unless they satisfy the central assessment unit that the offending should be disregarded, or that exceptional circumstances exist in relation to the person such that the person does not appear, or no longer appears, to pose an unacceptable risk to children.

The clause also defines 'presumptive disqualification offence'.

9—Insertion of section 33A

This clause inserts new section 33A into the principal Act, requiring persons who did not pay a fee for the conduct of their working with children check on the basis that they are a volunteer to pay a fee should they commence working with children other than as a volunteer. It is an offence to fail to comply with the requirement.

10—Amendment of section 34—Records management system

This clause amends section 34 of the principal Act to clarify that the central assessment unit need only include information on the records management system if they are in possession of the information.

11—Amendment of section 38—Court to provide notice of certain findings of guilt to central assessment unit

This clause makes a consequential amendment to section 38 of the principal Act to reflect the changes made by new section 26A of the Act.

12—Substitution of section 39

This clause inserts a new section 39 of the principal Act to reflect the changes made by new section 26A of the Act.

13—Insertion of section 39A

This clause inserts new section 39A into the principal Act to require reporting bodies, as defined by the new section, to notify the central assessment unit if they suspect a person with whom the body is dealing to pose an unacceptable risk to children.

The new section also allows such bodies to provide information to the central assessment unit any information on any matter relevant to the operation of this Act.

14—Amendment of section 40—Certain persons to advise central assessment unit of changes in information

This clause amends section 40 of the principal Act to require a person to whom a unique identifier has been issued to notify the central assessment unit where there is a relevant change of particulars in relation to the person, and defines what a relevant change of particulars is.

15—Insertion of Part 5 Division 5

This clause inserts new Division 5 into Part 5 of the principal Act, with new sections 42A to 42G providing for the provision of relevant information to and from the central assessment unit respectively.

Part 3—Amendment of Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017

16—Insertion of sections 8A and 8B

This clause inserts new sections 8A and 8B into the principal Act as follows:

8A—Recognition of certain assessments of relevant history as working with children checks

This section recognises certain assessments of relevant history conducted in accordance with regulation 6(1)(a) of the *Children's Protection Regulations 2010* within the 3 years preceding the commencement of this section as working with children checks in respect of the person conducted under the *Child Safety (Prohibited Persons) Act 2016*, subject to the conditions set out in the new section.

8B—Transitional provisions—certain emergency service workers

This section conditionally disapplies certain sections of the *Child Safety (Prohibited Persons) Act 2016* in respect of emergency workers during the transitional period (as defined by the principal Act).

17—Amendment of section 43—Amendment of section 5—Interpretation

This clause deletes section 43(1) of the principal Act.

Part 4—Amendment of Disability Inclusion Act 2018

18—Amendment of long title

This clause makes a consequential amendment to the long title of the principal Act.

19—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to insert definitions of *central assessment unit* and *Registrar*.

20—Insertion of Part 5A

This clause inserts new Part 5A into the principal Act as follows, with the new Part (predicated on *National Disability Insurance Scheme (Worker Checks) Act 2018* of NSW) forming part of a nationally consistent scheme for screening of certain workers for the purposes of the NDIS scheme:

Part 5A—Screening of NDIS workers

Division 1—Preliminary

18A—Interpretation

This section defines key terms used in the proposed Part.

18B—Meaning of disqualified and presumptively disqualified persons

This section defines persons who are disqualified persons, and presumptively disqualified persons, for the purposes of the proposed Part.

18C—Criminal intelligence

This section is a standard provision relating to the classification and protection of information that is criminal intelligence.

18D—Protected information

This section provides that the Registrar may, in accordance with any requirements set out in the guidelines, classify specified information as protected information (a term defined in new section 18A but generally protecting the identify of people with disability, and also including specified child protection information). Information so classified is treated and protection in the same way as criminal intelligence.

18E—Powers of delegation

This section is a standard power of delegation in respect of functions and powers of the central assessment unit and the Registrar of that unit under the proposed Part.

18F—Pending applications to be disregarded

This section clarifies the position in this State that a person must actually have a clearance before undertaking NDIS work, that is to say that merely having applied for a clearance is not enough.

Division 2—Obtaining an NDIS worker check clearance

18G—Application for NDIS worker check clearance

This section sets out how a person can apply for an NDIS worker clearance.

18H—Certain persons not permitted to apply for NDIS worker check clearance

This section sets out persons who are not permitted to apply, or are banned from applying, for a clearance under the proposed Part, and makes related procedural provisions.

18I—Determination of application—grant of NDIS worker check clearance

This section provides that an application for a clearance under the proposed Part must be granted except as is set out in the section.

18J—Determination of application—issue of NDIS worker check exclusion

This section provides when the central assessment unit must issue an NDIS worker check exclusion in relation to an applicant for an NDIS worker check clearance.

18K—Certain persons presumed to pose risk of harm to people with disability

This section sets out provisions that apply in relation to determination of an application for a clearance in respect of a person who has been found guilty of a presumptive disqualification offence, in particular that the person will be presumed to pose a risk of harm to people with disability and be excluded unless the person satisfies the central assessment unit of the matters referred to in subsection (1)(c)(i) and (ii).

18L—Notice of grant of NDIS worker check clearance or issue of NDIS worker check exclusion

This section sets out how the central assessment unit is to give notice of the grant of a clearance, or issue of an exclusion, and allows the unit to notify notifiable persons in relation to the applicant.

Division 3—Risk assessment

18M—Nature of risk assessment

This section sets out the nature of a risk assessment of a person under the proposed Part, namely that the central assessment unit is to assess and determine whether the person poses a risk of harm to persons with disability.

18N—Requirement for risk assessment

This section sets out when a risk assessment of a person is required under the proposed Part.

18O—Matters to be considered in risk assessment

This section sets out the matters that the central assessment unit is to consider when undertaking a risk assessment under the proposed Part.

Division 4—Duration and termination of NDIS worker check clearances and exclusions

18P—Duration of NDIS worker check clearance

This section sets out that an NDIS worker clearance remains in force for 5 years, unless it is cancelled sooner under the Part. The section also allows for the extension of the duration of a clearance for up to 6 months after it would otherwise have expired.

18Q—Duration of NDIS worker check exclusion

This section sets out that an NDIS worker exclusion issued to a disqualified person remains in force indefinitely. Any other NDIS worker exclusion remains in force for 5 years, unless it is cancelled sooner under the Part.

18R—Requirement to notify change of particulars

This section requires each holder of a clearance to notify the central assessment unit of the change in specified particulars of the holder. It is an offence to fail to comply with the requirement.

18S—Suspension of NDIS worker check clearance

This section enables the central assessment unit to suspend an NDIS worker clearance if the unit is of the opinion that there is a reasonable likelihood that a risk assessment of the holder will determine that the holder poses a risk of harm to persons with disability.

18T—Cancellation of NDIS worker check clearance

This section sets out when the central assessment unit must, and may, cancel the clearance of a person, and makes procedural provision in respect of such cancellations.

18U—Cancellation of NDIS worker check clearance at request of holder

This section provides that a person may, by written notice to the central assessment unit, surrender their clearance, and that the unit must then cancel the clearance. The section also sets out circumstances in which the unit must refuse to cancel a clearance under the section.

Division 5—Information gathering and sharing

Subdivision 1—Information gathering

18V—Court to provide notice of certain findings of guilt to central assessment unit

This section requires a court that finds a person guilty of a disqualification offence or presumptive disqualification offence to provide specified information to the central assessment unit.

18W—Commissioner of Police to provide information to central assessment unit

This section requires the Commissioner of Police to provide specified information to the central assessment unit where a person is charged with a disqualification offence or presumptive disqualification offence. The Commissioner of Police may also disclose to the central assessment unit any information on any matter relevant to the operation of the principal Act.

18X—Power to require information from applicant or clearance holder

This section empowers the central assessment unit to require information from an applicant for, or holder of, a clearance, and allows the unit to terminate an application or cancel a clearance for non-compliance with the requirement in accordance with the section.

18Y—Power to require information from other persons

This section empowers the central assessment unit to require any person to provide information relevant to whether a person poses a risk of harm to persons with disability for the specified purposes. The section also sets out how compliance with the requirement can be enforced, including an offence where a person fails to comply with an enforcement notice.

Subdivision 2—Information sharing and use

18Z—Central assessment unit may disclose etc information with other jurisdictions

This section allows the central assessment unit to receive and make use of information relevant to the functions of the central assessment unit under this Part from any person or body in this or any other jurisdiction.

The section also allows the central assessment unit to disclose information (not being information classified by the Commissioner of Police as criminal intelligence) in the possession of the unit to a prescribed person or body in another State or Territory for an NDIS purpose.

18ZA—Access to police information

This section authorises the limited disclosure by the Commissioner of Police of certain information relevant to determining whether a person who engages or proposes to engage in NDIS work poses a risk of harm to persons with disability.

18ZB—Provision of information to central assessment unit

This section provides that any person or body can provide to the central assessment unit any information that the person or body reasonably believes is relevant to the functions of the central assessment unit under this Part, and will incur no liability for doing so.

18ZC—Provision of information to NDIS employers and participants

This section provides that the central assessment unit may provide certain information to NDIS employers and participants.

18ZD—Power to retain information etc indefinitely

This section provides that the central assessment unit may retain certain information and documents indefinitely.

Subdivision 3—Miscellaneous

18ZE—Notification by reporting bodies of conduct requiring risk assessment

This section requires reporting bodies, as defined, to notify the central assessment unit of the name and other identifying particulars of any person against whom the reporting body has made a finding that the person has engaged in conduct that constitutes circumstances prescribed by the regulations as requiring a risk assessment of the person.

18ZF—Information sharing for national register or database

This section allows the central assessment unit to disclose information obtained in the operation or administration of the proposed Part to an authorised person for the purpose of providing relevant information for entry in a national register or database established under the NDIS Act.

18ZG—Information sharing for research, monitoring and auditing purposes

This section allows the central assessment unit to disclose information obtained in the operation or administration of the proposed Part to an authorised person for the purpose of providing relevant information for use for the purposes of research into the operation of a relevant law, or auditing of compliance with such laws.

18ZH—Disclosure of information about offences

This section allows an authorised person to disclose to a law enforcement agency of the State or any other jurisdiction information obtained as a result of the exercise of a function under this Part that indicates that a relevant offence may have been committed, or that constitutes evidence of a relevant offence.

18ZI—Disclosure of information to prevent significant harm

This section allows an authorised person under the proposed Part to disclose to an appropriate person or body information obtained in the operation or administration of the proposed Part if there are reasonable grounds to suspect that there is a risk of significant harm to a person with disability, or to a child or other vulnerable person, or to a class of such persons, and the disclosure is reasonably necessary to prevent that harm.

Division 6—Review of decisions by South Australian Civil and Administrative Tribunal

18ZJ—Review of decisions by South Australian Civil and Administrative Tribunal

This section confers jurisdiction on the SACAT to review certain decisions under the proposed Part.

Division 7—Miscellaneous

18ZK—Fee payable where volunteer undertakes paid employment

This section requires the holder of a clearance obtained without cost as a volunteer to pay a prescribed fee if they commence paid work utilising the clearance.

18ZL—Effect of Part on other rights and procedures

This section clarifies the operation of the proposed Part in respect of the rights of employees and their employment.

18ZM—Limitation of liability

This section confers immunity on the Crown, the central assessment unit and other persons acting in good faith under the proposed Part.

