LEGISLATIVE COUNCIL

Tuesday, 29 October 2019

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 14:15 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

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (MINERAL RESOURCES) BILL

Assent

His Excellency the Governor assented to the bill.

LANDSCAPE SOUTH AUSTRALIA BILL

Conference

The Hon. R.I. LUCAS (Treasurer) (14:18): By leave, I move:

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

Motion carried.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the President—

Report of the Auditor General, Information and communications technology reviews, Report 9 of 2019.

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2018-19—
- Assumed Identities and Witness Identity Protection
- Authorisations issued to enter premises pursuant to the Summary Offences Act 1953
- Club One (SA) Ltd
- Electoral Commission of South Australia
- Electricity Industry Superannuation Scheme
- Funds SA
- Mining & Quarrying Occupational Health & Safety Committee

Office of the Small Business Commissioner
Police Superannuation Board
Professional Standards Councils
Return of Authorisations pursuant to the Controlled Substances Act
ReturnToWorkSA.
Review of the Operations of the Independent Commission Against Commissioner
Against Corruption and the Office for Public Integrity
Review of the Operations of the Judicial Conduct Commissioner
South Australian Government Financing Authority
South Australian Parliamentary Superannuation Board
South Australian Superannuation Board
Southern Select Super Corporation
Regulations under Acts—
Associations Incorporation Act 1985—Forms No. 2.
Criminal Law Consolidation Act 1935—Child Exploitation Material
Rules of Court—
Supreme Court Act 1935—
Supreme Court Civil Supplementary—Amendment No. 13
Dangerous Area Declarations pursuant to the Summary Offences Act 1954, 1 July 2019—
30 September 2019
Road Blocks pursuant to the Summary Offences Act 1954, 1 July 2019—
30 September 2019

By the Minister for Trade, Tourism and Investment (Hon. D.W. Ridgway)—

Reports, 2018-19—
Adelaide Venue Management Corporation
Architectural Practice Board of South Australia
Forestry SA
HomeStart Finance
South Australian Tourism Commission
State Planning Commission
StudyAdelaide
Surveyors Board SA
West Beach Trust
Regulations under Acts—
Road Traffic Act 1961—Traffic Speed Analysers

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

Regulations under Acts—
Youth Justice Administration Act 2016—Training Centres, Facilities and Programs

Parliamentary Committees

SELECT COMMITTEE ON MORATORIUM ON THE CULTIVATION OF GENETICALLY MODIFIED CROPS IN SOUTH AUSTRALIA

The Hon. J.A. DARLEY (14:19): I bring up the report of the select committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. J.S.L. DAWKINS (14:20): I bring up the third report of the committee.

Report received.

Question Time

LAND TAX

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): I seek leave to make a brief explanation before asking a question of the Treasurer regarding taxation.

Leave granted.

The Hon. K.J. MAHER: The Liberal government has previously insisted that last week's version of the land tax bill was the final version and was not open to any changes, other than minor technical change. Given there have now, in fact, been changes made to last week's version of the land tax proposal, will the Treasurer advise whether this newly negotiated, non-negotiable version of the bill is once again non-negotiable, or should South Australians expect even more changes to be made?

The Hon. R.I. LUCAS (Treasurer) (14:27): The government announced its position clearly last evening and we welcome the fact that the Property Council in South Australia has, coming from a position of having opposed the changes when first announced in June and continuing to argue for further changes, now publicly welcomed the government's amended package, which was approved last evening. There have been amendments filed in the House of Assembly today.

The opportunity this parliament confronts with land tax reform is once in a generation. As I said this morning to media, and I am happy to repeat in the parliament in response to this specific question today, if this bill is defeated, as the Labor Party and others have indicated is their current intention, then no government, Liberal or Labor, will go anywhere near significant or comprehensive land tax reform for the next 20 or 30 years.

Sadly, from South Australia's viewpoint, that would leave South Australia with the highest land tax rate in the nation at 3.7 per cent. It would leave South Australia in the situation where—and I have challenged members of the Labor Party and, indeed, anybody else who opposes the government reform package to answer this simple question: how is it fair that I can own $3 million in property and, because I structure myself into seven separate trusts, not pay a single dollar in land tax? How is that a fair land tax system?

What the parliament will have an opportunity to vote on over the coming weeks is a package which drives down the top land tax rate from the most uncompetitive in the nation, from 3.7 per cent to 2.4 per cent, but to also solve the equity issue as to how it is fair that I, as a single individual, can structure myself into seven separate companies or seven separate trusts and not pay one single dollar in land tax. I look forward to the debate in this chamber because I will be putting, should the opportunity present itself, to members who might want to oppose the legislation: at least have the courage to stand up in this chamber. I put the question directly, Mr President, through you, to the Leader of the Opposition, who has asked this question, and indeed others: you stand up and defend a situation where an individual can have $3 million in property and not pay a single dollar in land tax.

One of the problems with South Australia for the last 20 years under a Labor administration is that we have had roughly half the employment rate of the nation, we have had roughly half the economic growth of the nation, our population has grown at roughly half the rate, and that is because Labor governments and Labor parties and others have been unprepared to take the hard decisions to make reform, to drive investment into South Australia and to try to drive jobs growth and economic growth in South Australia. Labor parties right across the board, for 20 years, have been unprepared to take on the difficult decisions, the hard decisions, to reverse what has been a 20-year decline in terms of jobs growth, economic growth and population growth in South Australia.

The Marshall government is unprepared to accept just the status quo. The forces—the coalition of the noes—that oppose shop trading hours reform or oppose rate capping or oppose land tax reform or oppose all of the reforms, they will be decisions that the Labor Party, ultimately, will have to defend. They can defend their record of half the employment growth of the national employment growth, half the economic growth and half the population growth.

The government's position is: we have engaged in almost five months of consultation. We have indicated a willingness to listen to those stakeholders and their concerns. We have made two

series of significant amendments to the government's package, having listened to the concerns of stakeholders, members, individuals and others who put a point of view to us and have put a point of view to stakeholder groups that they wanted to see change, they wanted to see the top rate come down more significantly than the government originally talked. They wanted to see it happen more quickly than the government originally proposed.

We have listened to those concerns and the proposition, the bill that we have, is before the House of Assembly at the moment and, should it pass the House of Assembly, it will be before the Legislative Council in the next sitting week or so and we can then debate the details of the bill. On the publicly stated positions of the Labor Party and others, we may well not get to a position of debating amendments in the committee stage because the Labor Party have made their position quite clear that they will oppose any reform. They will defend—

The Hon. K.J. Maher: Six minutes already in your answer, Rob—six minutes.

The Hon. R.I. LUCAS: Well, you asked the question. They will defend the indefensible and that is that I can own $3 million in property and not pay single dollar in land tax.

The Hon. K.J. MAHER: Point of order: it was a very specific question and it has taken six minutes to not answer that question yet.

The PRESIDENT: That's not a point of order. You probably had time for a point of order about a minute ago, but you were listening so intently, Leader of the Opposition, I didn't want to disturb you.

LAND TAX

The Hon. K.J. MAHER (Leader of the Opposition) (14:33): Supplementary arising from the answer given: can the Treasurer inform the chamber whether the Property Council were aware of the details of the changed package before the Liberal Party announced it?

The Hon. R.I. LUCAS (Treasurer) (14:33): I had a number of discussions with the Property Council. They then considered it, as I understand it, through their processes, which involves whatever their equivalent is of a management committee or executive committee or a board. It was a decision taken by the Property Council through their processes. It was always subject to the cabinet and then the party room agreeing to any further amendments to the legislation.

LAND TAX

The Hon. K.J. MAHER (Leader of the Opposition) (14:34): Further supplementary arising from the original answer: which other industry groups were consulted with about the details of these changes besides the Property Council, and which other industry groups besides the Property Council support these changes?

The Hon. R.I. LUCAS (Treasurer) (14:34): I have had a series of discussions, as have other members of the government, with not only stakeholder groups but also individuals and others in terms of various suggestions. Some individuals came up with what they believed to be suggested compromises on the government's position which were unacceptable to the government. We had those discussions respectfully and indicated that we weren't in a position to be able to support those particular suggestions for compromise. I had a series of discussions with a series of people but the group that was prepared to sit down seriously and negotiate in relation to these particular amendments was the Property Council. As a result of that, amendments went to the cabinet and the party room and were supported yesterday and announced last evening.

LAND TAX

The Hon. K.J. MAHER (Leader of the Opposition) (14:35): Further supplementary arising from the original answer, and just for clarity: is the Treasurer saying that the Property Council was given the detail of the proposed amendments before they went to cabinet but no other industry group was afforded that?

The Hon. R.I. LUCAS (Treasurer) (14:35): No, I'm not saying that.

LAND TAX

The Hon. K.J. MAHER (Leader of the Opposition) (14:35): Final supplementary question: can the Treasurer outline whether any other industry groups support the current version of the land tax package?

The Hon. R.I. LUCAS (Treasurer) (14:36): I will leave industry groups to make their own commentary in their own time.

E3SIXTY

The Hon. C.M. SCRIVEN (14:36): I seek leave to make a brief explanation before asking the Minister for Trade, Tourism and Investment a question regarding investment meetings.

Leave granted.

The Hon. C.M. SCRIVEN: On 16 October 2019, the minister was asked whether he had met with a company called E3Sixty. The minister advised the chamber that he met with E3Sixty in Sydney after meeting them in Adelaide at, and I quote, 'an event I think in the Parklands. It might have been WOMADelaide or one of those things. I don't remember exactly.' My question is: will the minister advise who from E3Sixty he met with and where the meeting occurred?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:36): I thank the honourable member for her ongoing interest in E3Sixty. My recollection is that I certainly met with them in Sydney and I can probably consult with my office and get an answer as to the exact address of the office and what floor it was on and which room and all of the details the honourable member might like. E3Sixty is a company that specialises in recycling electrical waste. I met the gentleman at an event, but I just couldn't have a conversation. I said, 'Next time I'm in Sydney I will call in and we will try to have a discussion and if there are some opportunities for investment in South Australia then next time you are down we can organise some meetings with the department to try to further that investment opportunity.'

E3SIXTY

The Hon. C.M. SCRIVEN (14:37): Supplementary: the question was who he met with. I don't think 'a gentleman' quite suffices. Can the minister advise who he met with from E3Sixty?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:37): I will check my records and—

Members interjecting:

The Hon. D.W. RIDGWAY: Mr President, I will check my records. I don't remember. I have hundreds of meetings. I will check my records and as soon as possible provide an answer.

E3SIXTY

The Hon. C.M. SCRIVEN (14:38): A further supplementary: in the interests of assisting the minister, did the minister meet with E3Sixty chairman Anthony Beasley, who is also, incidentally, a member of the Liberal Party New South Wales Finance Committee and a former Upper North Shore Liberal FEC president? Is that who he met with?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:38): I don't recall that it was Mr Anthony Beasley but, as I said, I will check my records.

E3SIXTY

The Hon. C.M. SCRIVEN (14:38): Further supplementary: did the subject of political fundraising arise at this meeting with E3Sixty?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:38): No, Mr President.

Members interjecting:

The PRESIDENT: The Hon. Ms Bourke.

Members interjecting:

The PRESIDENT: Labor Whip, I would like to listen to your frontbencher's question.

AHLBURG, MR C.

The Hon. E.S. BOURKE (14:39): My question is to the Minister for Trade, Tourism and Investment. Will the minister explain on what basis sex offender Corey Ahlburg attended events that were part of a parliamentary trip to China that the Hon. David Ridgway took in 2013, and will the minister advise who invited sex offender Corey Ahlburg to attend events that were part of that parliamentary trip?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:39): I am sort of intrigued by the opposition's interest in events that happened in China some six years ago. As I said, I was at an event, I opened a wine store, as I told everybody last sitting week, and my understanding was that I think Mr Ahlburg was at one of those events in China. I had no knowledge of his previous convictions—nobody did—and I am not sure who invited him. He was there, there were about a dozen wineries, and I am not sure who invited him.

AHLBURG, MR C.

The Hon. E.S. BOURKE (14:40): Supplementary arising: will the minister confirm that it was Randal Tomich who invited sex offender Corey Ahlburg to attend events that were part of the parliamentary trip to China in 2013?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:40): As I said, I was aware that the individual was there, and I ventilated pretty much all of this last sitting week. I do not know whether he was extended an invitation from any one of the wineries that were on that particular trip.

AHLBURG, MR C.

The Hon. E.S. BOURKE (14:40): Supplementary: did the minister provide any assistance to sex offender Corey Ahlburg, who in 1993 was found guilty of unlawful intercourse with two intoxicated girls aged 15 and 16, to acquire a Chinese visa so that Corey Ahlburg could attend events that were part of the parliamentary trip to China in 2013?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:41): I don't believe I did, and I find it somewhat disturbing that the Hon. Ms Bourke will drag up things when she was quite happy to be friends in the SDA with the Hon. Bernard Finnigan, and happy to have him sitting here passing legislation, and Tung Ngo. It is unbelievable that an offence that somebody committed 25, close to 30 years ago almost—I had no knowledge of it. I don't believe I provided any assistance at all to the individual in getting a visa to China, and I find it almost unbelievable that the SDA, that your friend Bernard Finnigan, who everybody voted for, who sat in this chamber and voted on laws that affect mums and dads and children in South Australia, the Labor Party, all of your team, were happy to take his vote in this place. I ventilated this issue extensively last week—about a whole hour of questions—and I don't have anything further to say.

AHLBURG, MR C.

The Hon. E.S. BOURKE (14:42): A further supplementary: can the minister confirm if he did provide any assistance in Mr Ahlburg obtaining a visa to China?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:42): I will give the honourable member one more opportunity. It was in 2013. I know she has only been in opposition a little while. I have no recollection of providing Mr Ahlburg any assistance at all, so I can't help the honourable member.

BUSINESS SA EXPORT AWARDS

The Hon. D.G.E. HOOD (14:42): My question is to the Minister for Trade, Tourism and Investment. Can the minister share with the council news from the South Australian Export Awards?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:42): I thank the honourable member for his important question about exports, which are crucial for the South

Australian economy. In the 2017-18 financial year, goods and service exports were estimated to have supported some 79,200 jobs in South Australia, or 11 per cent of the state's workforce. In the 12 months to August this year, South Australia exported $11.5 billion in goods to overseas markets. While that is slightly down on our exports from the previous 12 months, if we take into consideration the drought (wheat exports down $807 million) and the effects, I suspect, of the fire that unfortunately befell Thomas Foods (meat exports down some $131 million), apart from those two examples our state is in very good shape.