18ZN—False or misleading statements

This section creates an offence for a person to knowingly make a false or misleading statement in information provided under the proposed Part.

18ZO—Evidentiary provision

This section allows certain matters in legal proceedings to be proved by means of certificate.

18ZP—Failure to give notice of decisions

This section provides that a failure to give notice of a decision as required by this Part does not, of itself, affect the validity or effect of the decision.

18ZQ—Central assessment unit may seek external advice

This section provides the central assessment unit with the ability to seek expert or professional advice in relation to a decision or determination.

21—Amendment of section 19—Interpretation

This clause amends section 19 of the principal Act to insert or remove the definition of key terms.

22—Insertion of sections 22A to 22E

This clause inserts sections 22A to 22E into the principal Act as follows:

22A—Steps employers must take before employing person in prescribed position

22B—Employer to ensure screening check conducted at least every 5 years

22C—Employer to advise central assessment unit of certain information

These three sections are the equivalent of sections 17, 18 and 19 of the *Child Safety (Prohibited Persons) Act 2016*, and are included to ensure consistency with that Act. Collectively, the sections impose requirements on employers to ensure employees are the subject of current screening checks and are not prohibited persons.

22D—Records management system

This section requires the central assessment unit to establish a records management system for the purposes of the proposed Part, although the system may be combined with the records management system under the *Child Safety (Prohibited Persons) Act 2016*.

22E—Inspection of records management system

This section provides for the inspection of the records management system required under proposed section 22D

23—Amendment of section 23—Regulations to set out scheme for screening checks

This clause amends section 23(2) of the principal Act to reflect the amendments made by this measure.

24—Amendment of section 33—Regulations

This clause amends section 33 of the principal Act to increase the maximum fine that may be set under the regulations to $50,000, and allows transitional regulations to be made following the amendment of the principal Act by this measure.

25—Insertion of Schedule 2

This Schedule makes transitional provision in respect of applications for assessments of relevant history under the *Disability Services Act 1993* on foot but not determined on commencement of this measure. The Schedule also recognises certain assessments of relevant history granted under that Act within the preceding 3 years as NDIS worker clearances.

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

EDUCATION AND CHILDREN'S SERVICES BILL

Committee Stage

In committee (resumed on motion).

Clause 1.

The Hon. R.I. LUCAS: I thank the hardworking staff in the minister's office and the department. Some of the questions that were raised before I have some answers for. Others, for example referring questions to the state Ombudsman and the commissioner for a breakdown of their figures, are in those particular organisations' hands and will be perhaps available when we come back on the next Tuesday.

On a couple of issues, if I could outline, the minister's office has advised me that the minister has indicated the Commissioner for Children and Young People has expressed general support for the bill and requested an amendment in clause 7 of the bill which deals with the involvement of parents and the community in the education and development of children. The amendment regards specifying the involvement and consultation of children, as well as parents and other stakeholders. I am advised by the minister's office that there were amendments moved to clause 7, page 14, in the House of Assembly which met that particular issue.

It may well be that the letter to which the honourable member has referred is subsequent to those particular changes and raises other issues in relation to suspension, exclusion and expulsion. I have not had a chance to speak to the minister. I will do so and, when we next meet, will be able to update the member and the council in relation to those issues.

There were also questions raised about the capacity of what are now known as learning centres. I am advised that there are three learning centres. One is the Beafield Education Centre, which has three sites: Para Hills High School, Brahma Lodge Primary School and Paradise Primary School. There is another learning centre called the Cowandilla Learning Centre, which is a single site at Cowandilla Primary School. There is the Southern Learning Centre, which is a single site at Christies Beach. There are five total sites with a total staff of about 35 and a total cost of

approximately $3.83 million per annum. As to the approximate annual referrals, the average over three years (2015 to 2018) for the three learning centres combined is about 280 students. They are learning centres. I am convinced that the Bowden Brompton school provides alternative education options for students but it is not technically referred to as a learning centre.

I am sure there are, within the wide gamut of educational options the education department has, other options in addition to the learning centres which specifically cater for excluded, expelled and suspended students—I suppose excluded students in particular. But I am sure there are other options that the department has across the board to provide alternative streams of education for students who might be deemed to be challenging in terms of their behaviour.

The Hon. C. BONAROS: I only have one follow-up question in relation to that. It is my advice that, in practice, some schools at least often allow students to attend, prior to placement at one of these alternative learning centres, for perhaps one or two hours a day only until they are actually placed at one of these learning centres. Based on the advice given by you earlier about the requirement for students to be at school within certain hours, is this sort of arrangement, which sees students left effectively to stay at home for the remainder of the day, with or without work given to them to do during those hours, considered appropriate under current and/or proposed arrangements?

The Hon. R.I. LUCAS: For something as specific as that, and given we are coming back on Tuesday, I am happy to take it on notice and get formal advice from the minister and/or the department in relation to those arrangements, or indeed any others, and bring that reply back to the member when we reconvene on Tuesday week.

The Hon. T.A. FRANKS: In terms of a question perhaps to be taken on notice, the government previously provided the numbers of excluded students for semester 2 of 2018. Could you also provide the numbers of expelled and suspended students for that same period of time and outline what the appeal processes are for a student who is suspended?

The Hon. R.I. LUCAS: I am happy to take the first question on notice and try to bring back a reply. I think I have seen figures publicised at various stages about the number of suspensions. It is a significant number, as one might imagine, but I have certainly seen them publicised. I think I referred earlier to the appeal mechanisms. If I can divide it into two areas, in relation to a decision to exclude, to which I responded earlier, that is regulation 50(1):

> An appeal to the relevant authority may be made against—
>
> (a) a decision of the head teacher…to exclude a student…or to expel a student…under these regulations…by—
>
> (c) the student; or
>
> (d) a parent of the student; or
>
> (e) an adult acting at the request of the student or parent of the student.

There is a time line within which you have to appeal. Regulation 50(5):

> An appeal must be instituted by lodging a notice in a form approved by the Director-General—

I am trying to quickly read this very complicated regulation. There is an appeal mechanism and I think it just goes to a panel of more senior officers. Here we go:

> An appeal in relation to the exclusion of a student is to be heard by a panel of persons nominated by the chief executive including a departmental employee, a principal of the school not being the principal who made the decision to exclude or expel, and a person with experience in administering equal opportunity matters.

So there is a panel of three: a departmental employee, another principal and a person with experience in HR or equal opportunity matters. There is no provision for an appeal against a suspension. That issue can only be taken to the Ombudsman and, clearly, some of those potential issues the Ombudsman has handled (the 171 matters) might include, potentially, an issue where someone has appealed against a suspension—maybe, I do not know. There is no appeal right against a suspension provision; there is an appeal right against an exclusion or an expulsion.

The Hon. T.A. FRANKS: Did the government receive any concerns that there are no appeal rights with regard to suspensions in our schools?

The Hon. R.I. LUCAS: I will take that on notice. I am not sure whether in the general concerns the commissioner expressed about suspension, exclusion and expulsion, the letter the honourable member read—

The Hon. T.A. FRANKS: No, this is a different letter. This is one from June, so you have had it even longer.

The Hon. R.I. LUCAS: The letter from which the honourable member read, which did refer to suspension, exclusion and expulsion, did not specifically refer to the issue of appeal rights for suspensions, but maybe an earlier letter or a subsequent letter may or may not have. Given that I do not have all those letters from the commissioner to the minister, I am not in a position to indicate whether that was the case or not. We are happy to take advice on that from the minister's office and provide a reply to the committee when we next convene.

The Hon. T.A. FRANKS: I draw the government representative's (the minister) attention to the letter of 26 June from the Commissioner for Children and Young People. He has noted that the government has indeed taken action with regard to section 7 of the bill, which was the first of the concerns raised in that particular June letter by the Commissioner for Children and Young People. The commissioner then went further to express concerns about section 71, in terms of the family conferencing processes, and then specifically, and I quote:

> Lack of an independent appeal mechanism for children who have been expelled, excluded or suspended.
>
> The lack of an independent appeal mechanism for children and families who have been expelled, excluded or suspended from school should be reviewed. As countless commissions and inquiries into a vast range of institutions, governments and companies has shown, access to independent mechanisms of review and monitoring and access to 'thought' diversity in institutions is a critical way of improving governance arrangements, and reduces opportunities for abuse of power. In order for clients/consumers/patients/residents of institutions to be at the centre of decision making and the focus of services, these institutions need to be open and transparent and allow independent oversight. In areas where services are being denied such as in the case of expulsion, exclusion and suspension from education, parents and children should be able to access independent support, and appeal decisions to an independent advocacy body.

What response did the government provide to the commissioner with regard to her concerns raised about the lack of independent appeal mechanisms open to parents and students, in particular in this case with regard to this bill, specifically in her correspondence of 26 June?

The Hon. R.I. LUCAS: I am happy to take advice from the minister to find out what his response was to those specific concerns. As I have outlined, there are clearly existing provisions, I assume, under the former government and continued under this government, for appeal mechanisms for exclusion and expulsion. It may well be that the commissioner is arguing that a separate panel, which comprises an equal opportunity person, another principal and a departmental employee, is not sufficiently independent, from her viewpoint.

Again, until I speak to the minister I cannot put his comments on the record. I will do so—I undertake to do so. As a former minister all I can offer as a personal view is that there is an appeal mechanism which exists and has existed for some time under the former Labor government. The commissioner may have been unhappy with that and continue to be unhappy with the provision that exists. It may well be that the minister respectfully heard the submissions and did not agree with them, but I will either confirm that or not and provide an answer when we come back on Tuesday week.

That is in relation to expulsions and exclusions, which are obviously a much more limited group. My recollection of the number of suspensions is it is very significant. I think one of the issues the minister will be able to provide us with informed advice on is the practicality, from a principal's viewpoint, in terms of managing a school, if for every suspension there had to be an independent appeal mechanism before it could be instituted, for example.

It may well be that it is the minister's view that that may well make management of schools very difficult. I again come back to the viewpoint that if you have one particular student who is behaving in such a fashion that his or her behaviour is impacting on the behaviour of the other students and the teachers and staff within a particular school, if the principal does not have the

capacity or is unable to take at least limited urgent short-term action by way of a suspension to prevent or control a situation which, in his or her judgement, is becoming out of control, then the education and the mental and physical wellbeing of other students in the class may be impacted.

I am mindful of all of these appeal mechanisms and independent appeal rights, etc., but ultimately there is also a responsibility to ensure a quality education for all students in a classroom, not just the particular student who is acting out and whose behaviour might be ruining it for everybody else. That is the difficult position a principal finds himself or herself in; they have to make these difficult judgements, but that is what they are being paid to do.

Again, I am happy to refer the honourable member's question in relation to suspensions as well as exclusions and expulsions to the minister and bring back a reply. I can offer something. I have just been given a brief note—I will certainly refer the member's question to the minister—where the minister confirms there is no legislated appeal process for suspensions. The note says the government's view and the department's view is that establishment of such under the bill is not supported by the department as it would be impracticable given the high number of suspensions issued, over 21,000 per year—so we have an actual number there—and the brevity of their duration, not exceeding five days.

So certainly the department's professional view is that to have appeal rights for suspensions, given that there are over 21,000 of them a year and the fact that they only go for up to five days—it could be a suspension for a day or two days but no more than five days—and that to agree with the position that the commissioner may well be putting and that the honourable member is putting would be impractical in terms of the teaching environment for teachers and staff within our schools.