Deloitte Access Economics reported in September the strong performance in the state's export industries. Service exports and international education and tourism are extremely healthy. I am a strong believer that we should celebrate export success, and on Friday 18 October I attended the Adelaide Convention Centre for the annual Export Awards. It was a fantastic event, ably hosted by Business SA, and it was great to see so many local businesses rewarded for their excellence, innovation and success.

There were about 450 representatives from business there—they were particularly good. There were a number of award winners on the night, including Wines by Geoff Hardy, winning the Regional Exporter Award, sponsored by the Department for Trade, Tourism and Investment. I have been a huge supporter of our number one export industry in wine and beverages, both here in South Australia and in market, and I often see Wines by Geoff Hardy active in this space.

I caught up with numerous trade shows, such as the CIIE last year and last year's Hong Kong spirit and wines fair, with their managing director, Mr Richard Dolan, and export manager, Ms Yuan Yuan, who I might add is a former international student.

This year, Clean Seas Seafood took out the major prize for 2019 as South Australia's Exporter of the Year. I would like to go on the record to acknowledge their fantastic company's innovation and determination to achieve their success today. Clean Seas was founded in 2000 and was able to successfully breed and farm the whole life cycle of the yellowtail kingfish to export them into the premium seafood markets in Japan.

At the awards, I listened to their CEO, David Head, share how, after the promising start to the business, all their fishing stock and capital stock was brought back to virtually nothing for what was later discovered to be a problem with the fish feed. However, the founders, workers and investors of Clean Seas stuck to their guns and fixed the problem to turn the business around and they now export to 150 distributors and wholesalers around the world. This is a fantastic South Australian success story.

I also congratulate other winners, including Accolade Wines, Rising Sun Pictures, Redarc Electronics, the University of Adelaide, Avance Clinical, Supashock, Zonge, Monkeystack, Haselgrove Wines, Mollydooker Wines, Sentek, Prophecy International, Humanihut—

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: And what's the last one?

The Hon. K.J. Maher: LBT Innovations.

The Hon. D.W. RIDGWAY: This state government is proud to support these awards. I would like to commend again the winners, finalists and award sponsors from this year's export awards. I thank Martin Haese, Nikki Govan and Business SA for hosting such a successful awards night again.

EXPORTER TRAINING

The Hon. C.M. SCRIVEN (14:46): A supplementary: will the minister guarantee exporter training through Business SA for the 2020 year?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:46): Exporter training, through the Export Ready Program, is currently under discussion with the Department for Trade, Tourism and Investment. I am certain we will have a high-quality training program of excellence. It's very important to have trained exporters. We actually need people ready to go into the market, so I can assure the honourable member there will be a training program.

EXPORTER TRAINING

The Hon. C.M. SCRIVEN (14:46): A further supplementary, just for clarity: is the minister saying that he does not guarantee there will be a program through Business SA next year?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:47): I did not say that. I said there is a program that's under review and the Department for Trade, Tourism and Investment is working with Business SA to look at next year's program.

LAND TAX

The Hon. J.A. DARLEY (14:47): I seek leave to make a brief explanation before asking the Treasurer questions about land tax.

Leave granted.

The Hon. J.A. DARLEY: The government undertook consultation on a draft bill which closed in early October. Following this, the government introduced their land tax bill. However, yesterday, the government announced further changes to the bill. My questions are:

1. What submissions did the government consider in amending their draft bill?

2. Who did the government consult with, which resulted in yesterday's announced changes?

The Hon. R.I. LUCAS (Treasurer) (14:47): I have partially answered that question in response to the Leader of the Opposition but I am happy to expand on that particular reply. The government received about 192 submissions on the YourSAy website. I think about 20 or 30 of those were substantive submissions—that is, they were more than a one-page email—and most of those came from stakeholder groups and other representative groups.

In addition to that, the government continued to consult with individuals. For example, there might have been an individual who was a member of the Master Builders Association, or the Property Council or HIA, who took the opportunity to either meet with me or the Premier or other members of parliament. I can say I didn't refuse a meeting with any individual from the June budget through to today in relation to listening to their concerns in relation to the land tax bill.

In many cases, they had individual suggestions as to how they believed the bill might be improved. As I said, I didn't refuse a meeting with any critic of the government—or indeed any supporter of the government—in relation to the proposed land tax bill. As I said, many of them had individual suggestions which didn't necessarily carry the imprimatur of their representative organisations; they were their own views in relation to how the bill might be improved for the better.

As the minister responsible I considered all those submissions, and there are a significant number of what I would call technical and drafting amendments that have been incorporated into the final bill, as I am sure the member and his staff would have already noticed. We have met on at least one or two occasions to look at the detail of the bill, and the honourable member and his staff have asked detailed questions about the reasons for further drafting changes.

Many of those were to confirm the policy intent of the government. Lawyers and accountants and others have said, 'Well, if this is the policy intent you need to draft it differently or improve the drafting in this particular way.' In relation to other substantive issues, there was a whole range of suggestions, as the member will know, from delaying everything until after revaluation, grandfathering all the new provisions, reducing the top land tax rate down to 1.5 per cent, increasing the threshold to $3 million or $10 million or $11 million. All those were suggestions put either to myself or to other representatives of the government.

They were all considered, and in the end the cabinet, the party room, considered the amendments now being publicised. That is, to essentially provide further relief to, in particular (although it will assist many others), those smaller mum-and-dad investors who have total site values of between $1.1 million and $1.6 million.

As the honourable member and others have highlighted, with increasing property values people who may have owned three or four properties in Newton 20 or 30 years ago, when the total site values may have been well beneath the then upper limit of $1 million, are now sometimes

comfortably above $1 million with exactly the same properties. The most recent change has actually provided additional benefit to them because the land tax rate drops from 2.4 per cent to 2.0 per cent for those people.

Some of those people will have seen the potential benefit drop from, under the Labor government, 3.7 per cent down to 2.4 per cent in the penultimate package the government proposed and now, ultimately, to 2.0 per cent. In some cases they will see almost a halving of the land tax rate that applies. So it is completely wrong for people to suggest that the changes announced in the last 24 hours provide the greatest benefit to the tens of millions or hundreds of millions of dollars property holders. It provides particular benefit to those smaller mum-and-dad investors with site values between $1.1 million and $1.6 million.

In the broad, that is the range of organisations and individuals consulted. Ultimately, it was my responsibility, as minister, to then present to cabinet and the party room my recommendations as to what the government might be prepared to do, given the state of the state's finances. That was the background to the announcements yesterday.

AMBULANCE RAMPING

The Hon. I. PNEVMATIKOS (14:53): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding ambulance response times.

Leave granted.

The Hon. I. PNEVMATIKOS: The Ambulance Employees Association has reported that at 10pm last night a patient called 000 for an ambulance at McLaren Vale due to struggling to breathe. However, there was no ambulance to send for 23 minutes, significantly delaying the care for the patient. The Ambulance Employees Association has said, 'More lives will be lost if the government continues to sit and do nothing.' Will the minister respond to this concerning case and outline whether he will now take any action to address the ramping and ambulance delay crisis; if so, what nature of action will be taken?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:54): I thank the honourable member for the question. I haven't been briefed on the particular case, but I am happy to assume the facts as presented are correct. The description of the situation, it being a person struggling to breathe, would, I presume, be a category 2 case in the Ambulance Service, which is potentially life threatening, where we seek to have a response time of 16 minutes.

Obviously, 23 minutes is outside that response time, but I am advised that last night around 75 per cent of priority 2 cases in the metropolitan area were responded to within the target response time of 16 minutes. Whilst SAAS do an incredible job, target response times are not met in every case; they never have been.

DOMESTIC AND FAMILY VIOLENCE

The Hon. J.S. LEE (14:55): My question is to the Minister for Human Services about primary prevention of domestic and family violence. Can the minister please provide an update to the council on how the government is contributing to the national Stop it at the Start campaign?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:55): I thank the honourable member for her question and for her ongoing interest in this issue. The Assistant Minister for Domestic and Family Violence Prevention, Carolyn Power MP, and myself were very pleased, on behalf of the government, to recently announce additional funding for the next round of the Stop it at the Start campaign, over $1.86 million, which comes on top of our pre-election commitment, which was funded in last year's budget, of $11.9 million towards a range of initiatives to assist people who are experiencing family and domestic violence and also in the prevention space.

This particular initiative is well and truly in the prevention space. Honourable members may be aware of the previous campaign of Stop it at the Start, which has been funded nationally and was funded by the previous government for the first round of advertising. We are aware that there is strong community support for ceasing violence against women, but significant barriers exist to change because there has been low recognition of the core issues and where it begins.

We know that there is a clear link between violence towards women, attitudes of disrespect and gender inequality. A number of attitudes are unconscious and yet are firmly entrenched among many Australian adults and children. As adults, young people learn these attitudes at an early age, often unwittingly. We certainly saw that the previous campaign was targeted at parents and their children and some of the messages that people can receive unintentionally.

This next round, which is also part of the fourth action plan for 2019 to 2022, has been endorsed by COAG. There will also be a greater focus on sexual violence. We know that the awareness of domestic and family violence has increased in our community and is also leading to greater help seeking. The previous campaign was very successful, in that there were television commercials which were viewed over 45 million times online and the website received 1.3 million page views. There had been some 68,000 downloads of key resources, such as a guide to help influencers start a conversation about respect.

However, new figures show that more than 70 per cent of sexual violence instances are not reported to police and approximately one in 10 result in a guilty finding in court. Clearly, those are statistics that are unacceptable and we are seeking to reverse them. These actions are being coordinated at a national level. I look forward to seeing the viewing of those commercials and materials as time goes on.

I am sure that we will see some changes in community attitudes, as they are surveyed on a fairly regular basis, and that those campaigns will result in improvements to attitudes and therefore improvements to violence towards women and children.

CRUISE SHIP STRATEGY

The Hon. F. PANGALLO (14:59): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding cruise ships.

Leave granted.

The Hon. F. PANGALLO: As we have seen, the cruise ship season is now underway. With more than 180,000 passengers due to visit South Australia, many will go to Kangaroo Island. Currently, SeaLink and Kangaroo Island Connect, a smaller ferry operator, pay a levy on each passenger to the KI Council, which is used to maintain the wharf area at Penneshaw. My questions are:

1. Will cruise ship passengers be required to pay a levy? If not, why not?

2. Is the South Australian Tourism Commission looking at imposing its own levy? What will the amount be of this levy and how much will be raised?

3. If a levy is to be imposed, will the proceeds go directly to the South Australian Tourism Commission to meet its own costs and will any be distributed to the Kangaroo Island Council to help maintain its costs?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:00): I thank the honourable member for his ongoing interest in tourism. Indeed, at the risk of offending the members opposite, I will talk briefly about the cruise season, which was in a press release I issued last week. There are 180,000-odd passengers coming this year, up about 11,400—

The Hon. K.J. Maher: 181,000.

The Hon. D.W. RIDGWAY: 181,000 passengers. I think we should celebrate that. I think about 11,459—I can't recall the exact figure—extra passengers are coming this year. It is great for South Australia. We have, for the first time, a cruise ship going to Wallaroo, which will open up the Copper Coast, the Clare Valley and maybe the Southern Flinders. It was really a great opportunity to inject $145 million into the economy last year.

The issue the honourable member raised is one of ongoing discussion with the South Australian Tourism Commission, the Kangaroo Island Council and, of course, the tourism operators on Kangaroo Island. The discussions are ongoing. The Tourism Commission does provide services on the island to help with the cruise ships when they arrive. At this point in time there are ongoing discussions with the South Australian Tourism Commission in relation to how that service may be

provided but there are no discussions at this point that are live and current, that I am aware of, in relation to charging.

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

CRUISE SHIP STRATEGY

The Hon. F. PANGALLO (15:02): To the minister, I also ask: will passengers on cruise ships be required to pay a levy? If not, why not?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:02): As I said, it's a matter of ongoing discussion with the SATC and the cruise ships. It's basically an operational matter for the South Australian Tourism Commission. At this point in time, I am not aware of any plans for cruise ship passengers to be charged a fee.

The PRESIDENT: The Hon. Ms Scriven, a supplementary?

CRUISE SHIP STRATEGY

The Hon. C.M. SCRIVEN (15:03): Yes, thank you, on the discussion of cruise ships across the state. Regional tourism organisations will be important in making sure local businesses get the full benefit of these cruise ship visits, so has the minister found the funding for multiyear support for regional tourism organisations?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:03): I am glad the honourable member asked that question because, if she actually understood, it's a three-year funding commitment, and I am certain that there will be another three-year funding commitment. But the way these things work is you don't just make funding arrangements indefinitely into the future. We might like to make sure that the regions actually gear up from a digital perspective. We might actually want to have a look at what we would like to see in return for the ongoing funding. It's a matter for negotiation between the South Australian Tourism Commission and the regions next year.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. R.P. WORTLEY (15:04): My question is to the Minister for Health and Wellbeing. Will the minister advise what impact there was on patients as a result of the blackout at the Women's and Children's Hospital last night that reportedly resulted in lights out and operations cancelled?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:04): Parts of the Women's and Children's Hospital lost power yesterday afternoon at, I am advised, about 5.23pm. The power involved was power supplied by SA Power Networks. I am advised that the impact was on the northern side of the campus. The hospital generator operated as planned. It took effect immediately, supplying power to the essential areas of the hospital. I am advised that there was no clinical risk and that there have been no adverse patient outcomes reported. As a precaution some patients were moved and some surgeries rescheduled.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. R.P. WORTLEY (15:05): Supplementary: was a Code Yellow ordered at the Women's and Children's Hospital last night?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:05): I don't know. Code Yellows are raised for all sorts of issues, and certainly there was lots happening at the hospital, quite separately from the power. So I will certainly seek advice as to whether there was a Code Yellow called at the Women's and Children's last night.

The PRESIDENT: Further supplementary.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. R.P. WORTLEY (15:05): How many operations were cancelled at the hospital, and how long did they delay emergency operations being performed?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:05): I will certainly seek that information, but I would be very surprised if there was a significant number. If the advice I have

been given is correct and the outage occurred at 5.23pm, I imagine it would be late in the list of the surgical lists. But I will certainly seek advice.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. R.P. WORTLEY (15:06): Final supplementary: were ambulances diverted from the Women's and Children's Hospital last night? If so, for how long were they diverted, and how many children and mothers were impacted?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:06): I will seek further advice on that matter.

RURAL HEALTH INITIATIVES

The Hon. J.S.L. DAWKINS (15:06): My question is directed to the Minister for Health and Wellbeing. Will the minister update the council on recent rural health initiatives?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:06): I would like to thank the honourable member for his question and obviously pay tribute to his long-term advocacy for South Australians living in rural and regional areas. The former Labor government neglected rural South Australia. That is why the Marshall Liberal government was elected, with a firm commitment to redress this imbalance. While there will always be challenges in delivering health services to rural and remote areas, there is no excuse for neglect. The Marshall Liberal government has already put $20 million into a rural health workforce strategy and is investing $140 million to clear the backlog of capital works.

Earlier this year, the Morrison Liberal government allocated a full MRI licence for the Riverland General Hospital, which is a huge win for the people of the Riverland. The Marshall Liberal government is activating that opportunity by investing $4 million to deliver the MRI machine and associated capital works to house it. This is a real win for the community of the Riverland, ensuring they can get better access to scans, including more comprehensive scans. And because it is a full MRI licence—

Members interjecting:

The Hon. J.S.L. DAWKINS: Point of order: there are some of us in the chamber who would like to hear about rural health initiatives. There may be others over there who are not interested, but I certainly am and I would like to hear the minister.

The PRESIDENT: Order! I would like the minister to be heard in silence.

The Hon. S.G. WADE: I agree with the honourable member. It certainly shows that Labor hasn't acquired an interest in rural and regional South Australia; they would rather heckle than listen.

The Hon. I.K. Hunter interjecting:

The Hon. S.G. WADE: As I said, this is a real win for the community of the Riverland, and in that context the Hon. Ian Hunter reminds me I should pay tribute to my Liberal colleagues, the Hon. Tony Pasin and the Hon. Tim Whetstone, for their advocacy in this area.

This government is proud that we have invested $4 million to activate the Morrison Liberal government's allocation of a full MRI licence. Some $1.5 million will buy a new state-of-the-art Tesla MRI machine, with the remaining $2.5 million for the capital works necessary to house the MRI machine. It is expected that the installation of the MRI machine at the Riverland hospital will allow for around 10 scans a day. That will mean a significant benefit to residents of the Riverland, obviating the need for many of them to travel to the city for medical imaging. There is still a lot of work to be done to address 16 years of Labor's neglect, although this is just another concrete example of the Marshall Liberal government working with the federal government to support better health outcomes for rural South Australians.

RETURNTOWORKSA

The Hon. T.A. FRANKS (15:09): My question without notice is on the topic of ReturnToWork South Australian assessors and is directed to the Minister for Industrial Relations. I refer the minister to the ReturnToWork whole person impairment assessors accredited to 30 June 2022 and I ask the

minister how many of these assessors are interstate FIFOs, flying in and flying out from outside of South Australia; what additional travel and ancillary costs will be incurred as a result of this decision; and will any additional delays for injured workers be incurred as a result of this decision?

The Hon. R.I. LUCAS (Treasurer) (15:10): I am happy to take the question on notice, seek advice from ReturnToWorkSA and provide an answer to the member.

BRAND SOUTH AUSTRALIA

The Hon. J.E. HANSON (15:10): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding Brand SA.

Leave granted.

The Hon. J.E. HANSON: Brand SA had to close its doors on 30 June this year because the government withdrew $1.6 million worth of funding. Under Brand SA, more than 8,000 people proudly chose to use the state brand and logo. The organisation also ran other programs, such as I Choose SA and Hello from SA, which encouraged expats to reconnect with South Australia. Since Brand SA's closure, the Marshall Liberal government has then decided to manage the state logo via a state promotions unit in DTTI. The total budget for this unit is $2 million and *The Advertiser* reported that Belinda Redman will take over as head of this unit.

My questions to the minister are: when did the minister first become aware that the government will end up spending $400,000 more of taxpayer funds rather than the planned saving of $1.6 million; what was the recruitment process for the new head of state promotions; and did any ministers or ministerial staff have any involvement in that recruitment process?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:11): I thank the honourable member for his question and his interest in Brand SA and marketing South Australia. Of course, it was one of the Marshall Liberal government's policy announcements, especially after the Joyce review, to market South Australia nationally and internationally. We see that as being a particularly important role.

As we have all heard, we are not going to get rich by selling lattes to each other. There was a focus on making sure that we have a state promotion unit to actually help craft the message and make sure that all the things that we do contribute to growing the economy. The Premier, the team and the cabinet have set the ambitious target of 3 per cent growth and that is something we share; we are a cabinet government, so every minister every day looks at ways that they can grow the state's economy. We don't shy away from the fact that we see that as an important function of the new Department for Trade, Tourism and Investment.

As members opposite would be aware, the Steven Joyce review recommended that we have, if you like, a single agency charged with making sure that we get our message right when it comes to inbound investment and exports. Of course, we have a great record already with tourism at $7.6 billion and international education now very close to 40,000 in number. Through the budget process, one of the questions was when I became aware—the department actually puts together how it wants to manage its budget for the next year. I became aware through the budget process.

On the second part, when it comes to the actual appointment of the state promotions officer, I do believe the honourable member asked if anybody was involved and anybody had anything—the answer to that is no. It went through a procurement process; I am sure the honourable members were scouring the job advertisements. It was advertised and a process was followed. I was advised only about three or four days before it was ventilated in *The Advertiser* that the successful applicant was Ms Belinda Redman.

BRAND SOUTH AUSTRALIA

The Hon. J.E. HANSON (15:14): Supplementary: just to be clear with the minister, he is saying that he approves of spending $400,000 more than the planned $1.6 million saving by cutting Brand SA?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): The honourable member has a short memory. He would recall that I said during the questions around

Brand SA that the Department for Trade, Tourism and Investment has never funded Brand SA. The decision by the government was to not fund Brand SA any further, but that was a government decision, a cabinet decision. We have a responsibility and we were charged, once cabinet accepted the Joyce review, with the outward-facing promotion of South Australia.

A budget was established, it is $2 million and we are more than happy and stand proudly saying that this is an important part of the function of the department to try to grow South Australia's economy. After 16 years of a Labor government that actually had no capacity to grow it and we actually stumbled along, we have some heavy lifting to do and we don't shy away from the fact that we have actually invested in promoting this great state.

SHOWCASE SOUTH AUSTRALIA

The Hon. T.J. STEPHENS (15:15): My question is to the Minister for Trade, Tourism and Investment. Can the minister update the council on the recent Showcase SA industry briefing?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:16): I am delighted the honourable member has asked me this question because, of course, Showcase SA is a newly established, independent, member-based service organisation promoting economic growth for South Australia. In fact, they took over some of the functions of Brand SA and they are doing it at no cost to the taxpayers.

Members interjecting:

The Hon. D.W. RIDGWAY: I can't believe that the members opposite could find it to criticise a not-for-profit, privately owned organisation that actually goes out and promotes South Australia and shares and celebrates in the success stories—and the members opposite want to criticise. That's typical of the mob that was in government for 16 years. I was invited to attend and address the industry briefing focusing on tourism, food and wine by the co-founders Kelly Noble and Steve Testar. It was great to be able to go there and support them. Before I spoke, we heard from Sheree Sullivan of Udder Delights and Jamie Sach from Penfolds.

I think Sheree's story is an exceptional one and I just might take a moment and share it with the members. Sheree Sullivan of Udder Delights went through a whole range of evolution in her business. I won't bore members with the early details, but it came to the point where they needed to get another investor. What they have done is sold to Megmilk in Japan. They have sold 90 per cent of their business to a Japanese company.

Members interjecting:

The Hon. D.W. RIDGWAY: The members opposite ridicule South Australian businesses. They should be ashamed of themselves. The people who grow our economy—they should be ashamed of themselves. Sheree Sullivan couldn't be happier, yet most people would think if you had sold 90 per cent of your business you would only own 10 per cent—that's all she wants. She now buys more milk, pays her dairy farmers more money and sells more cheese than ever before. It is a great story and I cannot believe the members opposite want to ridicule great South Australians like Sheree Sullivan. They are a disgrace.

It was great to speak to various members of the industry in the room about everything that is going on, particularly in the tourism space and, of course, we have all of these wonderful things happening in South Australia: the Test cricket, the National Pharmacies Christmas Pageant, the Bridgestone World Solar Challenge that we have just seen, the Tour Down Under, of course, the tennis that we will see at Memorial Drive, and Mad March. It is an exciting time and everyone at Showcase SA is ready to hit the ground running to let the world know what we are doing.

At the briefing, I also had the opportunity to address initiatives currently underway in growing the tourism portfolio in relation to food and wine. A great example is the development of the new experiences at cellar doors that will be marketed to international wine tourists. I can't wait to see the new experience as it develops through the Growing Wine Tourism program, which is the great work of Wine Australia. It was a pleasure to be at this event to see the private sector step up and promote South Australia, and I wish Showcase SA every success in the future.

SHOWCASE SOUTH AUSTRALIA

The Hon. K.J. MAHER (Leader of the Opposition) (15:19): Supplementary arising from the answer, where the minister accused the opposition of ridiculing SA producers and exporters. My supplementary is—

Members interjecting:

The PRESIDENT: Order! Let's hear the supplementary.

The Hon. K.J. MAHER: Does the minister have enough self-awareness to realise that it's not SA exporters or producers that we are ridiculing, it is him and his poor, inept handling and gaffe-prone conduct in his portfolios?

The PRESIDENT: I think I'm going to rule that out of order. It was a long way out but I'm going to—

Members interjecting:

The PRESIDENT: Are we all finished? I would like to go to the crossbench now. The Hon. Ms Bonaros.

AMBULANCE RAMPING

The Hon. C. BONAROS (15:20): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about SA Health.

Leave granted.

The Hon. C. BONAROS: Yesterday, it was revealed that a patient died after being stuck in an ambulance outside the RAH earlier this year, the second claimed ramping-related death in 12 months. This follows the Independent Commissioner Against Corruption recently going public about his concerns over alleged corruption and maladministration within SA Health, and it comes on top of the recent revelation that CALHN's new data integrity unit mysteriously stumbled on $54 million missing from its accounts. All of this has occurred in an environment where the NRAH is virtually terminal and professional bean counters have been called in to stop it from going bankrupt. My questions to the minister are:

1. What is it going to take for this government to consider the need for a royal commission into SA Health, given the grave extent of the issues that have occurred to date?

2. Does the minister support the call for Commissioner Lander to appear before a select committee on health services to provide evidence about the concerns that he has raised?

3. Does the minister believe that the taxpayers of South Australia, those who fund SA Health's annual budget, have a right to know more details about the commissioner's concerns?

4. Does the minister believe that his government has a responsibility to the very same taxpayers that their taxpayer funds are being spent as effectively and as efficiently as possible?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:22): I thank the honourable member for her question. I might take this opportunity to challenge an assertion made in the member's introduction because I don't want it left unaddressed. She asserted that a patient died on the ramp earlier this year. In the case that was highlighted yesterday, the patient did not die on the ramp. A subsequent investigation did not make any specific recommendations related to the way that the patient was treated and, as is normal process, the matter has been referred to the Coroner.

However, I took the member's general comments as an indication of her often-expressed view of significant problems in SA Health and, on that, the member and I completely agree. I believe that SA Health needed fundamental reform when we were elected and that is what we embarked on. It was very early in my time as minister that I met with the ICAC commissioner and he expressed his concern about the culture and management of SA Health. It was in the context of those concerns and the concerns that I brought into this portfolio as minister that the government, of which I am part, invested $18 million in the KordaMentha cultural and financial recovery plan.

I stress the naming of that plan: financial and organisational recovery. Right from the word go, KordaMentha recognised that what was needed in SA Health was not just a financial recovery plan, it needed to have a cultural element. For example, one of the four priorities in the recovery plan was to specifically deal with 'culture and governance'. There was a need for management restructure, with clearer lines of accountability. That has been done. There was a need for better record keeping and management of those records. We saw the benefit of that in terms of the significant improvement of coding. It is like, as I said to this house earlier, a plumber running around the countryside providing a service but not bothering to put in invoices.

The honourable member had some particular questions, so let me address those. The honourable member challenged me as to whether I would support a royal commission. My party does not support a royal commission, and we were elected on that basis. The honourable member's party went to the last election arguing for a royal commission. We did not support a royal commission because the case was too urgent. A royal commission takes a significant amount of money, a significant amount of time to consider matters, and we didn't believe it was the best way to respond.

I have already mentioned the KordaMentha initiative as a major opportunity to improve the culture and governance of SA Health. Another initiative we introduced, as the Marshall Liberal government, was to decentralise, to introduce board governance. Unlike the former Labor government, which spent 16 years centralising and centralising, we thought it was naive to think that a bunch of bureaucrats in Adelaide could provide effective oversight of 40,000 employees scattered across the state.

We are devolving power to local networks with local boards. Those local boards are substantially populated from people from beyond the health industry. They also bring a range of skills in terms of legal/commercial/human resources skills. They also have working with them risk and audit committees. We believe that board governance will significantly improve the culture and governance of SA Health.

The honourable member asked me whether I supported Commissioner Lander attending the parliamentary committee: it is completely up to the parliamentary committee who they invite; it is completely up to Commissioner Lander to consider which invitations he accepts. In terms of the question in relation to more detail, the government certainly welcomes the commissioner's statement last week in a letter, where he detailed some of his particular concerns. They related to the employment of medical officers and properly accounting for their time and services, administration of rights of private practice, conflicts of interest, record keeping, management of clinicians and cultural issues.

The commissioner indicated in that letter that he will be providing a report to this parliament in December, and I can assure you that I am very keen to see that report and to gain from the insights that the commissioner has developed through six years in the role and the engagement in more than 1,000 complaints related to SA Health.