The Hon. T.A. FRANKS: I thank the minister for the confirmation that there are no processes for appeal of suspension and note that the minister has alluded to children acting out and misbehaving and needing to remove those children for the benefit of the others in the framework and context of ensuring access to education. How many of these children who have been suspended were suspended to attract student supports to them, given there are mechanisms currently within the education department where unless a student is suspended they cannot attract extra support, such as SSOs or additional teaching staff to support them with their learning?

The Hon. R.I. LUCAS: I am happy to take that on notice, but from my experience, and I know the member is uninterested in my view as an individual member rather than the government's, and I accept that, but I have had some—

The Hon. T.A. FRANKS: I am not uninterested in your individual perspective, but when I ask for a government response—

The Hon. R.I. LUCAS: But I am going to put on the record my view, having been a minister for education and the shadow minister for nine years prior to that in relation to education in schools; that is, I do not think it is correct that a student has to have been suspended to attract additional support through an SSO. For example, a student with a significant disability does not need to have been suspended. There are provisions within the awards and the agreements, etc., that students with disabilities do not have to have been suspended to attract additional support. Through the diagnosis or the processes of the department, they will have been accepted as a student with a disability and if they do have a particular disability they do attract additional support, whether it be in the classroom or in a different learning environment as well.

It may well be there are other circumstances to which the honourable member is referring where some students, if they have been suspended, attract additional support. If that is what the member is referring to, I am happy to take that on notice. If I misunderstood, I will go back to the *Hansard* record and check what the member actually said. If the member wants to further clarify her question, I am happy to put both the first question and any clarification to the minister and bring back a reply on Tuesday week if that would be of assistance to the member.

The Hon. T.A. FRANKS: While I am not uninterested in what the minister has as a perspective in terms his personal views—previously, I have been asking for government responses—in this case I do appreciate his personal perspective as a previous minister for education. Perhaps things have changed since his time as education minister, as that was such a long time ago. I draw the minister's attention and the government's attention to the system structurally now where

suspensions are used regularly as a tool to attract funding to a student that cannot otherwise be accessed through our current systems of behavioural management and supports.

This has been outlined in the select committee inquiry into access to education for children with disabilities. I ask for the government's response on that particular area of suspensions, which I say are without appeal process and without oversight of any body, independent or otherwise, on how the bill will ensure that those students, often with disabilities—sometimes undiagnosed disabilities rather than the diagnosed, easy, clear-cut cases that the minister has just outlined—how those children who are currently being suspended to attract that funding, those extra student supports, will be supported under this new, once-in-a-generation overhaul of our education system.

The Hon. R.I. LUCAS: I am happy to take the member's further clarification of her questions on notice and ask the minister whether or not he can provide any further information that might be of use and comfort to the member in terms of her question.

The Hon. T.A. FRANKS: I draw the minister's attention to his response that it would be unwieldy and impracticable for schools to allow an appeal mechanism for suspensions and ask how wieldy and practicable it actually is for parents in this state to have to go to the Ombudsman in the case of a one to five-day suspension?

The Hon. R.I. LUCAS: Can I clarify that it was not my view: that was the department's view that I was quoting earlier. They are the experts. They are there at the moment and they are managing our system. They do not have an outdated or 20-year-old view of the education system. They are the people who are managing it at the moment. That was their view in relation to being impracticable, or impractical and unworkable—whatever words I quoted from that particular response.

In relation to the views of parents, what I would say to the honourable member is if there is a particular parent who is so aggrieved about a particular decision in relation to a suspension as opposed to an exclusion or expulsion, the answer to the member's question, I suspect, is they would be unhappy that they had to go to the Ombudsman. But if they had to go through some sort of other independent mechanism to which the member might be referring (if it existed) they would still have to go through a process of appealing to another independent body. It would not be the state Ombudsman, it might be the education ombudsman under the member's model.

So they would still have to go to the extra effort of appealing to somebody. In the current case, it is the state Ombudsman; maybe in the honourable member's view of the world it is the education ombudsman. They would still have to go somewhere, and they might still be unhappy in relation to that. Whether they go to the state Ombudsman now or, in the Hon. Ms Franks' view of the world, to the education ombudsman, they might still be unhappy in terms of having to go to both. They might not agree with the decision the principal has taken in relation to a suspension of up to five days.

The Hon. T.A. FRANKS: For the purposes of clarity, I do not think necessarily that any parent would want to go to any ombudsman, education or otherwise, simply for a suspension, but I do have grave concerns that there are no appeal mechanisms, particularly when, as I say, these are not just used for naughty students who have acted out or done the wrong thing, they are tools used to attract funding to a student in need of assistance for their education. I ask the minister to respond to the Commissioner for Children and Young People's concerns with regard to family conferencing.

The Hon. R.I. LUCAS: I am advised that a senior departmental person met with commissioner Connolly about some of her concerns on family conferencing, and that some of this information was given to commissioner Connolly at that particular meeting. I will quote from the advice from the senior officer who met with commissioner Connolly, as follows:

> The commissioner's letter suggested that family conferencing is just one element of a complete support package and conferences should be offered as a problem-solving exercise or restorative practice, and that it may have the potential to drive a bigger wedge between family and education.
>
> The family conference will be just one option in a range of possible responses to the chronic non-attendance of a child at school, and is likely to occur after significant effort to engage a family with support and assistance to improve the child's attendance. The key principles of the model include that the coordination of the conference is independent of the parties to the conference. The conference is voluntary, and information about the concerns and supports available are shared openly between the parties to the conference.

The aim of the family conference is to provide the family, in its broadest sense, with an opportunity to take responsibility for the child's non-attendance at school, and participate in developing a plan to support the child's attendance at school.

Participation in the conference may provide an opportunity for the family to avoid further statutory action in the form of prosecution. Family conferences should not, however, be seen as a precursor to a prosecution or as part of a continuum. In some cases, they will not be appropriate and other interventions will be utilised. This may be in the way of family support, counselling or social work, or through a decision to prosecute.

Family conferencing is designed to avoid further deterioration of relationships between the family and the school and department by empowering the family to participate in the development of a plan that addresses the problems in a way that focuses on the best interests of the child, and leverages all the supports available to them.

The commissioner raised concerns about the role of the coordinator of a family conference in determining the eligibility of a support person to attend a family conference. The commissioner suggested that it appears to be contrary to the principles of procedural fairness and discriminates against a child on the basis of their age. Subclause 71(3)(e) of the bill provides for the attendance of a person who the student, or a person who is responsible for the student, wishes to support them at the conference, and who, in the opinion of the co-ordinator, would be of assistance in that role.

The role of the coordinator in ensuring a support person would be of assistance applies both to the student and a person responsible for the student. As such, there is no discrimination on the basis of age. The role of the coordinator in vetting support persons is consistent with equivalent provisions for family conferencing under the Children and Young People (Safety) Act 2017.

The Hon. T.A. FRANKS: Can the minister then confirm that it is still the situation that if, in the opinion of the coordinator, the support person was not of assistance the support person would not be allowed to attend that family conference?

The Hon. R.I. LUCAS: Sorry, can you repeat that question?

The Hon. T.A. FRANKS: Can the minister confirm that it is still the case under this bill that if, in the opinion of the coordinator, the support person requested by the family was deemed to be 'not of assistance in that role' they would be able to be precluded from the family conference?

The Hon. R.I. LUCAS: My advice is that that is a correct interpretation.

The Hon. T.A. FRANKS: Can the government explain why they have taken a decision to not allow support persons chosen by the family to attend the family conferences?

The Hon. R.I. LUCAS: If there is anything useful further that I can add—but I can only assume, having read what I have just read onto the record, that the department and the government have taken the view that it is up to the coordinator to make a judgement as to whether or not a particular support person is going to be useful in terms of resolving the issue or not. That has been the judgement that the department, and then ultimately the government, has taken in relation to family conferencing. I am not sure whether that specific issue was in the—I read out:

The role of the coordinator in vetting support persons is consistent with equivalent provisions for family conferencing under the Children and Young People (Safety) Act.

That would lead me to believe that this vetting process is already in existence and I assume has passed this parliament previously in relation to the role of coordinators. Not having been involved in that particular debate, I have no recollection, but that is the written advice that I have just read onto the public record. This is entirely consistent with the vetting support person positions in the Children and Young People (Safety) Act.

The Hon. T.A. FRANKS: The Greens express some concern that the coordinator can vet who is able to attend these family conferences. If the family is wishing a support person, I cannot see what grounds there should be for the coordinator to be able to refuse that support person if they have not acted unacceptably. How will the coordinator know that they are not an acceptable addition as a support person unless they do in fact act in a way that can be identified and quantified as inappropriate? Surely this is not a process of natural justice?

The Hon. R.I. LUCAS: I cannot assist the honourable member any further. I am assuming there was a similar debate in that particular Children and Young People (Safety) Act 2017. Not having participated in that debate, I am not sure what the answers were, but I cannot usefully add anything more than what I have put on the public record at the moment.

The ACTING CHAIR (Hon. D.G.E. Hood): Do any other honourable members wish to make a contribution at clause 1? The Hon. Ms Bonaros.

The Hon. C. BONAROS: Thank you, Mr Acting Chair. I might be guided by you. I have a number of questions in relation to the religious and cultural activities, but I am more than happy to not ask those at this stage and perhaps deal with them when we get there.

The Hon. R.I. LUCAS: Mr Acting Chairman, if they are seeking information that would be usefully put on the record now, I can take them on notice and have the information or answers provided prior to the debate. If that would assist, hopefully when we come back on the Tuesday, to resolve all those issues, that would be useful. If there are questions where you are seeking information, as opposed to debating or arguing the point about the merits or otherwise of particular amendments, my advice, with your concurrence, Mr Acting Chairman, would be let's get those questions on notice. I will take them on advice and we can at least get answers to honourable members prior to Tuesday week.

The ACTING CHAIR (Hon. D.G.E. Hood): That sounds like a good suggestion. The Hon. Ms Franks.

The Hon. T.A. FRANKS: With that in mind, I will certainly put some things on the record that I will be seeking answers to that are perhaps best done in clause 1 rather than further into the debate. I note that I have previously asked some of these questions in this place. What are the appeal and complaints mechanisms for students, parents and guardians complaining about school chaplains in our schools?

The Hon. R.I. LUCAS: I am happy to take that on notice and have an answer ready for the member on Tuesday.

The Hon. T.A. FRANKS: The minister outlined some of the diversionary programs—Beafield, Cowandilla and the Christies Beach options—and assured this council that there were probably more and alluded to Bowden Brompton school. Can that information be taken on notice, specifically with the ages at which those options are available to children? What have been the outcomes of the previous behavioural intervention service at Enfield CAMHS, and what mental health supports exist in those diversionary programs currently, given the loss of the BIS program at Enfield CAMHS?

The Hon. R.I. LUCAS: I am happy to do so.

The Hon. C. BONAROS: My question is asked specifically in relation to division 4 and clause 82 regarding religious and cultural activities. Clause 82(1) provides:

> The principal of a school may set aside time for the conduct of religious or cultural activities (or both) by a person, or a person of a class, prescribed by the regulations for the purposes of this section.

Have the regulations pertaining to this particular provision been drafted?

The Hon. R.I. LUCAS: I can answer that one now: no, they have not.

The Hon. C. BONAROS: I understand that to provide religious activities to public schools a person or organisation wanting to provide such activities may be prescribed for the purposes of the regulations. What do we anticipate the threshold for a prescribed person or organisation will be?