Bills

CONSTITUTION (ELECTORAL FAIRNESS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 17 October 2019.)

The Hon. K.J. MAHER (Leader of the Opposition) (15:28): I rise today to speak to this bill and indicate that I am the lead speaker for the Labor opposition. This bill seeks to reintroduce the unfairness clause, and Labor opposes this bill. It is an attack on democracy and an attack on the principle of one vote one value.

Antony Green from the ABC has variously described this clause as 'absolutely unworkable, unless you have a dominant two-party result' and 'a gerrymander'. Even the person who was responsible for helping author the misleadingly named fairness clause, Malcolm Mackerras, has described it as 'a failure', 'a silly clause, of which I'm not proud', and 'just a silly idea and I should have never entertained it'. Labor has always been committed to the idea of a fair distribution of voters

in electorates, and we will continue to defend that. What we, on this side, want to see is that electoral boundaries are drawn on the basis of one vote one value, population size in each electorate, as well as factors like communities of interest and geography.

The unfairness clause is firmly predicated that South Australia will only ever have two parties. The 2018 election indicated that that may not always be the case. There were any number of sliding door moments in that campaign, that had things gone just slightly differently we might have had five, 10 or even more members of SA-Best in the lower house.

It is worth keeping in mind that the Supreme Court judge who sits on the Electoral Districts Boundaries Commission has been appointed and her appointment was gazetted, as revealed in estimates, in the middle of the year. The commission should be allowed to get on with determining the boundaries without having to look over their shoulders, concerned at the new Liberal government changing the rules as they are undertaking their work.

We just have to look at some practical examples of how the boundaries were drawn at the last election. In attempting to give effect to the wildly unworkable provision, as Antony Green and Malcolm Mackerras have indicated, we saw massively different numbers of electors in different seats. Some seats ended up on election day over or under 10 per cent from the average. For example, the seat of Elizabeth was 11.1 per cent over quota, while the seat of Flinders ended up 11 per cent under quota. Clearly, the long-held principle in this country and in most Western democracies of one vote one value has been impossible to realise with the old unworkable so-called fairness provision.

In fact, of the 10 seats most under quota, only one is held by Labor, and that is Giles. Whilst of the 10 seats most over quota, seven are held by Labor. This, in effect, means that Liberal votes are worth more than Labor votes. So let's be very clear, the Liberals' view is not one of high moral principle or authority but one that seeks to entrench a broken system that unfairly makes Liberal votes worth more than Labor votes. It potentially makes Liberal votes worth more than SA-Best or Greens votes.

It entrenches a system where some votes are worth more than others. It entrenches a two-party system that we saw from the last election may not always be the case, and very nearly was not, and even one of the chief proponents of the old scheme, Malcolm Mackerras, has described it as 'a failure' and a 'silly clause…of which I am not proud'. We should allow the Electoral Districts Boundaries Commission to get on with their job, to draw the boundaries on what the parliament—and, in fact, this council—decided last time and have an election to look at how the new provisions work. With those few words, I once again indicate that Labor intends to oppose this bill.

The Hon. M.C. PARNELL (15:32): Having successfully ensured that the constitution is now fairer to all parties and candidates, not just the two old parties, the Greens are not about to undo the good work from two years ago by reinstating the offensive provisions back into the constitution. I have discussed this issue with a number of present and former Liberal Party members over the last couple of months. Whilst I am always happy to have a healthy and robust debate about the various models of democracy and all the different permutations that go to make up our system, I have made it clear to them that we do not support this bill and we will be voting against it at the second reading.

I made a fairly comprehensive contribution back in 2017. Some of the references I made back then were references that the Leader of the Opposition has just made now: Malcolm Mackerras calling it silly and that he wished he had not done it; Antony Green, the ABC election analyst, describing it as a gerrymander; and there were other commentaries as well. In his second reading explanation of this bill, the minister revisited his contributions from 2017, mostly revisiting his words attacking the opposition, the then government.

In summary, our opposition to this bill is based on the fact that the so-called fairness clause is, in fact, if fair at all, only ever fair to the two major parties. It is not fair to third parties. It is not fair to Independents. That is because the bill sees the world through that two-party lens. It only cares about the two-party preferred vote, and the only relevance of third parties or Independents is their role in supporting either Liberal or Labor to form government. That is the only relevance that minor parties, third parties and Independents have. How do they fit into a two-party system?

Let us have a quick look at the 2018 state election. This is the election that the government claims shows that the so-called fairness clause is working and delivering the outcome that South Australians want. Well, does it? Let us look at the results in the lower house: the Liberal party got 38 per cent of the primary vote in the lower house, the Labor Party got 33 per cent, minor parties and Independents 29 per cent. In other words, 62 per cent of voters did not vote for the Liberal Party. If we are going to be fair, 66 per cent of voters did not vote for the Labor Party.

If it really were a fair system that was based on the votes that South Australians cast, then Nick Xenophon's party would probably have got six seats, the Greens would have got three, even the Australian Conservatives would have got a seat based on their percentage of the statewide vote. The result of a system like that would be that we would have a coalition government, as they do in many other parts of the world, including wealthy and prosperous, advanced economies in Europe and Scandinavia. That is the sort of system they have had for many years.

What the government is seeking to do is manipulate the boundaries to ensure that they can win at least 50 per cent of the seats with only 38 per cent of the statewide vote. I refer members to an analysis published in InDaily a couple of weeks ago by Adrian Tisato. He makes it clear that he is a Labor Party lawyer and he analyses this debate through that lens, but I think his analysis pretty well holds up. He says, in his article:

> Essentially, the Liberals make three claims. First: they were kept out of government in South Australia from 2002 to 2018 because of a 'gerrymander' that favoured Labor. This was despite South Australia's Constitution Act having a 'fairness clause' in it that was meant to prevent such a thing occurring.
>
> Second: the 2016 boundaries commission was the only one that correctly applied the 'fairness clause'. All previous commissions failed to do so.
>
> Third: in the last parliament, Labor sneakily removed the 'fairness clause' from the Constitution with the support of crossbenchers. The loss of the 'fairness clause' will increase the likelihood that the commission will set electoral boundaries for the 2022 election that will again be 'unfair' to the Liberal Party.

I think he accurately sums up what the Liberal Party arguments are. Importantly, he also goes back and analyses what actually happened in 2017. He refers to this claim of how Labor, allegedly with the support of the crossbenchers, snuck through an amendment to the Constitution Act that removed the fairness clause. He points out:

> Labor did not propose the amendment. The Greens did. The Greens argued that the 'so-called fairness clause', as they have always called it,—

and as I continue to call it—

> has always been unfair to minor parties and independents.

He then said, 'Labor and one other crossbencher supported the Green's amendment.' He may not have that right; I am pretty sure we had two crossbenchers, I think it was the Hon. John Darley and also the Hon. Kelly Vincent. I will come back to that vote a bit later on.

The question that arises is: why has this issue been put back to us now? I think the answer is fairly clear, and that is that the job of setting the boundaries for the next election is underway. The minister said, in his second reading:

> There is an urgency to this measure because in order to ensure the fair boundaries that have resulted from the application of the fairness clause stay fair, it's necessary to reinstate those sections of the Constitution before the next Commission commences its work.

The minister may have missed the bus a little bit because the electoral boundaries commission, either around the same time or maybe even a little earlier than that (let us say it was around the same time), wrote to all the political parties and told them that they had, in fact, started work.

The letter the registered officer for the Australian Greens received was dated 10 October and signed by David Gully, secretary to the Electoral Districts Boundaries Commission. It basically invited us and all other political parties to make submissions to assist the boundaries commission by making representations on 'the effects of amendments enacted by the Constitution (One Vote One Value) Amendment Act 2017 which commenced on 12 December 2017.' The boundaries commission says:

Notification of the commencement of proceedings and an invitation to make written representations will be advised by way of an advertisement, published in newspapers circulating generally throughout the State commencing Saturday 19 October 2019.

That ad has been in the paper already, so that is underway. It goes on:

Any person wishing to make representation to the Commission on the effects of the amendments to section 83 of the Constitution Act may do so in writing, and deliver the representation either personally or by post, to reach me no later than 5.00pm on Friday 15 November 2019.

It then goes on to say that the first hearing has been set for 10am at the Supreme Court on 3 December. The work is underway, so I understand why the government has brought this on, but there is a bit more to it than that. When the constitution was changed two years ago, one of the changes was the insertion of section 83A, and this is the review clause. This is important because that clause provides:

The review required under this section must commence not later than 12 months after the general election of members of the House of Assembly next occurring after the commencement of this section.

What does that mean? The section commenced operation on 12 December 2017. The general election for the House of Assembly was on 17 March 2018. The review should have been commenced by 17 March 2019. So 7½ months ago the Premier was legally required, under the constitution of South Australia, to commence a review. In blatant disregard of that provision of the constitution, the government instead decided to simply present a bill to the parliament to reverse these changes.

Whether a person could have gone to the Supreme Court—and other lawyers might help me with it—for a writ of mandamus perhaps, obliging the Premier to comply with the constitution and commence the review, may well have been successful. Instead, this government is thumbing its nose at the constitution, thumbing its nose at the parliament and saying, 'We don't care what the constitution says, we're not going to do the review that was required, which we should have started 7½ months ago, which we should have finished by now and which we should have tabled in both houses of parliament.' The government is just not going to do it, and I think that is arrogance in the extreme.

Let's have another quick look at what happened two years ago. The reason I want to go down memory lane a little is because history does have a habit of being rewritten unless we pay close attention to it. If you look at the Hon. Rob Lucas's contribution two years ago, he refers to a 'dirty deal'—they are his words—between the Greens and Labor at least five times during the debate.

The truth is that there was no deal. What there was was a Greens amendment that had been filed four weeks prior to the debate, which Labor agreed to support in exchange for nothing. They agreed to support it because it was good policy—no deal, no quid pro quo, nothing. They supported it because it was good policy. But, if we are going to be really fair about this, they also supported it because their own preferred model did not have the support of the chamber; it did not have the numbers.

Members might recall that, in my view at least, Labor had been tying itself in knots with some of this one vote one value, trying to get the words right and calling up the provisions for a referendum to make changes. It was a drafting nightmare and I think the Legislative Council in its wisdom said, 'No, that's not really the way to go.' The government of the day did not have the numbers for those reforms. They had people supportive of the principles of one vote one value, but it was a complex drafting exercise and they did not have the numbers to get their bill through. I then suggested to the Labor Party that I was more than happy to move to get rid of the fairness clause. They then took it to their party room and the rest is history. It was a Greens amendment.

The other thing I think is worth saying, because history may forget this, is that there was, I think, a general misunderstanding as to whether changing section 83 of the constitution required a referendum. This was a matter that was subject to some confusion. There were various discussions about the Solicitor-General's advice and would it be made available, but at the end of the day I think the reason the confusion arose was that the clauses concerned—subsection (1) and subsection (3) of section 83—were inserted into the constitution by a bill that had been the subject of a referendum.

Therefore, it was assumed that the only way those provisions could be removed was also by referendum.

Regarding the referendum question, if you go back to 1991, the referendum question was very simple: yes or no, 'Do you approve the Constitution (Electoral Redistribution) Amendment Bill, 1990?' That was the question: yes or no? When you have a look at that bill, the 1990 bill, you discover that there were a number of changes being made to the constitution, only some of which required a referendum, while other provisions did not. The provisions that fell within the so-called entrenched positions of the constitution required a referendum, but other provisions did not. In fact, even in relation to entrenched provisions, they do not always require a referendum, unless certain qualifications set out in section 88 are met.

According to the South Australian Parliamentary Research Library, which wrote a report on previous state referendums, I think about 10 years ago—it will be on their website still:

> The relevant changes applied to Part V of the Constitution Act (SA) 1934 which cannot be amended without approval at a referendum.

With respect to the library, that is only partly right. Some of the changes required a referendum, but not all. The change that did require a referendum was increasing the frequency of redistributions from every eight years to every four years. That required a referendum, but the additional provisions did not. However, because all the provisions were included in one bill, it made sense to put it to a referendum as one question. Rather than split it up and put the referendum provisions in a separate question and then go straight to parliament for other bits, it made sense to do it all at once. One criterion for having to take it to a referendum is:

> …the bill does not: offend against the principle that the state is to be divided into electoral districts each returning the same number…of members to the House of Assembly…

That could be one member or it could be several. This did not infringe that provision, so it did not require a referendum. Another is if it offended:

> …against the principle expressed in section 77 of this Act by which the number of electors to be comprised in each electoral district upon an electoral redistribution is to be ascertained.

It did not offend that one either. And it did not offend the principle that:

> …an electoral redistribution is to be made by a Commission that is independent of political influence or control.

If it did not offend any of those provisions, it did not need a referendum and therefore this parliament, two years ago, was able to pass the bill that we did.

I think it is worth actually setting that out. Once it became apparent that there was no referendum required, then subsections (1) and (3) of section 83 could be deleted by this parliament. The Greens moved to delete them. Those amendments were supported by the Labor government, the Hon. Kelly Vincent and the Hon. John Darley and they were successful.

In fact, I will go one step further and say that the majority in favour of repealing those provisions could have been even higher because we also had the in-principle support of the Australian Conservatives. Members can go back and look at the *Hansard*, as I did, but according to the Hon. Dennis Hood the only reason the Conservatives voted with the Liberal opposition was that they had made a commitment to do so, not because they thought it was good policy. They specifically said they were inclined to see the value in what the Greens were trying to do and did eventually succeed in doing.

I just wanted to put those things on the record. The Greens are pleased to have played an historic role in removing an embarrassing and unfair provision from the state's constitution, and we will not be supporting its reintroduction as proposed by the government. We will be opposing this bill, and we will be opposing it at the second reading.

The Hon. C. BONAROS (15:49): I rise to speak in opposition to the Constitution (Electoral Fairness) Amendment Bill 2019. I thank the Hon. Mark Parnell for the comprehensive review of the history of the so-called fairness test. For reasons similar to those outlined by the honourable member,

I indicate that SA-Best will also be supporting this bill at the second reading. The bill, we know, seeks to reinstate—

Members interjecting:

The Hon. C. BONAROS: We will be opposing it, rather—sorry, opposing. Mr President, I am not feeling very well, so I apologise. I will just stick to my script. The bill seeks to reinstate in the Constitution Act the so-called fairness clause, which would be new sections 83(1) and 83(3) of the act. That so-called fairness clause, as we have heard, was first inserted under the Bannon Labor government in 1990 and has proved unworkable in many respects.

The architect of the clause, as we have heard, was political scientist Malcolm Mackerras, and its purpose was to impose a proportional representation idea over South Australia's single member electorate system. Section 83(1) basically states that the electoral boundaries commission has to try to structure the boundaries so that if candidates of a particular group attract more than 50 per of the popular vote, then they will be elected in sufficient numbers to enable government to be formed.

While this may be noble and well intentioned, it set the Electoral Commission SA a highly difficult task and one that was not practicable, according to academics. Mackerras himself, as we have heard, has subsequently disowned the clause, labelling it in 2016 as, 'a silly clause...of which I'm not proud…it's just a silly idea and I should never have entertained it'.

Labor has been accused of sneaking in an amendment to remove the so-called fairness clause during the dying days of the Fifty-Third Parliament, but as we have heard it was the Hon. Mark Parnell who proposed the amendment to the Constitution (One Vote One Value) Amendment Act 2017 to remove the fairness clause and not Labor. He did so for the reasons he has outlined, because the so-called fairness test has always been unfair, particularly to minor parties and Independents. It is at odds with the changing political landscape and a move away from the major parties.

Indeed, the Liberal Party has, over successive elections, bar the last one, claimed the so-called fairness test has failed. It has continually pointed out over and over again that if you do a simple statewide aggregation of a two-party preferred vote—and we know how much this government loves to aggregate—the Liberals would have won the popular vote and won the two-party preferred vote in a majority of seats in the House of Assembly, while Labor got under 50 per cent, but the Liberals still did not win enough seats and so did not form government.

What the government fails to explain is how in 2002 and 2014 Labor was able to form minority government—with the support, of course, of key Independents, the majority of whom were previous Liberal members. Now the Government is seeking to reinstate the so-called fairness clause despite arguing it had never been applied correctly until the last election, an argument which simply defies logic.

In that last election, SA-Best secured 19.4 per cent of the vote in the Legislative Council, which resulted in the election of two members to this place for the first time. It is clear to me that South Australians and Australians more broadly are moving beyond a two-party vision. A quarter of South Australians did in fact vote for SA-Best and the Greens combined, resulting in the strong representation in this chamber of members prepared to put forward ideas the major parties are often too scared to—and who are not bogged down by the factional warfare that plays out in the major parties—to advance matters that benefit all South Australians without fear or favour.

To thwart that through the reinstatement of the so-called fairness clause is, with respect, undemocratic. We on this side of the crossbench—as well as members on the other side, I am sure—know only too well the entrenched unfairness of the so-called fairness test. For these reasons, SA Best will not be supporting the bill nor, indeed, the second reading of the bill.

The Hon. F. PANGALLO (15:54): Fairness is an oxymoron when it is applied to elections, particularly when it comes to the Liberal and Labor parties in this state. They will always whinge about the result of the people's vote, yet their conduct in election campaigns to get those votes is often questionable, unethical and unconscionable, as evidenced in the 2018 poll. I will not venture any further into that today.

This fairness clause was first introduced into the South Australian Constitution Act in 1991 by parliament, rather than by referendum, as part of legislation that required electoral commissioners to draw boundaries that would give the major parties a fair and equal chance of winning government: the two-party preferred vote system, which, of course, is suited to the form of preferential voting that is applied in Australia. With the exception of Tasmania and the ACT, all lower houses in Australia use the single member electoral system.

Preferential voting is unique to Australia and was done to stop parties splitting their votes among several candidates. It meant that the votes of minor parties became quite significant for any of the major parties; however, it also meant that it was more difficult for minor parties or Independents to get elected. Labor removed sections of the act in its Constitution (One Vote One Value) Amendment Act 2017. Now the Liberals want to put it back and point to its 2014 failure and 2018 success as evidence of why it is needed.

For the record, the breakdown of statistics by the Electoral Commission show that in 2018 in the Legislative Council, the Liberals received 32 per cent of first-preference votes, Labor received 29 per cent, SA-Best received 19 per cent and the Greens received 6 per cent. In the House of Assembly, the Liberals received 38 per cent, Labor received 32 per cent, SA-Best received 14 per cent and the Greens received 7 per cent.

As you can see, it is far from 50 per cent for the government. It was a lot closer than most tend to think and I believe this reflects a changing mood in the electorate, which also considers the merits of other political parties and candidates. SA-Best's performance is sometimes referred to as a flop but, on those figures, it shows just how much of a fright the two major parties received and the extent they had to go to in order to prevent us from winning seats in the House of Assembly. We came second in 12 of the 47 seats—not bad for an under-resourced start-up party—but the Liberals want to obliterate other challengers emerging from political discontent.

The 2018 election was essentially shaped by new electoral boundaries, following a Supreme Court ruling that brought into question whether the fairness test had not been fulfilled after the 2014 poll—the so-called unlosable election—where Labor won government yet lost the two-party preferred vote.

The argument about fairness in South Australian elections goes back a long way, even to colonial times. Restricted franchise existed in one house of parliament and in the forties, fifties, sixties and early seventies there was much controversy over malapportionment or vote weighing, particularly in our regional seats, which gave an unfair advantage to the Liberal and Country League. That gerrymander was fixed and since then we have had a mix of Liberal and some long-serving Labor governments.

However, as was shown by the 2002 election result, there is never any guarantee that fairness will prevail. Labor won government with less than 50 per cent of the two-party preferred vote and the addition of the disaffected MP, the then member for Hammond, the late Peter Lewis. Occasionally, the system does throw up results like this after boundary redraws. I am sure parliament will continue to argue about this subject for decades to come unless, of course, members are prepared to look at some kind of reform to our voting system.

There are other systems like multimember systems that are known to produce fairer results, as in New Zealand or Tasmania, which uses the Hare-Clark electoral system where proportional representation elects the lower house made up of 25 members from five electorates and 15 single-member electorates for its Legislative Council. However, reform of our electoral system would only come when there are consistently bad results, and even then there would be a reluctance, particularly in this state, when it would be in the interests of both parties to maintain the status quo.

I note that the Liberal Party's adviser, Morry Bailes, seems to think that new-found fairness is now under threat with a boundary redraw due in 2020 following the repeal of the fairness clause and that it will again be unfair to the Liberals. My cynicism is palpable. It is telling that the architect—as we have already heard—of the so-called fairness clause, at the request, I must point out, of the South Australian Liberals, the renowned political analyst Malcolm Mackerras, now distances himself from it, referring to it as a silly clause he is not proud of and wishes he had not come up with.

Respected University of Adelaide professor in politics Clem McIntyre told a commission hearing that the clause was not practicable.

We need to view this for what it is: an irascible move to ensure that only the two major parties will win government, at the expense of smaller political parties. It is not the best solution but bringing this back will be a setback for getting some form of electoral balance. Therefore, SA-Best will be opposing the bill at the second reading.

The Hon. R.I. LUCAS (Treasurer) (16:01): I thank members for their contributions to the debate, although, as I will indicate, I vigorously disagree with each and every contribution, but for differing reasons. Can I say, having been engaged in electoral debates for much, much longer than anybody in this particular chamber, and even prior to being a member of parliament, I know the history of electoral debate and reform in South Australia very well indeed. Whilst I can understand the views of minor parties, I will refer to the arrant hypocrisy of the Labor Party in relation to this issue during my closing remarks.

Over the years, the minor parties, by and large, have argued for a version of proportional representation, as some of them indeed have done again today. In their view of the world, a proportional representation system is a stable, fair system, capable of good government. They are entitled to that view. It is not a view that I share or, indeed, I suspect, many other South Australians would share as well. It is certainly my view that government ought to be based in the lower house, where by and large it is possible to manage a program and, subject to the equal decisions of another chamber, which is the Legislative Council, to have its program debated.

The countless examples from around the world of coalition governments based on PR falling apart on a regular basis, in Europe and Scandinavia and elsewhere, are too many to instance. I can only refer members to the tomes of electoral contributions which have highlighted or detailed those particular examples.

I understand the position of the minor parties. As I said, their view of the world is that a fair system would be a proportional representation system, which in essence would be very similar to the proportional representation system that we have in the Legislative Council. It may or may not be whole of state; it may well be multielectorate, as exists in some parts of the world, but nevertheless based on proportional representation where, by and large, the only government you would ever have would be a coalition government, sometimes with many, many minority interests having to be forged together.

I will return to the contribution of the Hon. Mr Parnell later because he endeavours, in his own inimitable fashion, to say that he and he alone—no, he did not say he alone—will put the facts on the record in terms of what actually happened in 2017, and he will correct the record. He was but one player in that and he has a perspective, which he is entitled to have. I, too, was a player and I will put my perspective in terms of it and at least there will be two competing views as to what actually did happen on that particular day and people cannot just take the Hon. Mr Parnell's record as fact. It is, nevertheless, his view of what occurred; there are other views as to what occurred at that time.

I want to return firstly to the arrant hypocrisy of the Leader of the Opposition and the Australian Labor Party on this particular issue. For 20 or 30 years, well before the Hon. Mr Maher was perhaps even contemplated, Labor luminaries of the past campaigned long and hard against the Playmander, against Sir Thomas Playford and the Liberal government in relation to electoral fairness. What was the device and the mechanism they used? For 20 or 30 years they used the construct of the two-party preferred vote. Even in those days, as members around this chamber have said, 'We almost had six or 12 third parties represented, we almost had this or that,' in many of the elections in those years there were more than six. I think in some cases there were possibly up to 12 Independents not tied to either of the major parties.

However, the Labor Party, Dr Dean Jaensch and various other academics wrote books, gave seminars and campaigned for 20 or 30 years for allocating the second preferences of the Independents. In those days, unlike now where you actually do get a two-candidate preferred vote or a two-party preferred vote counted by the Electoral Commission—so you do actually know what the second preferences of individuals were—that was not done, so assumptions had to be made by both the Labor Party and the academics about the preferences of the Independents.

Through that particular construct, theses were written, approved and lauded around South Australia and Australia on the basis of the two-party preferred vote, the unfairness of the electoral system and, in essence, the lack of a majority on a two-party preferred vote of the Playford era. The one aspect of the complaints in those days with which I do agree was that in those days they did not have the plus or minus 10 per cent, the tolerance factor, which the Labor Party campaigned on as the resolution to the Playmander.

For 20 years they campaigned, to be fair to them, that the solution in terms of one vote one value was not exactly equal numbers, it was to have a quota and, within that quota, the Electoral Commission would have the capacity to have plus or minus 10 per cent as an equivalent to one vote one value. That was the Labor Party argument at the time for decades.

I would not have supported the old system, in terms of the radically different sizes of electorates that existed. I would have supported and do support the plus or minus 10 per cent as being the equivalent of one vote one value, which the Labor Party campaigned for. Nevertheless, putting that to the side, the Labor Party used the construct of the two-party preferred vote to argue that there were minority Liberal governments for so many elections during the fifties and sixties and even the early part of the seventies.

That has been the basis of this debate about the two-party preferred vote. As I said, these days it is more accurate, in that you can actually have constructed a two major party preferred vote because the Electoral Commission throws the second preferences of the other candidates against Labor and Liberal and actually produces a number, which it had not done up until recent years. There is also a two-candidate preferred throw of the vote, which is the two highest remaining candidates, which may be one major party candidate and one of the minor party candidates. So there is greater accuracy these days in relation to the issue.

Whilst I understand the concern of minor party candidates in relation to the two older parties, I have had this discussion with the Hon. Mr Parnell before. It is quaint that he describes himself not as one of the older parties, when the originating Greens go back to the 1960s or 1970s—the first Greens member elected in a jurisdiction under the Greens banner. I am not sure what definition of 'old party' the Hon. Mr Parnell uses, but it is certainly not my definition of a 'new party'. Certainly, SA-Best and others can describe themselves as a new party, although even in this case, given its antecedence with Mr Xenophon—and he was around for over 20 years—at some stage the definitions of 'old party' and 'new party' might need to be revisited.

Members interjecting:

The Hon. R.I. LUCAS: 1997. As I said, I understand the position of the minor parties but, in relation to this issue of the two-party preferred vote and one vote one value, we have had this recreation of history from the Australian Labor Party that in some way something for which they campaigned for decades is that one vote one value meant plus or minus 10 per cent. Yet, the Leader of the Opposition stands up in this chamber today and says that the fact that two of the 47 seats, evidently, just poked out their noses over and above the 10 per cent mark—one at 11 per cent above and I think one at 11 per cent below—as a result of the best endeavours of the Electoral Commission, is in some way a travesty of one vote one value, is hypocrisy at its highest.

There are any number of examples under the former arrangements prior to the fairness clause being inserted by the Labor Party, a Labor government (I continue to emphasise that). Prior to that there were any number of examples, even under one vote one value, which came in and by the time of elections there were many more seats above or below the plus or minus 10 per cent, and significantly above or below the plus or minus 10 per cent under the system they championed, campaigned for and, together with the Hall government, the Liberal opposition and others, helped implement at that particular time. The fact that on this particular occasion two seats at the end just exceeded the plus or minus 10 per cent is certainly much fairer than the system that existed in the sixties, the seventies, the eighties and even in the nineties in terms of the equality of numbers, as opposed to the electoral results.

Another thing that has been quoted left, right and centre is that Malcolm Mackerras has described himself (and others have described him) as the architect of the fairness clause. It is true to say that he was actively engaged in the whole debate, but it overstates the significance of Malcolm

Mackerras as an academic adviser to the people who drove the electoral fairness clause. There were many within the Liberal Party in South Australia, some going back many years, but at the time of that particular debate it was the former member for Mitcham (I think the electorate was called then), Stephen Baker, who became deputy premier, and a number of others—and I was part of that particular group—who worked within the Liberal Party in looking at various options in terms of electoral fairness, and that is that, if you won 50 per cent of the two-party preferred vote, as the Labor Party campaigned for for 30 years, then you were entitled to government.