The Hon. R.I. LUCAS: I will take that on notice and bring back a reply.

The Hon. C. BONAROS: Is 'religious activity' defined or going to be defined in the regulations?

The Hon. R.I. LUCAS: I will take that on notice, but my understanding is no. I think the honourable member raised that in her contribution. I think there was a long debate in the House of Assembly about that. The minister gave some views, but it is not defined in the act, it is not proposed to be defined in the act and it is not proposed to be defined in the regulations, as I understand it, but I will take that on notice and bring back a deliberative reply from the minister.

The Hon. C. BONAROS: Specifically in relation to the regulations, so thank you. Is the material to be provided to students in public schools going to be vetted by any means to ensure that the content does not contravene Australian law?

The Hon. R.I. LUCAS: I am happy to take the question on notice and bring back a reply.

The Hon. C. BONAROS: I am sure this will be something you might want to consider further. We passed the Marriage Equality Bill federally in 2017. Faith-based schools are still allowed, understandably, to teach according to the beliefs of their faith. Does the government have a view of what ought to be the case if a priest, an imam, or anyone came to teach in a public school that marriage is between a man and a woman, which effectively goes against what is now Australian law?

The Hon. R.I. LUCAS: I am happy to take that on notice and bring back a reply.

The Hon. C. BONAROS: In the same vein, given that it is not defined, could a religious activity extend to the proselytising of children? In a follow-up to my discussions with the minister, is this something that the government can give a commitment to in terms of not allowing it in our public schools?

The Hon. R.I. LUCAS: I am happy to take that on notice and bring back a reply.

The Hon. T.A. FRANKS: I do believe this is my final question, unless there is a supplementary to it. Much was made in the debate in the other place in the previous incarnation of the bill that it would have potentially allowed Christmas carols to be banned. Can the government give a perspective on whether or not this bill will allow Christmas carols in schools to be banned?

The Hon. R.I. LUCAS: My understanding is that there is a specific provision in the bill which allows Christmas carols, so therefore they cannot be banned. There is a specific provision in the bill that allows Christmas carols to be sung, so they cannot be banned.

The Hon. T.A. FRANKS: Is the minister aware that currently some Christmas carols are banned in preschools and particularly Rolf Harris's *Six White Boomers*, given his conviction for child sexual abuse? Will that continue to be able to be banned by those preschools?

The Hon. R.I. LUCAS: I am aware of some types of media speculation about Christmas carols being banned in various educational institutions. I think that is why this issue was debated last year and the year before, publicly. I do not know it for a fact. I know there are media reports that have indicated that that is what has occurred but I cannot attest to whether or not it is factual. That was the reason why there was this whole debate, that is why there is this particular amendment in the bill and that is why it is specifically allowing Christmas carols.

The Hon. T.A. FRANKS: Just a supplementary on this particular matter. Some years ago, as we know, Rolf Harris was convicted of offences of a sexual nature against children. Since that time, preschools have taken the action of banning Rolf Harris songs, including the Christmas song *Six White Boomers*, from being conducted within their children's services centres. Will this bill overrule that ban?

The Hon. R.I. LUCAS: I do not know any of the detail of that particular claim. I am happy to take it on notice, provide it to the minister and bring back a reply.

The Hon. C. BONAROS: Perhaps just on from that, and I do not know whether this will shed any light on the question itself, but is it not the case that schools have the discretion to choose which songs or carols are allowed in their schools? For instance, *Silent Night* might not be allowed but *Jingle Bells* may be allowed, based on their context.

The Hon. R.I. LUCAS: I am happy to take that on notice but I would be surprised if a provision that said Christmas carols were allowed should somehow allow *Silent Night* to not be allowed to be sung in schools. That would surprise me, but the honourable member is a lawyer and I am not, so I am happy to take it on notice and seek advice from the minister. I must admit I would be surprised if the answer came back and said that *Silent Night*, for example, could be banned.

The Hon. C. BONAROS: Do we know how many schools in South Australia, divided by primary and secondary, actually offer these religious activities?

The Hon. R.I. LUCAS: I am happy to take that on notice and bring back a reply.

The Hon. C. BONAROS: Just on from that, is there a list provided to these religious groups so that they can identify the students who they wish to target? For instance, if a Catholic priest was to preach at a school, would they request a list of the Catholic students enrolled at that school rather than generally all the students?

The Hon. R.I. LUCAS: I am happy to take that on notice, but I am advised that these days, contrary to when I was at school—which was many, many years ago—the information in relation to the religious association of a particular student is not collected. When you enrol you are not actually asked and it is not recorded as to whether you are Catholic or Callithumpian or agnostic or whatever else, so the information does not exist for students these days in relation to publicly available information. That is the advice we have. We will check that and provide an answer to you.

For those of us who either have grey hair or no hair and have been around a lot longer, when we were at school in public schools, the Catholics went off to speak to the Catholic priest for their religious instruction once a week, the Anglicans went off to speak to the Anglican pastor or whatever it was and others went off, and those who did not want to speak to anyone sat in the classroom and did drawing or something. I know the world has changed, as the Hon. Ms Franks has advised me, and one of the things that has changed is that we do not collect any information about the religious association of students when they enrol or at other stages.

I am told the only case where that might be collected is where there are particular needs for a particular child, for example, where it is important that, for their needs to be catered for by the school, the parents and/or the child—generally the parents, I guess—have shared that information with the school principal to say, 'For these reasons, we think you should know,' and then that might be part of their record. But in terms of the normal collection of information when you enrol, the department does not ask what the religious association is.

The Hon. C. BONAROS: Thank you for the clarification. Just on from that then, and take this on notice, how will somebody who goes into a school determine which children they are going to be addressing during their visit?

The Hon. R.I. LUCAS: In terms of the complicated processes at the local level, let me take it on notice and get some advice and come back to the committee.

The Hon. C. BONAROS: While we are at it, and I am not sure if this is possible, is any sort of list collated as to the organisations that have requested or continue to request access to public schools in South Australia?

The Hon. R.I. LUCAS: You mean currently?

The Hon. C. BONAROS: Yes.

The Hon. R.I. LUCAS: I am happy to take it on notice and see what information we can share with the committee.

The Hon. C. BONAROS: Again, in the same vein, could we confirm whether the department has received complaints about the Scripture Union providing religious activities to children?

The Hon. R.I. LUCAS: The what union?

The Hon. C. BONAROS: Scripture Union.

The Hon. R.I. LUCAS: I am not aware of this particular union infiltrating our schools. The Hon. Ms Bonaros has raised this question, not I. Given the Hon. Ms Bonaros has raised the question about the Scripture Union, I am happy to take it on notice and bring back a reply.

The Hon. C. BONAROS: I have perhaps three more questions.

The CHAIR: That is fine. Ask as many questions as you wish.

The Hon. C. BONAROS: Thank you. On the issue of complaints, does the department collect figures and, if so, what are the figures in terms of the complaints that have been raised with them about religious activities being provided to children, perhaps in the last two years?

The Hon. R.I. LUCAS: I am happy to take it on notice and bring back a reply.

The Hon. C. BONAROS: Again, in the same vein, perhaps we could also clarify how many of those complaints received were about the opt-out provision in clause 82 specifically?

The Hon. R.I. LUCAS: I am not sure whether that sort of detail is available but, if it is, we are happy to take it on notice and see what information we can share with the committee.

The Hon. C. BONAROS: Again, on notice, if a student is exempted from the religious activity because the parent has not given permission for the child to participate, what will they be engaged in during the conduct of the religious activity in what is described in clause 82(4)(b) as 'an alternative activity'?

The Hon. R.I. LUCAS: I am happy to take that on notice and provide an answer to the committee.

The Hon. C. BONAROS: Perhaps, again, we can take this on notice: does the Treasurer know what the effect would be if clause 2 were in fact dispensed with altogether? I note that this is a discussion that I had briefly with the minister, but it is certainly one that I would like to get some further clarification on because I think some of the points put to me by the minister were counter to some of the advice that I had. I would like to clarify, if we dispense with that altogether—

The Hon. R.I. LUCAS: Dispense with what?

The Hon. C. BONAROS: Clause 82.

The Hon. R.I. LUCAS: The whole clause?

The Hon. C. BONAROS: Yes. What limitations would that provide in terms of religious teachings or cultural activities in schools?

The Hon. R.I. LUCAS: I am happy to take that question on notice and provide a response to the committee.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. T.A. FRANKS: I have raised a number of questions today with regard to an education ombudsman and the specific perspectives in support of that, and the options of appeal and independent complaints mechanisms, so I am not willing to proceed with this clause and move to that debate until the government brings back those answers. So I move that we report progress.

The Hon. R.I. LUCAS: I am reluctant to do that. I understand that the honourable member has asked questions, but what we are trying to do is to progress through the committee stage with a commitment to recommit various clauses. If we get to the end of the committee stage today and the member wants a commitment to recommit the clauses that relate to the education ombudsman, I wonder if that is a satisfactory alternative.

The other controversial issues, which are the religious and the corporal punishment ones, we have certainly decided to recommit those particular provisions. We could do the same thing with the education ombudsman. I guess I am seeking an indication from the Hon. Ms Franks as to whether or not that is an alternative course that she is prepared to contemplate.

The Hon. T.A. FRANKS: I am going to note that I did actually ask what the government's position was on an education ombudsman in my second reading contribution. The response brought back in the summary went to consultation that the government undertook, but that consultation did not include the Commissioner for Children and Young People and it did not include the South Australian Association of State School Organisations, just two organisations that have actually indicated support for such an education ombudsman.

So I have some grave concerns that the government has not been transparent in its debate in terms of the true support for an education ombudsman. However, in doing so, I move:

Amendment No 1 [Franks–1]—

Page 10, after line 17 [clause 3(1)]—Insert:

> *Education Ombudsman* means the Education Ombudsman appointed under Part 10A (and includes a person acting in that office from time to time);

I reiterate that time and time again, in such bodies as the Select Committee into Access to the Education System for Students with Disabilities and in various reports into the failings of the education system, an education ombudsman has been supported.

The member for Bragg, now the Attorney-General, brought to this parliament a bill that was supported by the then Liberal opposition, now in its new incarnation as a government. In opposition, the Liberal Party members of this parliament supported an education ombudsman and they came here today without having done their homework on an education ombudsman and with a quite extraordinary, I thought, claim that an education ombudsman would be largely associated with bullying.

The items that an education ombudsman would look at would be those systemic, intractable issues in our education system that the Debelle inquiry said have to be addressed, where a governing council was not given the supports they need because we have a lack of proper, independent complaints processes in our education system. This is a once-in-a-generation overhaul of the Education Act. This is a once-in-a-parliament opportunity to fix at the very root of their causes some of the problems we see time and time again.

Perhaps an education ombudsman in this particular form is not what the government would propose, but certainly the government has not come back with its suggested amendment. So the Greens would contend that at this point an education ombudsman would be the appropriate compliance mechanism, an independent authority to actually start to really transform our education system and the failings that it has. I note the words of the South Australian Association of State School Organisations Incorporated, and they state in their newsletter that:

> Beyond the Debelle Inquiry, multiple reports have revealed a 'culture of cover-up' and a department which 'lacks accountability and transparency'.