That was their criticism of Tom Playford: that he had not won 50 per cent of the two-party vote, therefore he was not entitled to govern. Those phrases and words were used against the Australian Labor Party at the time and, because of an accident of history, a couple of Independent members in the lower house, who happened to be formerly of the Labor Party, and another mix of votes meant that the then Labor government found itself in a position where the overwhelming majority vote was to support the introduction of a fairness clause. As I said, it was moved by the Labor government at the time. This is the clause which they now say is so inherently unfair. This was a clause actually moved into the legislation by Bannon, and supported by many others, and I quoted some of those in my second reading explanation.

The hypocrisy now of the Labor Party is to say this was unworkable and to quote various other people to say it was unworkable all along the way. As I highlighted in the second reading explanation, it was only unworkable because, as the Full Court decision of the Supreme Court ultimately determined, the previous electoral commissions had not done what the act said they were required to do. The act said that your primary purpose is to deliver government to a party that gets 50 per cent of the two-party preferred vote. All these other things are important but, nevertheless, your primary purpose is to do that, and they had not done that.

The most recent commission did that and, ultimately, had a result which showed that on the two-party preferred vote construct, where you ask people, 'If you cannot have one of the major parties, who is your second choice? Who do you prefer to govern out of Labor or Liberal? You have to choose,' they put that as their second preference, a Labor Party or a Liberal Party candidate, and that is actually added.

Ultimately, there was a majority two-party preferred vote for the Labor Party. Ultimately, there was a small majority number of Liberal members in the House of Assembly elected, contrary to the 2002 election, the 2010 election and the 2014 election, and even back as far as the 1989 election which was what prompted the original insertion of the fairness clause. In broad terms, that is the background. Ultimately, the inadequacy of former commissions was confirmed by the decision of the Full Court of the Supreme Court, and we ended up where we were.

I want to revisit the events of 2017. As I said, the Hon. Mr Parnell is perfectly entitled to his view of the facts of the situation. I have my view and my version of events—and I was actively engaged. I know he quoted Mr Tisato, who he acknowledged and indicated was a Labor Party candidate. I am not sure how he describes himself, but he is certainly a former Labor Party candidate and a wholly owned subsidiary of the Labor Party in many respects.

But why would he be quoting Mr Tisato as an expert on what happened on that particular day? As the Hon. Mr Parnell would know, he was not here and he was not anywhere near the place. He had no idea what was going on. He could only rely on what Labor Party members may have advised him as to what occurred. The Hon. Mr Parnell was here and he is entitled to put his view, and I accept that, but quoting Mr Tisato as some sort of expert as to what happened on that particular day is fanciful nonsense because he would have no idea, with great respect to Mr Tisato, because he was not involved in any way in the discussions that were going on.

Why I described the events of that particular day and the results as a dirty deal—grubby, obnoxious and a whole variety of other unflattering and pejorative words that I used at the time, and I repeat them again in the second reading here—was that, as the Hon. Mr Parnell would know, there had been a number of bills and proposals. I have not checked the record today but I am guessing it was over 12 to 18 months where various people had made various suggestions about amendments to address electoral fairness in its broadest sense, but electoral issues, if I want to put it that way.

Some have not been proceeded with on the basis that there have been ongoing discussions between the Labor Party and the Liberal Party. I was having discussions with members of the Labor Party who were assuring me in relation to various issues. I was having discussions with the Hon. Mr Parnell, with the Hon. Mr Darley, the Hon. Mr Hood and the Hon. Kelly Vincent, I suspect, at that particular time as well.

All through that debate there was a majority of members who assured me that they would not be supporting changes to the electoral fairness clause. What happened on that particular day was that one member, without any forewarning for us, changed their position—which they are entitled to do—and indicated support for what the Labor government was going to do. That was brought on at short notice.

The other thing, again, was that on something as critical as this we had not been privy to an explanation of the Solicitor-General's advice and Crown advice that, from what the Hon. Mr Parnell has indicated, he—and, I suspect, others—had received and been privy to in relation to the issue of a referendum. Most of us had the advice that the fairness clause could not be removed without a referendum, and there was a long debate about that at the time, when we got into the chamber, on what the advice was in relation to that. I think it was the Hon. Mr Malinauskas, who was carrying debate for the Labor government at the time, who outlined what the advice was.

I was handling the bill in the upper house, and that was the first we knew that there had been advice that this did not need to go to a referendum. From the Liberal Party's viewpoint, our advice had been that this needed to go to a referendum and that therefore there was at least some protection in relation to all this, if ultimately the parliament voted that there would be the need for a referendum.

To be fair, in the discussions we had with the Labor Party in the early days, before they got the Solicitor-General's advice, that was their view as well, and the reason they did not proceed down the path they may have been tempted to was because they knew it was highly unlikely they could win a referendum—which was our view as well—on getting rid of the fairness clause.

The reality is that, generally, unless both major parties on both sides support a referendum question it is difficult for a referendum to get up. The Labor Party knew that, from the discussions I had with them. At some stage they got this advice to the contrary. It was not shared with me or with the Liberal Party—

The Hon. M.C. Parnell: We didn't see it.

The Hon. R.I. LUCAS: I did not say you saw it: I said you—and maybe others as well—were advised of the contents of it, but we were not advised of its contents. What happened on that particular day was that, at short notice, the debate was brought on. It is technically correct, and Mr Tisato uses this convenient device, to say this was not actually the Labor Party, that it was a Greens amendment, but the deal had been done by the Australian Labor Party to support the Greens' amendment, with the support of another member or members in relation to crossbenchers, as well, to support the passage of the bill.

Generally, as members and the Leader of the Government would know, from the discussions I have every Monday of a sitting week—even if the numbers are there we have not yet dropped something like this sort of major issue on members at short notice. I have respected the view and the conventions of the council that when you have a major issue like that, people need to have the opportunity to consult their party rooms, however big or small they may be, form a view and, ultimately, for us to have the argument in the chamber.

It might be old school, and maybe the Hon. Mr Parnell and others will say, 'More fool you, because if you have the numbers then surprise the minority and just jam things through.' I have not supported that in my 37 years in this chamber and I do not intend to for the remaining two either. Others may adopt different rules; that is a judgement call for them. On this particular occasion that was the decision adopted: something as major and momentous as this was dropped on the chamber at short notice.

The legal advice was not made apparent to the Liberal opposition. It had been made available to a number of other members who were going to vote on it and, as I said, one particular

member, who had given a commitment to me in relation to the way he was going to vote, chose to vote in a different way on that particular issue.

I think it is important to put on the record the history of 2017. As I said and I repeat again, the Hon. Mr Parnell is perfectly entitled to put his interpretation of events because he was here and he has a perspective. However, I can assure the millions of people who read *Hansard* in the Legislative Council on a regular basis that his version of events is just that: it is his version; it is certainly not the version that I have, which I have put on the public record.

What I do say is that, whilst the Hon. Mr Parnell and I are entitled to put versions of events, commentators like Mr Tisato have no knowledge, no authority and no capacity to actually know the events of what went on. Whether he writes them up and purports to know what occurred on that particular day is a flight of fancy for himself; he is just not in a position to know the events of that particular day.

I am extraordinarily disappointed that the majority of members have indicated that they oppose this provision that is being tested here today and that they will vote down the bill at the second reading. This is an important issue. I hope that the Electoral Commission, if they have to continue to operate under the new act with the new provisions, will at least still bear in mind some of the other aspects of the legislation in terms of continuity.

I know in the past they have indicated that, to the extent that it is possible and they are not restricted by the act, continuity—if I can describe that colloquially as the least possible disturbance that might be required in terms of the constant churn or turnover of members—is something, together with other aspects of the legislation, that they will bear in mind. I am sure that will be a task that they will assiduously apply themselves to.

Nevertheless, it is the government's view that a fairness provision, which was first inserted by the Bannon Labor government, supported by Independents and the Liberal opposition, 20 years or so ago, was misapplied by a number of electoral commissions but then finally correctly applied by the most recent commission. Subsequently, a key part of all that, in essence confirmed by a Full Court of the Supreme Court as a result of Mr Martin's course of action that he adopted, which we are very grateful for, is that all that is evidently to be ignored by the Labor Party and others, who for differing reasons are going to vote against the reinsertion of something that most South Australians, I am sure, would say, 'How on earth can you vote against a fairness clause in an electoral redistribution?'

Indeed, that is what the Labor Party and the crossbenchers are voting for today. They are voting against the insertion of a fairness clause in electoral redistributions in South Australia and, from the government, we say shame on them.

The council divided on the second reading:

Ayes.....8
Noes 13
Majority 5

AYES

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.	

NOES

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

Second reading thus negatived.

SURROGACY BILL

Second Reading

Adjourned debate on second reading.

(Continued from 17 October 2019.)

The Hon. J.S.L. DAWKINS (16:32): It would come as no surprise to most people in this chamber that I rise to support this bill and support it very strongly. Members in this place will understand, I think, that I have been working on these issues since 2005 and that my initial legislation in the Legislative Council was well reviewed by the Social Development Committee of the day, led by the Hon. Mr Hunter. While I did not agree with everything in that report, the reality was that we got, I think, a better bill, which went through this place relatively quickly. It took some time, however, to get it through the other place, but we finally got that legislation through late in 2009.

In 2015, I decided to bring in another bill to respond to the baby Gammy issues and other issues relating to the suitability of some would-be commissioning parents and also the issue of baby factories in some parts of the world. Unfortunately, despite the fact that that act as it stands today was agreed to in both places without division, the attorney-general of the day decided to take a very long time to get around to consulting on regulations and then did not agree with some parts of the act, although, I might add, his office had actively worked with me in the preparation of that bill which became the act.

I do acknowledge the Hon. Mr Hunter's efforts in helping me to get a compromise bill up in this place, which was promised to go through the assembly but of course failed to do so in the last moments of the last parliament in that chamber. It is ironic, given what we have just been discussing, that the urgency of that issue and I think one to do with genetically modified crops, which we will be dealing with tomorrow, were part of the reason that my private member's legislation and I think other private members' legislation was delayed in the lower house. It is ironic that these things are all coming to us again at the same time.

I certainly do not intend to delay the chamber. I will refer to the work of the South Australian Law Reform Institute in a moment, but I think Madeleine Thompson, from that organisation, who has done a lot of the work that SALRI was charged to do by the current Attorney-General, have read every word I have ever said in this place about surrogacy, and I feel sorry for her, because there have been a few. But it has been an issue that I have been passionate about since the days that Kerry Faggotter first came to see me when her little boy was one year old—he is now 15.

I commend the Attorney for providing urgency to SALRI to examine this matter. Of course, that report was brought down in November last year. I appreciate the work of Madeleine Thompson but also, obviously, Professor John Williams and David Plater for the very broad way they examined all of the complex issues that are related to surrogacy. I am also very grateful to parliamentary counsel and particularly Mark Herbst for the assistance he gave me as a private member in a number of pieces of legislation to do with surrogacy.

There has been significant consultation—in fact, I think it is probably greater than significant. I think the SALRI consultation was very comprehensive not only in this jurisdiction but in other parts of this country. The Attorney-General has also, I think, undertaken great consultation since the development of the draft bill which accompanied the SALRI report late last year. I would also give great credit for a lot of the work that has been done in that consultation and the development of the current bill to another Madeleine, Madeleine Church, from the office of the Attorney-General, whose work on this issue has been terrific.

We do have a standalone bill, and I think that is a great advancement. In my first attempt it was something I wanted to do, but I think advice came that it was probably easier, as a private member, to amend the various other pieces of legislation that were relevant to surrogacy. So I think that at one stage at least we were amending three acts. I think it is a particular advantage that we now have one bill. There were a number of debates in the lower house recently about some issues that had never been raised with me and were raised by people that had never shown any interest in

this topic whatsoever, but if members want to raise those issues again in the future, I think it will be easier to do so. I say that for members of both houses.

It is a conscience matter. We have always been very pleased with the way it has been dealt with in this council on every occasion, in that there has never been a division. I am very proud of the way in which this council has dealt with this matter. I think that, generally, the way we deal with conscience issues is of a significantly higher level than perhaps other examples nearby.

As a private member who has worked very hard on this, it is a great delight that we have a government now that has put some resources into this legislation. I am very keen that this legislation goes through very soon. It is not perfect; there have been one or two issues that I would probably have liked to have retained from the act that is currently there. I think the compromise the Hon. Mr Hunter and I sought from the previous attorney showed that the bottom line is that we get relevant legislation in place, which I know will lead the country. There are one or two small issues I am prepared to set aside for another day. It might be another person who does it; who knows?

I think it is important that we get this legislation through and that we get the surrogacy scene in South Australia settled. As much as we have had some, in my view, very good legislation, the fact that the current act has never been operated in its current form is a great shame. I think that has put some uncertainty into the sector, and that goes right across the whole community.

I will indicate my concern that it was only at 10 minutes to two this afternoon that I became aware of any amendments to this bill in this place. Obviously, after that, the Hon. Ms Bonaros, who I have great regard for, also moved the contingent notice of motion. I suppose I was dealing blind in that, and I will examine those amendments between now and when we deal with this in the committee stage.

As I said to many colleagues in the lower house when they were debating the recent amendments in that chamber: please do not delay this bill, because it has been a long time coming and we have many biological clocks ticking. Only in this parliament today has someone who has worked here for some time said, 'This is a very good bill. I wish this had been around because my wife and I would have utilised it. We have adopted, but if we had had this ability we would have used it.' Those words really reinforce why I have spent a very long part of my time here on these matters.

I am also very keen that we get clarity on this whole situation because, while there is uncertainty, there are people who are going overseas. They are going overseas to some places in Europe and in Asia where the practices are not as we would expect in this country. I am aware that there are some countries where, if you have enough money, you can not only have a child through a surrogate but you can actually get a doctored birth certificate to say that the commissioning mother is actually the birth mother. That is appalling and we need to avoid those things.

While there has been some uncertainty in the way things happen in this state, we have had more people who have been attracted to take up surrogacy options in other parts of the world. We have some of the best reproductive technology in the world in this state and it has always baffled me as to why we do not give South Australians the very best opportunity to have a surrogacy in South Australia. I commend this bill to members and reiterate that I am very supportive of it. I am also very keen that we do not delay this issue any further. I support the bill.