They go on to say that:

> The pressuring and bullying of the Governing Council exposed in the Debelle Report is not unique. It wasn't the first case and it continues today.
>
> The tragic events in the sex abuse case have revealed an inarguable truth: constant, external scrutiny is the only way to hold this department to account.
>
> This isn't a matter of the community losing faith in the education department—this department has proven it is not entitled to their faith.
>
> It is clear that parents and Governing Councils cannot rely on the department, for either accurate information or to act in the best interests of their children.
>
> Parents and school Governing Councils must, therefore, be empowered to protect their own rights and thereby, safeguard the best interests of their children—because our children really are at the heart of everything we do…

And this was in support of an education ombudsman. This ombudsman would be a specialist, unlike the generic state Ombudsman, and it would ensure that those students, parents and staff within the system—that in opposition the Marshall government acknowledged was a somewhat broken system that does not, at the very grassroots of it, have the transparency and accountability that one would expect of a state education system. An education ombudsman would ensure that.

As I say, the government has not come forward with some other process to ensure that there is transparency, accountability and a way to address these issues before they become intractable and lead to situations that we have almost seen time and time again, which need close to royal commissions or high-level inquiries to fix them.

Surely the government should have given greater consideration to this proposal and certainly not come to this place claiming that there was no support for it when indeed there is from no less than the parents' groups themselves and, in particular, the South Australian Association of State School Organisations, among many others—many groups—particularly those representing parents of children with disabilities. With those few words, I note that this amendment No. 1 will be a test amendment.

The CHAIR: The Hon. Ms Franks, I took it that you were indicating you were going to report progress, because otherwise it would not have been a debate—for the benefit of *Hansard*. Now you have moved this amendment.

The Hon. T.A. FRANKS: Chair, when I indicated I would report progress, the minister got up and gave a speech, so I figured that we had not moved to the procedural.

The CHAIR: That is alright. I am not remonstrating with you; I am just clarifying for the purposes of *Hansard*. Leader of the Opposition.

The Hon. K.J. MAHER: I will speak on the substance of the amendment in a moment. It should be placed on record that the opposition is always ready and willing to progress government business and assist in the smooth operation of this chamber in the parliament; however, I do take on board the Hon. Tammy Franks' concerns. She did have a number of questions that were pertinent to the need and the operation of an education ombudsman, and I understand that the Leader of the Government will take those on notice and bring them back, but some of those may actually assist us in whether we support the amendment or not.

My suggestion for a way forward for the time being is: perhaps we get people's views on record, and that may help the Hon. Tammy Franks decide whether to report progress, which is obviously something that she is capable of doing at any time during the debate and before the vote on this amendment. If that is of assistance, that is how I will proceed, and maybe after I speak other members may wish to place their views as it currently stands, noting that things may be recommitted.

The view of the Labor opposition is that we support the Franks amendment, that is, the Franks amendment No.1, and the second amendment, and I can indicate that we will also be supporting the third Franks amendment that inserts new clauses 123A to 123M, which is a substantive amendment in terms of creating the ombudsman.

I might by way of a question for the Hon. Rob Lucas to answer, as a question for the government, ask: can he confirm that if these two amendments are successful they will be used as a test for the amendment later on, that is, the Franks amendment No. 3, which is the substantive one? I would just be keen for the government to go on record to confirm that if these two are successful they will treat this as a test and understand that that is the will of the chamber for the final amendment, because of course there would be no point in these being successful if the final one was not included.

As I said, the opposition is supportive of these amendments. We do note that there have been growing calls from parents' groups for the introduction of an education ombudsman. Although the South Australian Ombudsman can investigate education matters, there is a view that a dedicated ombudsman will provide a better understanding of the issues in schools and be able to make more specific determinations in cases, as is the case with the health and community services complaints ombudsman.

The increasing size and complexity of the public school system in South Australia means the number of parent complaints and incidents in schools is increasing. It may well be the case that with the impending move of year 7 to high school we could see an increase in terms of the pressure of that cohort of students, where there are some that are younger going into high school that otherwise would have stayed in primary school, and the issues of younger people with older students may lead to an increase in the need for an ombudsman as year 7 moves from a different campus.

There has regularly been disquiet about how the Department for Education at times handles complaints, and I think an independent body, as is being proposed by the Hon. Tammy Franks, would give peace of mind to those parents as well as teachers and others who have worked in the school that all are being treated fairly.

I have placed on record one question to confirm that the government will treat these as a test clause and that if these are successful will allow the third amendment, that is, the amendment inserting new clauses 123A to 123M, to pass. The other question I would ask of the government is: is it the case that the creation of an education ombudsman has previously been a Liberal Party election commitment and if so what election were they commitments for?

The Hon. R.I. LUCAS: The government's position is clear, as we outlined in a rather long discussion in the reply to the second reading and then in debate on clause 1, so I do not propose to repeat all of the arguments against. I quoted at length from the state Ombudsman as to why the state Ombudsman did not believe the notion of the education ombudsman was required or made any sense.

Can I just clarify an incorrect claim that has been made. At no stage have I ever said there is no support for an education ombudsman and it is wrong to infer or say that I have. I have indicated that the position the government is putting is now supported by, I think I said in the reply or the second reading, the state Ombudsman and the non-government school sectors and the principals association as well, I think—there was another group, anyway. I listed the ones that were supporting it, but I did not indicate that no-one supported an education ombudsman and, clearly, I am sure there are some people who support an education ombudsman.

Indeed, to come to the second question, that was indeed the position of the Liberal Party in opposition on a number of occasions. I am not sure whether it was ever elevated to the position of an election policy—it probably was—but I think, as the Hon. Ms Franks indicated, it was actually introduced as a bill at one stage by I think the member for Bragg where she had a period as the shadow minister for education. There is no disputing that in the past the Liberal Party has had a position to support an education ombudsman.

The position we are putting now, based on advice we have from the state Ombudsman, non-government sectors and others with whom we have consulted being in government is that we have changed that particular position. Certainly, I do not believe—and I can have this checked—we went to the election in 2018 committing to an education ombudsman, but I will stand corrected on that. I am happy to check the record in relation to the 2018 election policy platform. But it is largely academic. There is no doubt at varying stages in the past the Liberal Party has supported an education ombudsman and, as the Hon. Ms Franks indicated, on one occasion at least we introduced a bill to do so. But for the reasons that I have outlined, we have changed our position in relation an education ombudsman.

In relation to the question from the honourable Leader of the Opposition about test cases, I think it is eminently sensible that the first amendment, or two amendments, be treated as test clauses. If they are passed in this chamber, we would indicate opposition to the remaining package. We would not debate each particular section. Ultimately, it would then be a matter for resolution, if possible, between the houses. The government's position has been made clear by the minister that he is not prepared to support that. I think the former government allowed the whole bill to lapse because they were unhappy about the position the Legislative Council adopted in relation to particular amendments. It may well be—

The Hon. K.J. Maher: It's a very important chamber, this.

The Hon. R.I. LUCAS: Well, exactly, indeed. All governments have to give due deference to the will of the Legislative Council. It may well be that the options available to the government will need to either agree to some compromise or for there to be a changed position in the Legislative Council, or for the bill not to proceed as a result of irreconcilable differences between the houses. But we are getting a long way ahead of ourselves at this stage. That is further down the track. The simple answer to the leader's question is that, yes, we would agree, and I suspect that all members would agree, that the first vote or votes on these two amendments would be taken as test clauses for the package of amendments for an education ombudsman.

The Hon. C. BONAROS: I thank the Leader of the Opposition for the suggestion in terms of potentially recommitting this clause. The issue of a dedicated ombudsman certainly is not without merit. In fact, I think the opposite of that is true for some of the reasons that have been outlined. For example, if no appeal mechanism is to be implemented for suspensions and for the reasons outlined by the Leader of the Opposition. I am also mindful of the advice that the government has provided in terms of the response from the Ombudsman as to why he believes that it is not necessary, and I do have questions in that regard specifically in terms of whether this could potentially be a resourcing issue as well as anything else.

I think those concerns, ultimately, have to be weighed against the concerns that have been raised by parents, by groups like SAASSO and even the Commissioner for Children and Young People, who has certainly highlighted some concerns around this very issue. At this stage, I am not convinced by the government's arguments, but I would certainly welcome the opportunity to consider further the information that the Treasurer has undertaken to provide back to us on this issue. At this stage of the debate, I am prepared to support the amendments moved by the Hon. Tammy Franks now on the understanding that, of course, this clause may be recommitted so that we can consider it in the context of the advice that is going to be provided.

The Hon. J.A. DARLEY: If it assists, I can say that I was always going to support the Hon. Tammy Franks' amendments, and still am.

The Hon. K.J. MAHER: For the sake of completeness, if it was not absolutely obvious from my speech, we will be supporting the Hon. Tammy Franks' amendments.

The CHAIR: On what I have listened to, I will put the motion, unless any honourable member has a further contribution. As I have listened to it, the Hon. Tammy Franks has moved the amendment and therefore I am about to put the amendment, unless anyone else wishes to speak or put an alternative course of action.

The committee divided on the amendment:

Ayes 13
Noes..... 8
Majority..... 5

AYES

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

NOES

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

Amendment thus carried.

Members interjecting:

The CHAIR: Divisions are not the opportunity for social engagement. We are still in debate in committee.

The Hon. T.A. FRANKS: I move:

Amendment No 2 [Franks–1]—

Page 12, after line 4 [clause 3(1)]—Insert:

school discipline means the manner in which a school regulates or enforces standards of student behaviour and includes—

(a) suspension, exclusion or expulsion of students; and

(b) proactive practices for school staff in their interactions with students; and

(c) practices to reduce bullying in schools;

school discipline policy means the policies, guidelines, legislative requirements and other matters relating to school discipline with which Government schools are obliged to comply;

This is consequential.

The Hon. R.I. LUCAS: The government opposes the amendment, but we are not going to prolong the debate. We accept that the first one was a test clause. We will not divide, but the government nevertheless opposes the provision.

Amendment carried; clause as amended passed.

Clauses 4 to 31 passed.

Clause 32.

The CHAIR: There is one amendment, amendment No. 1 [Bonaros–1]. The Hon. Ms Bonaros.

The Hon. C. BONAROS: My understanding is that I will not move that at this stage, but we will deal with that by way of recommittal.

The Hon. R.I. LUCAS: I reaffirm the commitment I gave that on Tuesday, when we next sit, we will recommit clause 32 for the purpose of allowing the Hon. Ms Bonaros to move her amendment and test the will of the committee.

Clause passed.

Clauses 33 to 53 passed.

Clause 54.

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

Amendment No 1 [Maher–1]—

Page 40, lines 28 to 30 [clause 54(2)(d)]—Delete paragraph (d) and substitute:

(d) a person (not being a teacher at a school that is subject to the review) nominated by the Australian Education Union (SA Branch);

I went through the issues that deal with this amendment in great detail in my second reading contribution. It relates to Australian Education Union members being part of committees representing schools. I went into detail about the specific training that such AEU members have and why it is beneficial to such committees to have them there, particularly for decisions that are being made on the merit of employment or promotion but also the critical decisions about amalgamations or closures of schools to have AEU representation. We think it is absolutely critical.

I will place on record, as we are dealing with this amendment, some questions for the government to answer. My first question for the government in relation to this clause, which I think goes to why we are moving the amendment, is: what consultation was held in relation to this part of the bill, particularly on removing the AEU from review committees for school closures?

The Hon. R.I. LUCAS: I referred to this earlier and quoted at length from what the minister said at some previous stage, and that is that the then Liberal Party's view in opposition was informed by considerable consultation it had when in opposition about this and a range of other issues that were canvassed in the former government's education bill. This particular issue was widely canvassed at the time. We debated it and, ultimately, the government was unhappy with the will of the Legislative Council at that time.

We were elected on a clear commitment to institute these particular changes. Certainly, the AEU were well aware that the shadow minister, who became a minister, was intent on introducing these changes. The minister was aware of the AEU's position in relation to the proposed changes, that is, that they opposed them. The die was cast, in that the new Liberal government's position was well known, the AEU's position was well known and there was no agreement in relation to both.

Whether or not there was further consultation in terms of the normal discussions the minister has with the AEU on a range of issues and whether this was ever raised at one of those meetings, I do not know. However, as I outlined, there was no formal extended consultation period with the AEU in relation to asking, 'What's your view in relation to this particular aspect of the bill?', as I understand it. They were obviously aware of the government's position and opposed it.

The Hon. K.J. MAHER: If this amendment is not successful and the AEU is entirely removed from review committees that look at school closures, how will that review committee be selected? How will the membership of that review committee be selected to look at a school closure if the AEU is no longer necessarily involved in it?

The Hon. R.I. LUCAS: In brief—I am sure the member, who is a trained lawyer—there is clause 54 of the bill which establishes how the review committee is established. Particularly in relation to this aspect it is a person representing the staff of each school to which the review relates, elected or nominated by the staff of each such school in accordance with the regulations.

The general point I made earlier was that, if a particular person has the confidence of all the staff in the school, both the AEU members and the non-AEU members, then he or she should be entitled to be the staff representative. In many cases, as I said, I suspect that, given the AEU representation or membership might be strong in most worksites, in many cases it is likely that the staff member to be elected under this provision, the government's provision, would be an AEU member anyway. There is nothing in here which precludes an AEU member, delegate or otherwise from being elected by the staff as their representative. If that person has the confidence of the staff at the local level, they will be elected.

In many cases I suspect that will be the case but, equally, if there is a particular person who has the confidence of all the staff then why should he or she not be entitled to be elected? The closure or amalgamation of a particular school has as much impact on a teacher who is not a member of a union as it does on a teacher who is a member of the union. In our view, they are entitled to put their hand up and become the representative if they get the support; if they do not, then they will not be the nominated staff representative.

The Hon. K.J. MAHER: Can I confirm then that the Leader of the Government is saying that there will be a person who is elected?

The Hon. R.I. LUCAS: Of course, there is 'elected or nominated by the staff of each such school in accordance with the regulations'. It says 'elected or nominated by the staff', not by anyone else.

The Hon. K.J. MAHER: Can I get an indication from the Leader of the Government then, if it is not 'elected' what 'nomination' means? Who would be the person doing the nomination and how would that be proposed to work if it is not an election of the person?

The Hon. R.I. LUCAS: I think that will be outlined in the regulations. Speaking off the top of my head, I am not sure. It says 'by the staff'; it does not say any subset of the staff. What the difference between an election by staff or a nomination by staff is in actual fact I cannot myself envisage. Again, the Leader of the Opposition is a lawyer and he might be able to envisage some circumstances where it is different, but it says all the staff 'by the staff', so no-one is excluded.

It may well be that there is some process under the regulations which allows a nomination and not an election process that has to be conducted. That is, if only one person nominates to be the representative and everyone is prepared to support that particular person, that would not formally constitute an election perhaps. I am scrambling to get an explanation of the difference between election and nomination.

It may well be that it is trying to envisage circumstances where there is no election and there is only one person who is willingly or unwillingly going to be the person who represents the school on the review committee, and they are nominated to be it by a majority of the staff at the school.

The Hon. K.J. MAHER: I guess that is what I am getting at: when we are asked to take it on faith that the regulations will provide for something that is not provided for in the act. I take it then that the Leader of the Government is saying that there is no possibility that nomination in this case could mean nominated by a principal or by the leadership group or any subset of the staff; that he is in fact saying that the whole of the staff will always get a say in this and, if that is the case, why have 'or nominated', why not just have 'elected unopposed'?

The Hon. R.I. LUCAS: I have just tried to explain that but I am happy to take that on notice. It clearly says 'by the staff'. It does not say 'by the principal in certain circumstances' or 'by the leadership group in certain circumstances'. It says 'elected or nominated by the staff'. If the words 'or

nominated' have any work to do in a legal sense, I will take advice as to whether it does or it does not. I find it hard to understand what the distinction might be, other than in the circumstances where no-one wants to be the elected member and there is no election. Was this drafted in a way by parliamentary counsel to cater to the circumstances where the staff, not the principal, nominate one of their number to be their representative on the committee?

The Hon. K.J. MAHER: Just to flesh that out, given what the Leader of the Government has explained, I also do not understand the purpose of the 'or nominated' in that particular clause or what work the 'or nominated' has to do. Is the leader then ruling out any possibility that the regulations could, for example, provide, for the purposes of clause 54(2)(d), that a person is taken to be nominated by the staff if the leadership group of a school agrees with that person being the nominated representative? Is he ruling that out as a regulation possibility?

The Hon. R.I. LUCAS: I am not involved in the drafting or otherwise of the regulations. As a non-lawyer reading that, when it says 'elected or nominated by the staff', I am just not sure how you could get into that by way of subordinate legislation, which is a regulation, that it is not actually by the staff but it is a veto right by a principal or a leadership group or something. Again, the leader is a lawyer, if he thinks that is possible through subordinate legislation, then I am certainly happy to get the minister to take further advice in relation to the issue. But that is certainly not the intention. The intention is as the subclause is drafted that this is someone who is elected or nominated by the staff of the school, not by the principal, not by the leadership group. Clearly, if that was the case, there would objection from the staff.

The government's position is clear, as I have outlined it. We are not arguing that this is a covert or backdoor way of getting the leadership group to nominate a patsy from the staff to support a particular position. That is not the government's position. All the government is saying is, if the staff have greater confidence in somebody who does not happen to be an AEU member, then why should they not be entitled to elect or nominate a non-AEU member as their representative? In most cases, if they are happy with the AEU member, then why should they not be allowed to do so? They should be. That is the government's position. There is no hidden intent to try to subvert the intent of this particular legislation.

The Hon. K.J. MAHER: I thank the leader for his explanation because when it comes to interpreting these sorts of clauses, it is helpful to have the government's intention placed on record so that it can provide assistance when we are looking at it. I am glad the Leader of the Government has ruled out certain ways that this could possibly be interpreted. Can the Leader of the Government outline the criteria used for making the decision to close a school when such a review committee is formed?

The Hon. R.I. LUCAS: I am happy to take that on notice. I suspect the answer is the same as under the former government. Whatever criteria you used, I suspect similar criteria are going to be used by the new government. The act essentially is remaining the same, other than the constitution of this particular committee. I do not understand that there is any other changed provision in relation to these amalgamation/merger decisions in here. If I can usefully get anything further from the minister, I am happy to provide it to the committee at a later stage. Whatever the process was under your government for 16 years, my understanding is that, broadly, it is going to continue. To answer the question, the obvious ones are if there are hardly any students there, that would be an obvious factor as to whether or not a school should be closed or merged if there is a nearby schooling option.

For example, if you are in the bush and you only have eight or 10 students at the school, but the nearest school is two hours away, then clearly there is a greater argument for keeping that particular school open, whereas if you were in the metropolitan area and you had 10 students and there was a school 10 or 15 minutes away there would be less of an argument for keeping that school open because parents had voted with their feet and gone somewhere else. Clearly, that would be a factor in relation to a review or a merger decision.

The former government took a wide range of decisions, I think, to forcibly amalgamate junior primary and primary schools. I think the former government's position was partly budgetary. They wanted to make some savings, because there was one less principal. You have a principal in a junior

primary school and a principal at a primary school, and the former government took the position that you could make some savings by only having one principal by amalgamating both, and you could reduce some leadership positions, etc.

I suspect they might have also argued that in some ways it was still better in terms of the continuity of students moving out of year 2 into year 3, from junior primary to primary, and that it was better for them educationally not to change from one principal, staff and school to another. They were the sorts of arguments the former government used, I assume, in relation to the forced mergers or encouraged mergers of junior primary and primary schools.

There is a range of reasons the former government used. I assume those particular reasons would be open to the new government in similar fashion. There are many other reasons why it might be countenanced. I know in some other jurisdictions, where schools that are small have been so appallingly bad in terms of their performance and there was a convenient other school nearby, those jurisdictions have closed those schools down and moved the students into a neighbouring school. I am not sure whether that has occurred in the last 16 years under the Labor government, but certainly that has been used as a reason in some other jurisdictions for either mergers, amalgamations or closures.

The Hon. K.J. MAHER: With schools amalgamating, I know the Leader of the Government often likes to feign his inability to explain things by saying he is not a lawyer and there are other people who are lawyers in this chamber so they should know more than he does about a bill he is handling, but I am afraid most of us are at a significant disadvantage to the Leader of the Government on the topic of the closure of schools. He is a former education minister who has great expertise in the closure of schools.

The Hon. I.K. Hunter: Sixty-seven.

The Hon. K.J. MAHER: A record number: 67 schools that he was able to close in the time that he wreaked havoc across the education system. Is it in the minister's experience or is he able to advise, in terms of the closure of schools, is there a list that ministers are provided with on a regular or occasional basis of schools that are close to the criteria and kept on a watch list, in effect?

The Hon. R.I. LUCAS: Not to my understanding but, as the Hon. Ms Franks reminded me, I have not been the minister for education for 20 years. But certainly on the Budget and Finance Committee we often asked questions of departments about enrolment figures in schools. My understanding is that, under the former government, I do not know that there were watch lists of schools in terms of criteria.

Ultimately, there are enrolment figures and clearly one can look at enrolments to see whether or not people are supporting a particular school. As I said, that will vary depending on whether you are in a regional area and you have no other option, as opposed to a metropolitan area where people are genuinely voting with their feet because for whatever reason they do not like the educational option at a particular local school and have chosen to go somewhere else.

I would be pretty confident in saying there is nothing that is as grotesque or as blunt an instrument as a watch list in terms of possible school closures. There are enrolments and I would imagine all ministers and departments would keep a watching brief on whether or not some schools are getting so low as to not be able to offer the educational offerings that they should be offering. If you have low numbers of students you have low numbers of teachers and therefore your capacity to offer a breadth of curriculum is significantly lessened. That is obviously the case with high schools in the metropolitan area: if your numbers are extraordinarily low, you have fewer teachers and the range of subjects that you can offer with specialist teachers is obviously much reduced because you do not have the number of teachers across the board.

The Hon. K.J. MAHER: I thank the Leader of the Government for his response. I know he says he doubts there is any such 'grotesque' list such as a 'watch list', but is he able to take on notice and ask the question if there is such a thing as an indicative list of schools that are getting close to certain criteria and, if such, bring that back to the chamber?

The Hon. R.I. LUCAS: I am happy to take that on notice but I would be very confident that there is no 'at watch' list for possible closure because they are nearing a criteria for closure list. I am happy to take it on notice and see what response, if any, the minister is prepared to provide.

The Hon. K.J. MAHER: The minister referred to one of the guiding criteria as number of students, therefore number of teachers, therefore range of courses that can be taught and offered as a criteria that is taken into account. Will the minister take on notice and commit to bring back a full list of enrolments at each of the government schools across South Australia?