The Hon. I.K. HUNTER (16:45): I rise to indicate that I will be supporting the Surrogacy Bill, which I note is a conscience vote for Labor members as well. The bill provides a framework for the creation of lawful surrogacy agreements entered into between consenting parties, through which a child's parentage can be transferred to the intended parents. The bill also establishes a number of safeguards for all parties and, most importantly, for the child. These include raising the required age of parties to a surrogacy agreement to 25 years, creating an offence for all parties to a commercial surrogacy agreement, and clarifying the law around compensation for loss of income for the surrogate mother.

The bill also ensures fairness for all prospective parents seeking to enter surrogacy agreements by calibrating the fertility requirements in such a way as finally to include same-sex couples as single individuals. The Hon. Mr Dawkins spoke about the long road that we have taken

to get ourselves this far. It does not seem like it was almost 10 years ago now that the Social Development Committee's inquiry into surrogacy—

The Hon. J.S.L. Dawkins: More than that.

The Hon. I.K. HUNTER: More than that? Yes, we are going back a little way. That committee recommended these changes to the legislation but for various reasons they were not supported through this parliament, unfortunately, but I am pleased to see that they are in this legislation.

The SALRI report the Hon. Mr Dawkins referred to was published in October 2018, which formed the basis for this bill, and notes that the number of South Australians who access surrogacy arrangements annually is quite difficult to determine. It quotes family law expert Mr Stephen Page, who described a normal year as seeing 40 children born through surrogacy inside Australia and about 250 overseas to Australian intending parents.

SALRI suggests that, regardless of the precise figures, overseas surrogacy arrangements are more prevalent than domestic surrogacy. The bill seeks to clarify the process and requirements for domestic surrogacy arrangements and ensure that domestic non-commercial surrogacy is an accessible choice for prospective parents. In my view, this is a very positive step. It increases the extent to which we can regulate surrogacy agreements. It ensures adequate protections, as I said earlier, and support for children born through surrogacy, but also for the surrogate mother. It also maximises the ability for those who want to become parents to start a family, regardless of their personal circumstances.

I would also like to thank the Attorney-General in the other place for her work in progressing this issue. I also would especially like to thank the former attorney-general, John Rau, for his heartfelt contribution to this process and for making the initial referral to SALRI, which I think is a basis for our successive legislative attempts to get a workable piece of legislation through this parliament.

SALRI's reports have been heavily relied upon by members on a number of issues and surrogacy, in this case, is no exception. The work of Professor John Williams and his team is always of high quality. They, too, deserve our thanks. I particularly want to acknowledge the Hon. John Dawkins for his years and years of work and for his determination to see this issue through. As he has said, he and I have worked closely on this issue in the past. A South Australian surrogacy act will be a lasting legacy to the Hon. Mr Dawkins' determination to create a fair and equitable surrogacy law for this state and, as he said, to settle it down and to give a stable platform for families to start creating the family they have always wanted.

In establishing any framework to regulate surrogacy, a balance must always be struck, of course, and I suppose that is the heart of the difficulties around this legislation that we have been debating for the last decade. On the one hand, there is a desire to ensure that any person who desires to become a parent can do so and to remove legal and administrative barriers to realising their ambitions, but on the other there is a need to protect any child who is born of such a surrogacy agreement, to protect the surrogate mother and, indeed, all parties to the agreement.

This issue has been debated and worked on for many years and I believe the bill before us gets the balance right. As the Hon. John Dawkins said, it may not be perfect but it gives us the ability in this state to go forward with a settled situation for surrogates and surrogate families. I, therefore, will be supporting the bill wholeheartedly and look forward to its swift passage through this place.

The Hon. I. PNEVMATIKOS (16:50): This bill is about protecting and supporting families. We are raised to believe that at some stage in our lives we will be confronted with a choice as to whether we extend our family or not. We accept that intending parents will make a decision about conception at some stage of their lives and, as a society, we have developed programs and supports to assist in the process. For example, sex education is taught in schools, and we have health clinics as well as counselling services, to guide and assist expecting parents with reproductive options from the early stages of conception, throughout pregnancy and the birth of the child.

Unfortunately, there are significantly less supports in place when it comes to those who choose to start a family but, for some reason, are not biologically able to do so. Coupled with limited options in terms of adoption, which is potentially an avenue to create and build a family, choices are severely limited. We are witnessing more and more Australian couples with fertility issues who are

turning to surrogacy: the practice of a woman becoming pregnant with a child that may or not be genetically related to her, carrying the pregnancy and giving birth to the child for another family, who may then become the legal parents of the child.

It is a difficult process to navigate. It is wrought with the risk of exploitation for both the surrogate and intending parents, as well as inadequate protections for all involved. Due to it being such a difficult process to navigate in Australia, many couples are opting for international surrogate companies, only further complicating the process. Whilst exploring their options and having sought advice from local experts, many couples are recommended to international surrogacy agencies such as the Ukraine-based Lotus agency.

From SALRI's investigations and report, it is clear that that path is wrought with concerns which need to be addressed to ensure the wellbeing of the parties involved and the child to be born as a result of surrogacy. Take, for example, the Pitcher family who, through surrogacy, had twins born with bleeding on the brain. Their condition was found to be a direct result of poor treatment of the surrogate. It was an issue identified prior to birth, held up by the company's request for additional funds before initiating treatment on the surrogate and performing surgery on one of the children.

Looking closer to home is the Williams family from Adelaide. They made a complaint about the lack of care for their surrogate after the birth of their twins. Their surrogate was left without professional care after the birth. I quote, 'She was covered in blood.' We have seen countries overseas, such as India, recognise the risk faced due to the option of surrogacy without protections, as well as commercial surrogacy, that have introduced protections to allow only altruistic surrogacy. Even Sam Everingham, an Australian expert who is sponsored by Lotus, admits that the current process for families seeking surrogates overseas is difficult and has stated that intending parents will not receive the same level of care as they might in Australia.

More must be done to ensure protections for South Australian families. On that note, I thank the Hon. John Dawkins for the persistent and tireless work that he has invested in this matter. The honourable member initiated the conversation that had to happen, which allowed for the previous Labor government to inquire into a suitable regulatory framework for surrogacy and the bill we are now presented with today: thank you. I sincerely hope we can see this through.

I would also like to thank SALRI for the enormous contributions made in terms of examining, conducting research and consulting widely with the community and interested parties on this issue. Their extensive investigations and recommendations have formed a solid foundation for this bill. The bill before us today sets out what will be considered to be a lawful surrogacy arrangement. The arrangement will entitle intending parents to apply to the Youth Court for a transfer of parentage of the child.

Consistent with the current scheme, the paramount consideration will be for the best interests of the child born as a result of the surrogacy arrangement. It will:

- provide the birth mother with rights, where the transfer can only occur with consent;
- increase the age required of parties to a surrogacy agreement from 18 to 25 years;
- make clearer provision for compensating surrogates for loss of income;
- provide less complexity with fertility requirements; and
- implement the SALRI recommendations of accommodating cross-jurisdictional service provisions.

It will also be important to ensure that all parties are provided with counselling services that enable full and independent consideration of the implications of the arrangement so that informed decisions are made.

This bill strikes a good balance in terms of regulation, incorporating the views of the community and taking into consideration cross-jurisdictional complexities. I believe it goes a long way to help ensure that a surrogate is not disadvantaged by the surrogacy, without allowing her to profit from it, with the interests of the child being paramount. It is about removing any element of profiteering in the process, protecting all parties to a surrogacy.

Importantly, this does not in any way support or condone commercial surrogacy, which has been heavily associated with exploitation of women and intending parents, as well as endangering the wellbeing and welfare of children and, at times, surrogates. In fact, this bill creates an offence for parties who enter into a commercial surrogacy agreement, with up to 12 months' imprisonment.

Presently, there are no protections in place in relation to surrogacy agreements. Furthermore, it will be an offence to advertise commercial surrogacy services or to advertise a willingness to enter a commercial surrogacy agreement. I cannot stress enough that the rights of all concerned, and the children born of surrogacy, should be paramount when deciding this bill.

Only last sitting we revised and passed a bill with respect to reproductive rights, recognising the link between record keeping and the health of a child, and that by doing so we are able to improve the communications we have with health professionals, which can contribute greatly to proactive treatment before a condition becomes a problem. It was an area that we as the Labor Party recognised needed improvement and initiated steps to review the ethical, social and legal issues that have been raised and debated in relation to assisted reproductive treatment.

It found that a central donor conception register would greatly assist the welfare of any child to be born because of the provision of assisted reproductive treatment. When reviewing this bill I believe it is important to ensure that we are consistent in our lawmaking endeavours and have regard to previous immediate legislation passed. It is for this reason that I am pleased to have seen the Hon. Connie Bonaros' amendments, which will go a long way to preventing some of the tribulations experienced in that area.

The fact remains that for some surrogacy is the only option available to individuals and couples who wish to start a family, for varying reasons as I have noted. It is a practice that is already occurring, with it being predicted that there are somewhere between 250 and 700 surrogacies in Australia. We have a responsibility to: firstly, ensure the safety of the child to be born as a paramount concern; secondly, to ensure that there are adequate supports and services available to the individual or couple, just as any other individual or couple is afforded; and, thirdly, that the practice is free from exploitation and profiteering. For those in this place who may have the argument that this is a matter for the federal government, I remind you of SALRI's second recommendation:

> SALRI recommends that, in light of the likely delay of uniform (or at least consistent) national laws being developed, South Australia should, as far as practicable, revise its laws in relation to surrogacy until national laws are formulated, to ensure the State's laws are as effective as possible.

It is for these reasons that I support this bill.

The Hon. E.S. BOURKE (17:00): For some, parenthood may have come about by surprise and, for others, it may have been through months or years of planning, and perhaps not planned at all. For some, the social and emotional impact of conceiving a child might be significant and may never eventuate. The latter is a journey I know many people would hope would not be their path but there are many variables that might come into play, from the risk that becoming a parent or giving birth to a child will result in physical harm to gender identity and sexuality.

However, surrogacy reforms proposed by this bill might provide another path and, more importantly, a choice that will help support individuals and couples on their journey to parenthood. Many have acknowledged during the debate, both in this house and the other place, any reforms to surrogacy attract strong emotional and often conflicting views. Again, this was the case when this bill was debated recently in the other place—a debate that highlighted the very real complexities surrounding building legislative reform that is able to accommodate the vastly varying circumstances that individuals and couples will be confronted with when considering surrogacy as an option to parenthood.

While there are many complexities and varying paths that will be taken in surrogacy, I support appropriate legislative reform that protects both the surrogate mother and her partner, and indeed the parent or parents, to ensure all parties have considered and are aware of the personal and legal steps towards lawful surrogacy. I have mentioned before in this place that, when considering complex matters like surrogacy, I feel it is important as legislators to establish an appropriate framework, not just through government regulations but through legislation.

I feel this bill has taken considered steps in addressing this guiding principle by ensuring the intended parents and surrogates have the information they need to make an informed choice about their surrogacy journey by setting out parameters of what must not be agreed to and what can be agreed to, whilst giving some flexibility to individuals by not requiring the government to take a direct and ongoing role in the establishment and maintenance of individual agreements.

The bill before us is giving hopeful parents and surrogate mothers the tools to guide them so that they can establish an agreement that supports their journey and above all protects the best interests of a child born as a result of surrogacy. It is at this point that I would like to acknowledge the work undertaken by the South Australian Law Reform Institute for their undertaking of the legislative framework review of part 2B of the Family Relationships Act, which was published in October 2018.

I acknowledge director John Williams and his team for their invaluable contribution to bring together this report, which was requested by the former attorney-general, the Hon. John Rau. I would also like to thank, as does SALRI's report, the many individuals who shared deeply personal and often painful accounts of their experience during the submission stage of this report. I would also like to recognise the longstanding commitment of the Hon. John Dawkins in calling for surrogacy reforms and the member for Bragg, the Hon. Vickie Chapman, the Attorney-General, for introducing this bill in another place.

I feel the report compiled by SALRI provides a comprehensive list of recommendations on the best lawful surrogacy practices and legislative reform to protect the community from unlawful commercial surrogacy, and I note the bill before the parliament reflects a vast majority of the recommendations put forward by SALRI, an outcome that is a credit to the SALRI team.

There is no greater gift than the gift of life, and that is what this bill is based on. In its truest meaning, surrogacy is required by this bill to be a gift, a gift of life. This bill prohibits commercial surrogacy through preventing the exchange of payment in any form to the surrogate mother, an intended parent or any other person or body except to ensure that a surrogate mother is not financially disadvantaged as a result of her involvement in a lawful surrogacy agreement.

This support includes the intended parent or parents covering costs relating to the pregnancy, the birth, postnatal care of a child, medical counselling and legal services during the surrogacy journey. Importantly, the bill calls for qualified counselling to be provided in assisting the surrogate mother, her partner and intended parent or parents to support them before, during and after the surrogacy journey.

However, counselling is not the only step taken to establish support before surrogate mothers and intended parents take steps towards a lawful surrogacy agreement. Many requirements are detailed within this bill to help protect all parties from exploitation before an agreement is made and, importantly, ensure that the child's best interests are paramount. A lawful surrogacy agreement must comply with many provisions, including but not limited to:

- a requirement for all parties to obtain a lawyer's certificate in respect of a surrogate mother and each intended parent;
- that all parties are to be over the age of 25 at the time of entering a lawful agreement;
- that the surrogate mother must not have impaired decision-making capacity in respect to the decision to enter a lawful agreement; and
- all parties involved must be Australian citizens or permanent residents of Australia.

To further protect surrogate mothers and intended parents this bill sets out what constitutes an unlawful commercial agreement to further ensure all parties are protected, including:

- if one is to seek a commercial agreement, a maximum penalty is applied of up to 12 months' imprisonment;
- inducing a person to enter a surrogacy agreement through harm or undue influence attracts a maximum penalty of imprisonment of up to five years; and

- among other penalties, it makes it an offence to arrange or negotiate a surrogacy agreement on behalf of another.

While this bill covers many areas, I call on the government to reflect on the recommendation outlined in the SALRI report that highlights the need for regulation and for relevant professional organisations to provide comprehensive, reliable and impartial advice to all parties about surrogacy and its various implications through a state-funded website, and to continue to pursue any discussions to work towards a uniform national scheme. This is a highlight to work towards because, as we know only too well in this place, any national surrogacy framework will be a long time in the making, but it is a process that should not be overlooked or allowed to slip off the agenda.