The Hon. R.I. LUCAS: I am happy to take that on notice. As I said, it has been provided to the Budget and Finance Committee on an annual basis in the past, so I cannot imagine the new minister and the department will have any particular problem in relation to that. What I will say in relation to this whole area, as one comes to an annual budget process where departments and agencies have to make savings, they would have to have a look to see at that particular point in the cycle whether or not potential savings could be made.

So at that particular time in a cycle, and certainly the minister has referred to the cycle back 20-plus years ago when I was minister, and the cycle was the State Bank disaster and we obviously had to seek information as to where we could actually make savings within the department. In any budget cycle, if there are savings that agencies have to make, well then a minister of the department would obviously then have a look at it to see, 'Okay, are there both budget savings potentially able to be made, and also educational improvements that might be made via merges or amalgamations of some particular schools?'

I would imagine on occasions over a 20-year cycle, the former Labor government and the new Liberal government would have to have had a look at those sorts of issues. But in terms of keeping an ongoing annual watching brief in terms of a criteria for closure and, if you get close to it, you sort of swing the axe, I would be surprised if there was that sort of annual ongoing assessment of, 'We're near the criteria and we now need to swing the axe on this particular school, or not.'

The Hon. K.J. MAHER: I thank the Leader of Government for committing to bring back the list of enrolments. Can he also bring back the corresponding list of enrolments and teachers at each school, given that was one of the factors mentioned? I suspect that is one of the things that annually the Budget and Finance Committee has asked for in the past.

The Hon. R.I. LUCAS: No, your suspicion is wrong. We only ever asked for enrolments. I can ask the question in relation to teachers. One of the challenges with teaching numbers is that the department allocates the number of teachers but principals with their allocation of funding are able to employ additional staff at a local level, and the capacity for the system to keep track of what principals do, because they may well for a six-week period provide additional assistance by a 0.6 a week contract teacher in literacy or something to do some catch-up but that particular person is not a permanent ongoing employee; it is funded out of their school-based resources.

So actually being able to capture at a particular point in time—well, at any particular point in time—is likely to be different, and whether the department does that on an ongoing basis or once a year—I suspect they will have to do it once a year when they prepare the budget documents. So it may well be that at the end of last year—sorry, not the budget documents; I suspect that at 30 June when the Commissioner for Public Sector Employment requires workforce information, I assume the department has to do its best endeavours in terms of providing information.

That would be accurate as of 30 June last year, so it may well be that there is information publicly available through the Commissioner for Public Sector Employment's workforce survey about the total number of teachers. That would only be in the total. Whether or not there is a breakdown allocated to every school and preschool centre in the state, I do not know. I am happy to take it on notice and see what, if anything, the minister is able to provide.

The Hon. K.J. MAHER: I thank the minister for his answer to that question and indicate that whatever the most recent figure is, whether it is a point in time or a consolidation, we are very happy to receive. Given the clause we are debating seeks the removal of AEU representation on committees, can the minister outline details of specific committees where the AEU being involved has caused significant problems or issues?

The Hon. R.I. LUCAS: Look, I do not know. I am happy to take advice on that from the minister to see whether he is able to provide any information on the issue. I am sure that whatever information we are able to provide is not going to change the honourable member's position in relation to this particular issue, but if the minister has got any information I am happy to see whether we can provide something. I will take it on notice.

The Hon. K.J. MAHER: I thank the minister for his answer. I think that is the point I am making, I am getting to: what is the evil we are seeking to overcome in removing AEU members from these committees? As I outlined in my second reading speech, the extra training AEU members have that help them better participate and understand their roles in committees are reasons for AEU members to be on the committee. But I thank the Leader of the Government for outlining that at this stage there is no specific problem with such members being on the committee, that is, no evil that has happened that they are seeking to overcome with this change in the way things work.

The Hon. R.I. LUCAS: Well, I think the member did take my comments a bit further than I offered them. That is, I did not say there was no evil; I said I do not have the information. But then again, I am not the Minister for Education, and I have not been involved in the department for a number of years. So, as I said, I will see what, if anything, the minister is able to provide.

Can I just clarify: I think the honourable leader needs to be aware that the training to which the honourable member is referring actually refers to the other issue, which is in relation to selection panels, that is, merit-based selection. What we are talking about here is actually a review committee to either merge or amalgamate a school. I am not sure that the AEU provides one-day training every year with renewal courses every five years for these particular issues. I think it is merit-based selection; I think the member is conflating the two issues. When we come to debate the second issue—

The Hon. K.J. MAHER: You are conceding the other one, then?

The Hon. R.I. LUCAS: No, when we come to debate the second issue, he can use that particular argument there, but I think his argument is wrongly placed in relation to this issue.

The point that I again make is that whether or not there is evil that has been committed by union bosses and AEU delegates is a matter of judgement, of course, and I will see what information the minister has, but the point that I have made here is: what is wrong with an AEU rep being elected by the staff if he or she is the best person for the job, or if a non-AEU member is the best person for the job and AEU members and non-AEU members are prepared to elect this person as their representative on an amalgamation review committee, what is the problem with that?

It just seems to be unreasonable and unfair that a person who might have the confidence of all of the staff, both union and non-union, in a school is precluded by legislation from representing that school on a committee. They may well have decades of experience in terms of fighting or arguing or knowing about the department's knowledge of amalgamations, etc. They might be the best person to represent that school community on this particular issue. Just because you are an AEU member does not necessarily mean you are the best person to represent all of the staff. If all of the staff think you are the best person, then terrific, but if all of the staff do not think you are the best person and think that somebody else who is not a union member is the best person, why should not all staff have the opportunity?

The Hon. T.A. FRANKS: Could the minister please define 'staff'?

The Hon. R.I. LUCAS: My advice is it is teachers, and it would include SSOs, admin staff and others. So it is not just teaching staff, it is the staff collectively at the school.

The Hon. T.A. FRANKS: I note that the current clause states 'staff'. It does not say 'all staff', but also that 'staff' is not defined in the bill. 'Teacher' is defined. What clarity and assurances do we have that teachers are not actually being shut out of these decisions by this particular clause?

The Hon. R.I. LUCAS: That teachers are not what?

The Hon. T.A. FRANKS: What guarantees do we have that teachers will be represented on these review committees given we now have a different definition and a different selection process

that in fact could include, by my reading of it, the administrative and grounds keeping staff of the school?

The Hon. R.I. LUCAS: The assurance you have is the law that passes the parliament. It says 'staff', which includes teachers.

The Hon. T.A. FRANKS: Can the minister identify where that definition is contained within the bill?

The Hon. R.I. LUCAS: The staff of a school includes teachers. You cannot have staff in a school and not include teachers.

The Hon. T.A. FRANKS: Does the minister acknowledge that the staff at a school includes non-teaching personnel?

The Hon. R.I. LUCAS: I answered that question three questions ago. The answer is yes.

The Hon. T.A. FRANKS: How will we be assured that teachers are guaranteed a spot on these review committees if it is not an AEU selection process but is, indeed, this new government-proposed criteria? Will teachers potentially not be on these amalgamation review panels?

The Hon. R.I. LUCAS: The staff will elect the person who they believe best represents the staff at the school. Ultimately, unless the regulation, which is still being drafted, places any restriction on the person who could be elected by all the staff—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: No, it could not override it—elected or nominated by the staff, so the staff would have to elect or nominate. But in relation to who they could elect or nominate, my understanding—and I will take advice on it—is that the staff could elect any of their number to be their representative. If the staff believed that a school service officer who had been there for 40 years best represented the school in terms of a review committee and decided that was to be the case, then they could so elect. If the staff believed that the AEU member who had been there for 40 years was the best person to represent the school, they could do so. If the staff believed that a non-AEU representative who had been there for 40 years was the best person, they could elect to do so.

The Hon. T.A. FRANKS: I am not a lawyer and neither is the minister, but why is there no definition of 'staff' in the bill when staff are referred to in the new clause that the government seeks to introduce? Why has that not been done within the previous clauses in the bill to provide that clarity?

The Hon. R.I. LUCAS: As we have found, I think in relation to religious activities, there are a number of words that are used in the bill and in many bills that are not specifically defined in the definition. I think parliamentary counsel would probably argue that there is a common understanding of what 'staff' means and therefore the normal understanding of 'staff' would apply.

The Hon. C. BONAROS: The current act stipulates that the AEU nominee is not a teacher at the school the subject of the amalgamation or closure. The act as currently in place ensures that the AEU nominee is not a teacher at the school in question. I can only assume that that was inserted into the bill to ensure a level of transparency and perhaps independence to make sure the teacher's views are not coloured one way or another by the particular interests of that school. So they are removed from the situation insofar as—

The Hon. R.I. LUCAS: You are saying in the current act?

The Hon. C. BONAROS: Yes.

The Hon. R.I. LUCAS: What, the teacher is not allowed to be on the committee?

The Hon. C. BONAROS: No, they are not allowed to be from the school that is facing closure.

The Hon. R.I. LUCAS: But you could be a teacher?

The Hon. C. BONAROS: You could be a teacher, but you are not allowed to teach at the school that is the subject of the amalgamation or closure. The bill, on the other hand, provides that

the teacher, the staff member or the SSO (whoever it is) will come from the school in question. My question is: what happens to that level of independence and transparency, and why is it no longer necessary to ensure that we have that level of independence and transparency in that very important decision-making process?

The Hon. R.I. LUCAS: I might have to take that question on notice. The honourable member obviously has a greater understanding of the current act in relation to this than do I. Is the honourable member saying that a teacher at the school that is the subject of potential closure is not allowed to be on the committee?

The Hon. C. BONAROS: As the AEU rep.

The Hon. R.I. LUCAS: But in any guise?

The Hon. C. BONAROS: Yes; they must be from a different school.

The Hon. R.I. LUCAS: Yes, sure, but what I am saying is that, if a school is subject to review for closure, the honourable member says that the current act does not allow a teacher at the school, an AEU member teacher, to be on that committee?

The Hon. C. BONAROS: That is my understanding.

The Hon. R.I. LUCAS: I will clarify that, but I am not sure why people would want to support that. If your school is being closed, why should you not be entitled to sit on the committee that is going to argue whether or not your school should be closed? The honourable member is arguing that perhaps that is a good thing because they are independent and that therefore that independence should be protected, and what the government bill is doing is allowing a person who is a local at the school to be on the committee.

The member raises a good point. If the member is saying that you need an independent person, that you should not allow a teacher from the school to be on the committee, I guess that is a valid point for the member to argue, particularly if it is an accurate reflection of the current act. I will take advice on what the current act provides. That would surprise me, but then again I am 20 years out of date.

It would surprise me if, for example, this thing that is being fought for, I just assumed was being fought for, and certainly the inference of all the argument has been that the teachers want to have somebody who has been trained—as the Leader of the Opposition was trying to say, and others who were there—to actually represent the views of the local teaching community in that particular area and, I guess, argue for whether or not the school ought to be closed. I will take that issue on advice and see whether or not the member's interpretation of the act is correct or not.

The Hon. C. BONAROS: If I can clarify for the record, I was not arguing for that position; it is just something that is obvious to me is the case, so I am just seeking clarification in relation to that issue.

The Hon. I. PNEVMATIKOS: Does the government envisage that, under the new bill, staff, whether they are teachers or SSOs, will be involved in a nomination and election process, and will that be formalised in any way?

The Hon. R.I. LUCAS: I think the Hon. Ms Bonaros and the Hon. Ms Pnevmatikos and others are raising some very interesting questions and, given that it is 25 to 6 and we have about another 25 minutes to go, I might propose that we report progress and I can take advice and share that with committee members. The Hon. Ms Bonaros is right. I have just been given—

The Hon. T.A. Franks: Yes, she is.

The Hon. R.I. LUCAS: That is what I just said. I just said that.

The Hon. I. Pnevmatikos: We are agreeing with you.

The Hon. R.I. LUCAS: Okay, well, thank you. I have just been given information. Under section 14C(1)(d), it would appear that:

A person (not being a teacher at a school that is subject to the review) nominated by the Australian Education Union (S.A. Branch);

would be there. That is under the current act. I am not sure which government brought it in. I assume it must have been the former government, because I think this was a provision brought in over the last 16 years. Anyway, it is there. In essence, the teacher at the particular school is incapable of being elected under the current act.

I would need to go back and see what the former government's bill was in relation to this and whether it replicated that, whether it did move to allow an AEU teacher at the school to be on it or whether it stuck with the current act. I will need to check that. I think the member has raised an issue. That is what the act says. What did the former Labor government's bill do? We have rightly confirmed that the new government's proposal is that it could be a staff member.

I am advised that the AEU has coverage of school service officers within schools, so he or she could still be an AEU member; they just do not happen to be a teacher. We do not see them as any less a person in terms of the future of the school than a teacher. I am interested in the thought that, 'This might be a terrible thing that an SSO might actually represent the school,' even though they might be an AEU member and have been there for many years. Those of us who know the value of SSOs within schools will know that they are the living embodiment of many schools, because they have generally been there for much longer than many of the teachers and principals in leadership positions. They are the heart and soul of the survivability of some schools, particularly primary schools but also some schools.

I think the Hon. Ms Bonaros has raised a very interesting question. Other questions have been raised as well, which I have taken on notice. Mr Chairman, given that I think the Hon. Mr Pangallo has a magnificent speech that he needs to place on the record before 6 o'clock on another issue, if the Hon. Ms Pnevmatikos has another question that I can take on notice, I am happy to do that. Once I have the questions on notice, I will move that we report progress.

The Hon. I. PNEVMATIKOS: I would just like some clarity in terms of why the government has a problem with representative democracy, because certainly that is reflected in the bill. If the union represents 50 to 70 per cent of the staff in a school then why does the government have a problem with representative democracy?

The Hon. R.I. LUCAS: That is a pretty easy answer to give: we do not have a problem, but our representative democracy says, if the union represents 50 per cent or 70 per cent, there is another 30 or 50 per cent who are not represented by the union and all the 100 per cent should have the opportunity to vote for their particular representative.

Members interjecting:

The CHAIR: Order!

Progress reported; committee to sit again.

CONSTRUCTION INDUSTRY TRAINING FUND (BOARD) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 November 2018.)

The Hon. F. PANGALLO (17:39): The Construction Industry Training Fund (Board) Amendment Bill is quite a contentious one, particularly among my colleagues from the Labor Party and the Greens. They have called it for what it is in some regard, and so will I; there is no point in beating around the bush. To borrow from an overworked cliché, if it looks like a duck, swims like a duck, quacks like a duck, then it probably is a duck. To be blunt, this has that odour of union cleansing, which is a hallmark of liberal conservative ideology. We are seeing it in Canberra, with the comedic and occasional catastrophic travails of Michaelia Cash, and we are starting to see it here, albeit it is not so apparent.

We have already seen some union-aligned mates of the old Labor regime either walk into the sunset when they could see the writing on the wall or they were simply pushed into a corner. With the CITB, Gay Thompson, a well known and respected former state Labor MP and one-time unionist, handed in her badge as the board's presiding member not long after the 2018 election

result. So it is a bit cute when Labor plays the jobs for the boys card with the CITB when they themselves were masterful at the same game for 16 years. It is called tit for tat.

Without going into the minutia of the proposed legislation, it is a significant overhaul of the composition of the board, which has largely done its work effectively for more than quarter of a century. The board is an industry owned, led and managed organisation, which is separate to the government, that administers a hefty $22 million-plus fund built from a construction industry tax or levy. The levy is payable on any project over $40,000 at a rate of 0.25 per cent of the project's cost. It covers the gamut of building and construction and not just the perceived bricks and mortar type. I have paid it in building a new home.

Property developers are among the biggest contributors. It is not inconceivable that the levy will also come from other key construction areas, like defence, the aerospace industry, IT, cybersecurity, mining and energy. The board provides leadership through funding for training and skills development, including apprenticeship and trainee support, construction worker upskilling and the establishment of other key learning and mentoring programs associated with the construction industry.

In its more than 25-year history, 21,000 apprentices have been trained, 64,128 support payments have been made to employers for apprenticeships, 492,317 construction worker training places have been funded and 9,867 students have been supported by the unique Doorways2Cconstruction program designed to drive school students into building and construction jobs.

Other innovation programs, like the Aboriginal Workforce Development Initiative; Women in Construction, a program designed to get more females into the industry; and adult apprenticeships are commendable. However, in the past four years, as the CITB was accumulating a sizeable war chest, there has been a worrying 52.9 per cent decline in the number of apprentices and trainees in training. CITB will tell you its funded courses have a very high satisfaction rate among workers and employers. However, much more is required.

South Australia is in the midst of a skills crisis that is going to worsen as major civil and defence projects come online. The government has set itself a challenging target of 20,000 apprenticeships over four years with its ambitious Skilling SA strategy. The CITB will have to play a pivotal role to help meet that deadline.

Since the bill was introduced, my colleague the Hon. Connie Bonaros and I have met with many stakeholders with vested interests. This includes the unions, the CFMEU and the Australian Workers Union, who believe it is their right to retain worker representation on the board even though they do not contribute a cent to the pool which funds their construction industry training centre. We also met with representatives from civil contractors, the electrical sector, mechanical engineers, plumbers and subcontractors. Their collective view is that the CITB needs to take a new and dynamic direction, with members chosen on merit, who had high levels of skills, expertise and judgement in the industry.

As I raised in question time yesterday, the Master Builders Association is also worried by the downward trend in construction, particularly among new first home buyers. The association has also pointed to the drop in quality of work over the past 10 to 20 years and wants the CITB to direct more funds to tackle this problem. Ian Markos from the MBA tells me that the number one complaint to consumer affairs is dodgy building work relating to waterproofing. In my previous life as a journalist I chased a multitude of dodgy builders and tradies over the years. Many did not have appropriate qualifications and skills to do the job—some had none—and they are still out there.

Anyone can get a builder's licence without ever having laid a single brick. The construction industry is evolving at such a hectic rate that compliance and rigorous building standards must be enforced. We all want homes and buildings to be safe, sound and free of defects. Sydney's Opal Tower is a glaring example of design and construction failures. Another I raised last year was a two-storey building at Munno Para which caught fire and which is now the subject of an investigation after the Playford council abysmally failed to enforce its own compliance orders. It was sheer luck that nobody was killed.

Only today it has been revealed that a group of Canberra apartment owners are facing a $19 million repair bill for shoddy building work after failed legal action. The Elara apartment complex, built in 2007 in the suburb of Bruce, has been plagued by a string of problems, including leaks and water damage. Incredibly, the $19 million cost of rectifying the defects is only slightly less than the cost of the initial project. Sadly, the Federal Court today threw out a claim by the owners who had lodged claims with the Master Builders Fidelity Fund—set up to compensate those who could not sue their builder for compensation—because the claims were lodged outside a five-year deadline.

Last February, a national report into compliance and enforcement in the building industry commissioned by state building ministers was released, yet went virtually unreported. I cannot even recall it being released here, probably because it was released during the election campaign. In a scathing assessment of building standards it made a raft of recommendations, including calls for registration schemes for all in the industry: builders, surveyors, architects, engineers, designers, private certifiers and inspectors, and implementing mechanisms for training and licensing.

The report was written by the Chancellor of Western Sydney University Peter Shergold and lawyer Bronwyn Weir. Professor Shergold and Miss Weir concluded that, 'The nature and extent of the problems put to us are significant and concerning.' I quote further from the report:

> They are likely to undermine public trust in the health and safety of buildings if they are not addressed in a comprehensive manner.

To that end, among 24 recommendations the report called for each state or territory to implement registration schemes for all involved in the industry. This is what the Master Builders Association and other industry groups are calling for. They want to have money from the fund directed to improve productivity, innovation and technology, to lift building standards and reduce defects and dodgy work.

They are also seeking financial support for a worthwhile program called HiViz that opens pathways in the construction industry for women. With these pressing challenges in the building and construction industry it is vital to get the composition of the CITB right so that it can operate effectively and meet the needs of the industries it represents and supports.

The government bill aims to scrap the old model and replace it with the board, comprising a presiding member with voting rights and between four and eight industry representatives nominated by the minister after expressions of interest, plus two independent members. It demands a mix of people with knowledge and expertise in the building and construction industry, commercial and financial management, law and governance.

As it currently stands, there are 11 members appointed by the Governor, via the government, of course. There is an independent presiding member nominated by the minister after consulting with the industry. Currently, it is Peter Kennedy, whose experience and knowledge with major construction companies is beyond reproach. There are two members and deputies with expertise in the VET sector.

The Hon. C.M. Scriven: Except they don't.

The Hon. F. PANGALLO: Sorry?

The Hon. C.M. Scriven interjecting:

The Hon. F. PANGALLO: Five members and deputies nominated by employer associations are Natasha Hemmerling from the Master Plumbers, Stephen Knight from the HIA, Christine Stone from the MBA, Rebecca Pickering from the Property Council and Phil Sutherland from the Civil Contractors Federation. Three members representing employees are from the unions: Gary Henderson from the AWU, Martin O'Malley from the CFMEU and Jessica Rogers from the CEPU.

I do not have an issue with unionists and I trust one of their programs, MATES in Construction, which addresses mental health issues on building sites, is not only retained but expanded. However, I also note there is an amendment afoot that seeks to have an employee representative nominated to the board by the minister, and we welcome that. I understand the government has no issue with it either.

There are two members nominated by the minister, currently Denise Janek from TAFE and accountant Nicholas Handley. Labor has made much of Mr Handley's appointment because of his

links to the Liberals and the Minister for Industry and Skills, David Pisoni. I cannot see where his skills and qualifications are out of place when aspects of CITB's financial reporting and compliance come under the Public Finance and Audit Act. The CITB has a big fund to administer and Mr Handley's expertise in financial management will be invaluable. I understand he has also had some engagement in his profession with the building industry, so I am quite comfortable with him being there. While Labor is not pleased with the selection process being done by the minister, after expressions of interest and consultation it can also make those calls should it win government again.

The other burning issue with this model is the method of voting to reach a consensus, a right of veto. There is a requirement for a majority vote in each of the subsections of the board for any decision to progress. This was a provision designed back in 1993 to avoid adverse decisions when there were still tensions between unions and the industry. I am informed this veto has only been used a handful of times. This system seems an archaic and complicated process to me, and surely reaching a majority decision is going to be a much simpler solution.

Let's move on to the bill itself. SA-Best will be supporting it in principle. We have some minor amendments of our own that we think solidify the intent. One requires the minister to consult the presiding member before nominating industry representatives and independent members for appointment. It gives an additional layer of integrity. Another is the board providing reports to the minister, so he or she can be across and fully informed of the board's functions. This ensures a level of transparency. Finally, to have a review of the act, so the minister can evaluate the legislative changes. I commended bill to the council.

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

At 17:55 the council adjourned until Tuesday 26 February 2019 at 14:15.