As I mentioned earlier, there is no greater gift than the gift of life. I hope this bill provides a safe and supportive framework to give the gift of parenthood to South Australians who choose to take surrogacy as their journey.

The Hon. T.A. FRANKS (17:09): I rise on behalf of the Greens to support this bill. The Surrogacy Bill 2019 repeals part 2B of the Family Relationships Act 1975 and creates a standalone act to recognise and regulate certain forms of surrogacy in our state.

Surrogacy, of course, refers to an arrangement for a woman to become pregnant and give birth to a child for another couple or a single person with the intention of giving that child to the couple or the person once the child is born. People turn to surrogacy as a means to have a family for a variety of reasons, and many women are very happy to act as a surrogate. I am glad that, with this standalone bill, we will be supporting those families in those choices.

Those women have an absolutely inspirational gift to give, as the Hon. Emily Bourke just mentioned, to help others experience the joys of parenthood and family. Some women may have finished having their own families while others may decide to continue to have more children in their own future. There is no one size fits all for surrogates. I note that research carried out by the Family and Child Psychology Research Centre at City University in London between 2002 and 2006 found that, overwhelmingly, surrogates have little difficulty handing the child they have carried back to the intended parents.

Contemporary media about surrogacy often focuses on the problems and the challenges, and it might make good midday movie viewing, but it actually bears little resemblance to reality and the statistics. The majority of surrogacy arrangements end without issue, with both the intending parents and the surrogate completing their journey together and feeling satisfied and fulfilled.

This bill has had a very long gestation before it came to us today. I am pleased that it at least has the current decade in its title. At this point, I acknowledge the work of the Hon. John Dawkins in well over my just under a decade here. Indeed, the very first phone call I ever received from the Hon. John Dawkins was about surrogacy and possibly supporting that aforementioned work of the Social Development Committee, and there have been many other phone calls since that time.

I was incredibly disappointed in the last parliament that we did not progress the work on surrogacy as we should have, that the legislation that passed this place was not given due consideration in the other place, that these issues were left to languish and that previous members of the other place said to particular constituents that perhaps God did not want them to have children or that they had not seen the bill on the *Notice Paper* when they were in the position of whip in the other place. They seemed to have an extraordinary range of 'my dog ate the homework' excuses for why we could not finish the job that was started so long ago, but we are here today to finish this job.

In very late 2017, after Christmas Day, the South Australian Law Reform Institute was asked by the former attorney-general to inquire into and report on the law regulating surrogacy in South Australia and to suggest a suitable regulatory framework for surrogacy in our state. That referral to SALRI for proper investigation and recommendations for reform, based on best practice in this area and with the guidance of course of other jurisdictions—one of the benefits of lagging is that we have the benefit of learning from those who have led—ensures that we have an effective, modern and appropriate reform for surrogacy in South Australia.

SALRI presented that report to government on 30 October 2018. That report made some 69 recommendations, including a recommendation for a standalone surrogacy act, which we are

seeing realised here today. South Australia should be very grateful for the work of SALRI and, in particular, I commend the work of Professor John Williams, Dr David Plater, Dr Sarah Moulds, Ms Madeleine Thompson, Anita Brunacci and the entire team there, including the students, who have worked tirelessly on this project. They brought back to our parliament a very worthy effort, and we certainly owe them a debt.

We do not owe a debt, however, to those who have ignored, delayed, obfuscated and demeaned the lives of those who seek laws to support families in all their diversities. While political games have been played behind the scenes, biological clocks have been ticking. In my own group of friends, I know people who have undertaken surrogacy within this time where the parliament has dragged its feet and moved at a glacial pace, completely in spite of the needs and the lives of those members of our community. I am glad today that we are putting the needs of those members of our community to the fore, for a change.

In this case, the SALRI referral demanded extensive work, and that a draft bill was prepared in accordance with the recommendations of SALRI and duly tabled in parliament late last year for public consultation and feedback are very welcome innovations of the Marshall government. They have all taken place and we have before us now a bill. The Marshall government has afforded this debate precious government time.

Previously, these matters have been left to languish in private members' business time only, strangled, constrained, consumed and gazumped by other motions, often in their own way somewhat worthwhile but often distraction and diversion tactics used to stop these particular debates ever seeing the light of day and getting to a vote of the members of this place, when that is in fact our job—to vote in this place.

Surrogacy, as is noted by SALRI, does raise ethical, legal and other sensitive and personal issues and implications. Commercial surrogacy, where a fee is charged for carrying the pregnancy and delivering the child, will remain unlawful under this bill, as it is in Australia. This is a position that is reflected right across our nation. That is not to say that we have not had commercial surrogacy arrangements entered into outside our shores by those who are resident in our nation, because we have. The system provided by this bill will enable domestic non-commercial surrogacy, where no fee is charged but, appropriately, various medical or other costs may be recovered, to finally get the legal recognition it deserves.

Specifically, the bill has a set of guiding principles, including that the best interests of any child born as a result of lawful surrogacy is the primary consideration in the administration and the operation of this act; that the human rights of all parties to a lawful surrogacy agreement, including any child born as a result of the agreement, must be respected; and that the surrogate mother, under a lawful surrogacy agreement, should not be financially disadvantaged as a result of her involvement.

It also requires the age of all parties to surrogacy agreements to be 25 or older, and allows easier access to surrogacy agreements in which neither intending parent provides the genetic material. It makes clearer provisions for the payment of reasonable surrogacy costs, including compensating surrogates for loss of income. It provides less complex fertility requirements that include same-sex couples and single intending parents.

It requires surrogates and intending parents to provide each other with a criminal history check prior to entering the agreement, it implements the SALRI recommendations of accommodating that cross-jurisdictional service provision by removing the requirements for fertility treatment to take place in South Australia, as well as allowing interstate lawyers and counsellors to fulfil advisory functions under the bill, and it maintains that existing protection, including the requirement for all parties to obtain counselling.

It has been well over 10 years, as I mentioned. It really is our job in this place to best serve our constituents and our communities, and here today we are doing that—not just those who often have the loudest voices in this place but all voices and the diversity of members of our community and members of the state of South Australia. Today, we do a great service, I think, to people who have for too long been ignored, been stymied and had their lives treated as if they are not important. Today, we will show them that we do believe that they are important, with the passage of this bill. I commend the bill to the council.

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

At 17:20 the council adjourned until Wednesday 30 October 2019 at 14:15.

Answers to Questions

OODNADATTA, CLEAN WATER

150 The Hon. K.J. MAHER (Leader of the Opposition) (26 September 2019). Can the Minister for Environment and Water advise:

1. What is being done to ensure that Oodnadatta has clean drinking water following one of the driest winters on record?

2. If the minister is aware that children in Oodnadatta are being forced to use bore water to brush their teeth which is causing gum disease, their teeth to fall out and, in the past, has caused permanent disabilities to people who worked in Oodnadatta? What is being done about this?

3. Why the people of Oodnadatta are expected to pay tens of thousands of dollars per person each year for access to clean drinking water, given that the small desalination plant that opened in July was presented as 'delivering drinkable water in outback SA' at a cost of $4 per 20L of water?

4. If the government is trucking drinking water to Oodnadatta, how regularly that is occurring, how much does it cost and who is paying for it?

5. If it is the policy of SA Water to allow towns or communities that rely on local catchments and groundwater to simply go without clean water when these sources cannot provide enough usable water?

6. If SA Water has a plan to mitigate the risk of remote towns and communities running out of water as South Australia's climate changes?

The Hon. J.M.A. LENSINK (Minister for Human Services): The Department for Environment and Water has advised that:

Oodnadatta is under the jurisdiction of the Outback Areas Community Authority (OCA). The OCA was established to act as a third tier of government for the purposes of receiving and administering funding for 36 remote communities, and to manage the provision of, and promote improvements in, public services and facilities for outback communities.

It is understood that the OCA installed a small reverse osmosis desalination plant and is responsible for the provision of drinking water stations in Oodnadatta. The water stations are coin operated, with their intended purpose being the provision of a drinking water supply to tourists passing through the town, and not to be a primary source of drinking water to the local community.

I am advised that SA Water has not carted any drinking water to Oodnadatta since 2013.

Oodnadatta is one of 19 non-drinking systems operated by SA Water, where the water supplied to the township is deemed unsuitable for drinking as it does not meet Australian Drinking Water Quality Guideline (ADWG) criteria. Operation of non-drinking systems such as that at Oodnadatta are governed by the Water Industry Act 2012.

As a public corporation, subject to economic regulation by the Essential Services Commission of South Australia (ESCOSA), and consistent with National Water Initiative Pricing Principles developed by the Australian government and state and territory governments in 2010, a general principle is applied to the provision of infrastructure and services whereby the end user, or main beneficiary pays.

I am advised that under current and previous governments SA Water has investigated a range of possible options for upgrading the Oodnadatta water supply over recent years, with each requiring considerable financial investment.

Residents of Oodnadatta are regularly advised by SA Water that the water supply is not suitable for drinking or brushing of teeth. None of the parameters associated with gum disease, tooth loss or permanent disability are present in the water if ingested.

I understand that SA Water is proposing to upgrade a number of non-drinking supplies in regional areas to a drinking water standard as part of its 2020-24 regulatory submission to ESCOSA. SA Water anticipates receiving advice from ESCOSA on whether expenditure on upgrading these supplies is approved to be undertaken in the next regulatory period in early to mid-2020.

SCISSOR LIFTS

In reply to **the Hon. T.A. FRANKS** (10 September 2019).

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

From January 2019 to 30 June 2019, SafeWork SA undertook an elevating work platform (EWP) audit campaign as a measure to address these concerns. The audit campaign covered multiple industries and reviewed the safety of EWPs over three metres high. Two-hundred-and-thirty-four audits were undertaken, and 66 improvement notices and 21 prohibition notices were issued to persons conducting a business or undertaking (PCBU).

The focus of the audit campaign was to measure and achieve compliance with the Work Health and Safety Act 2012 (SA) and the Work Health and Safety Regulations 2012 (SA), with inspectors specifically assessing whether:

- information for the operation and use of the EWP is available to the operator;
- maintenance records are kept and are up to date;
- operators are competent and where necessary, licensed;
- safety equipment and administrative controls are available, used and maintained;
- operational controls are clearly marked and in good working order;
- emergency controls are visible and operational;
- where the EWP is for hire, that the hirer ensures the above; and
- the EWP is used in suitable locations and on suitable surfaces.

The identified outcomes of the audit campaign were to:

- identify EWP work health and safety noncompliance for PCBUs and EWP licence holders and issue appropriate sanctions where required;
- educate PCBUs and EWP licence holders on the safe use of EWPs; and
- ensure PCBUs have appropriate safe systems of work in place to protect and educate workers on their responsibilities when working with EWPs to ensure their own safety and the safety of their co-workers.

As part of the campaign, PCBUs and EWP operators were also invited to provide their views on the state Coroner's recommendations contained within the inquest findings in relation to the death of Mr Jorge Castillo-Riffo.

SafeWork SA has now provided a report on the audit outcomes to me for noting. A copy of the report is due to be published on SafeWork SA's website in October 2019.

DUBAI TRADE AND INVESTMENT OFFICE

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (25 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised that:

Remuneration will be negotiated with the preferred candidate. The Regional Director will be appointed by Austrade on behalf of the South Australian Government, and as such, Austrade policies prohibit the public release of remuneration details.

The Department for Trade, Tourism and Investment and the regional director will determine the ongoing staffing requirements of the office.

AUSTRALIAN MASTERS GAMES

In reply to **the Hon. M.C. PARNELL** (26 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised that:

The South Australian Tourism Commission (SATC) provided the following information to the Australian Masters Games (AMG) event organisers, based on information received from the Department of Planning, Transport and Infrastructure (DPTI) in regard to the process for seeking a reduction in public transport costs for event participants.

For similar type of events, DPTI has offered unlimited free transport for the duration of the event on Adelaide Metro bus, train and tram services for more than $20 plus GST per participant. This fee is usually included in the accreditation package purchased by the participants taking part in the event. Participants simply display the event accreditation pass to access the free transport.

The event organisers can write to the Minister for Transport, Infrastructure, Local Government and Planning, Hon. Stephan Knoll MP, requesting free travel for the duration of the event for AMG participants. The letter should contain details of the event, how many participants, dates, etc., and also advise that the SATC through Events South Australia is a major sponsor. Minister Knoll's contact details were provided to the event organisers.

The event organisers did not request further assistance from SATC on receipt of the above information and they have since advised that they did not proceed down either of the above paths.

SAFEWORK SA

In reply to **the Hon. I.K. HUNTER** (26 September 2019).

The Hon. R.I. LUCAS (Treasurer): I have been provided the following advice:

1. SafeWork SA has advised that there is not a mandated time for responding to incidents within the work health and safety legislation. SafeWork SA has a triage procedure that is used for all matters notified to it. Matters are assessed and prioritised into the following categories:

- critical event (respond as soon as practicable)

- same day service (attend on the same working day)
- routine matter (within 5 days)
- administrative matter (address via a telephone call or letter).

2. I understand SafeWork SA triaged the matter in accordance with its triage procedure. I am advised that within approximately 30 minutes of SafeWork SA receiving notification of this incident, SafeWork SA had called the PCBU to obtain further information. I am further advised that SafeWork SA inspectors and an investigator arrived at the site at approximately 10am, just under one and a half hours from when the notification was made.

APY EXECUTIVE BOARD

In reply to **the Hon. T.A. FRANKS** (26 September 2019).

The Hon. R.I. LUCAS (Treasurer): The Premier has advised the following:

1. Questions about legal costs incurred by APY are a matter for the APY Executive Board to address.

2. No state government money has been used to fund recent APY legal cases.

3. The Aboriginal Affairs and Reconciliation Division of my department has not diverted any funds to essential services as a result of these legal costs.

4. Questions about legal costs personally incurred by Richard King are a matter for the Executive Board to address.

5. Questions about operational matters such as this are most appropriately directed to the Executive Board.

COMMONWEALTH BANK OF AUSTRALIA

In reply to **the Hon. C.M. SCRIVEN** (17 October 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I met with Ms Julie Hunter, General Manager, Government and ADI's, and Mr Alexander Polson, Manager, Royal Commission, at the Commonwealth Bank Group head office.