LEGISLATIVE COUNCIL

Thursday, 31 October 2019

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 11:00 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Bills

LANDSCAPE SOUTH AUSTRALIA BILL

Conference

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

SITTINGS AND BUSINESS

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

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

Motion carried.

Bills

SURROGACY BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 October 2019.)

The Hon. C. BONAROS (11:02): I rise to speak in support of the Surrogacy Bill, which I note is a conscience vote for our party and other parties. The best role I have ever had is that of mum to my little boy. He came later in life and is all that much more loved because of it. I can only imagine the heartache that many people feel in not being able to be parents, despite desperately wanting a child to love, protect and raise. I empathise with them and trust that the bill will provide another path to parenthood for those who are able to pursue altruistic surrogacy.

At the outset, I want to thank the Hon. John Dawkins for his tireless work in this area. He has demonstrated impeccable strength, tenacity and resolve in advocating on the issue of surrogacy for many, many years. It is wonderful to see the results of that work in this bill. The Hon. John Dawkins first took up the issue some 14 years ago, as I understand. The first private members' bill was examined by the Social Development Committee and resulted in a revised bill presented in 2008. Despite long delays, it passed the House of Assembly in 2009.

In 2015, the honourable member brought in another bill dealing with surrogacy, in response to emerging issues surrounding surrogacy here and abroad, and with the assistance of the Hon. Ian Hunter a compromise bill was passed in this chamber. The Hon. John Dawkins' commitment to this issue stands as an inspiring example of advocating for what you believe in and never wavering, while others around you catch up.

I also want to thank SALRI for its analysis of existing legislation with respect to surrogacy, after it was tasked to do so by the former attorney-general, John Rau. It is SALRI's research, consultation and ultimate recommendations which form the backbone for this bill. As members would

know, the bill retains the basic structure of the current scheme operating in South Australia but for the first time is a standalone bill that makes significant changes to surrogacy laws. It provides a framework for the creation of lawful or altruistic surrogacy agreements and sets out what is considered to be a lawful surrogacy arrangement.

A lawful surrogacy arrangement is unenforceable except for its financial arrangements. However, the intending parents may, by application to the Youth Court, apply for transfer of parentage of the child. Importantly, the bill establishes a number of crucial safeguards for those entering into surrogacy agreements. Consistent with the current scheme, the paramount consideration will be the best interests of the child born as a result of the surrogacy arrangement, and I will turn to that paramountcy principle a little later.

We know the bill will provide the birth mother with rights. The transfer can only occur with consent. The bill will increase the age required of parties to a surrogacy agreement from 18 to 25 years, make a 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 provides for all parties to be provided with counselling services so that they can fully and independently consider the implications of the arrangement and make a fully informed decision. It expands on the cohort of people who can be intending parents, including same-sex couples, to finally include them as single individuals. It creates an offence of advertising for commercial surrogacy services or advertising willingness to enter into a commercial surrogacy arrangement, and it creates an offence with the effect that commercial surrogacy arrangements are illegal and those entering those sorts of arrangements will attract the maximum penalty of 12 months' imprisonment.

I have to say, in relation to that last point, I do have some concerns as to how the bill will be implemented in reality with respect to intending parents if the paramountcy principle is to be upheld. Placing a child's parent in prison for 12 months for having entered into a commercial surrogacy arrangement I do not think is in the child's best interests, so I think that is one aspect of the legislation that we ought to be monitoring closely. Providing the penalty is one thing, acting as a deterrent, but if indeed it does turn out that those sorts of arrangements are being entered into, then I think that is something we will need to consider in the context of the best interests of the child in question in any particular case.

On that point, it is just and appropriate that commercial surrogacy continue to be illegal. It is my view and the view of many academics and I am sure the view of many here that commercial surrogacy involves the commodification of both mothers and babies. The Hon. Irene Pnevmatikos highlighted several examples of commercial surrogacy occurring in overseas jurisdictions which resulted in poor antenatal care, poor birth outcomes and poor post-birth care for the surrogate.

I am familiar personally with an instance, after the changes to our immigration laws, that saw a family from Adelaide struggle to have a surrogate child brought to Australia because of the changes that we had here in our laws. I witnessed the anguish they went through after having gone down the path of finding a surrogate, going through a perfectly healthy pregnancy and a baby being born as the product of that, only to have difficulties in actually then bringing that child to Australia. I know the anguish they went through was tremendous. Luckily, it turned out well for them, but I think the point is that these things do not always turn out well. It also gives rise to issues of how we are treating women in other countries who are putting themselves in the position of acting as surrogates.

The bill gives the surrogate complete control over the entire process, which is just and reasonable, but the risk remains, which needs to be highlighted, that the surrogate mother may not relinquish the child to the intending parents or indeed that the intending parents do not want the child. These are very difficult scenarios to imagine, but I think it is important to note that they may occur, even in the rarest of cases.

There is much to applaud in this bill and, again, I thank all of those involved for their work. It has certainly taken a long time to get here. However, I note that there is also another outstanding issue which I have flagged, that of a donor conception register for South Australia for the many donor conceived people who desperately need it. In the last sitting week of parliament, we passed a private

member's bill in this place that recognised the crucial nexus between record keeping and the health of children born through donor conception.

While the bill had the support of the entire crossbench and the opposition, sadly the government did not support it, despite supporting its intent, and regrettably choosing not to engage with me on the bill when issues of time frames could have been easily cured. I remain deeply concerned that, despite the will of this chamber, that bill will not see the light of day in the other place. It is for that reason that I foreshadowed some amendments to this bill which would mandate the establishment of a donor conception register in South Australia by the minister.

At the very least, what I think we need to do, given that we are dealing with this bill as a conscience vote, is to force a conscience vote on the issue of a register for assisted reproductive technology. That is the intention of those amendments. I thank the Hon. Irene Pnevmatikos for her comments during her second reading contribution to the bill, and also to the Surrogacy Bill, in terms of the importance of establishing and maintaining a donor conception register.

I note that the Hon. John Dawkins made reference in his contribution the other day that he had only just become aware of my amendments. They were filed on Tuesday of last week and were subsequently refiled yesterday in a streamlined form so as to only proceed with the amendment requiring the minister to establish a donor conception register—nothing more. The only requirement will be, and the only impact of those amendments will be, that the minister establish a register. What happens from there is completely and utterly in the minister' hands and, in fact, in the government's hands. I thank the Clerk for his diligence in assessing the amendments and providing advice to the same.

I want to refer to some of the comments that were made in relation to the delays with this bill. Again, the Hon. John Dawkins spoke in his contribution of not delaying the bill because biological clocks are ticking. I could not agree more that biological clocks are ticking but I have to say there are a number of ticking time bombs in donor conceived people in this state who are carrying hereditary diseases they do not know about because they cannot access information about their donor parentage in the absence of a centralised donor conception register.

The Assisted Reproductive Treatment Act 1988 and the Surrogacy Bill both speak of the paramountcy principle that the best interests of the child are the paramount consideration. If we are truly genuine about giving effect to that paramountcy principle, we must set up a donor conception register because donor conceived people have also waited long enough.

Dr Sonia Allan has already provided us with the blueprint for the lowest cost model. She has described the current situation as a lottery determined by the time and place of the gamete donation or ART donation conception. It is, in my view, quite perverse that some third parties can see information sought by donor conceived people but are then able to withhold such information from the person who is impacted the most. Decades are passing for donor conceived children, and donor parents are dying never being able to meet their offspring if, indeed, that is their intention.

At the forum on the establishment of the donor conception register in the last week of sitting, there was not a dry eye in the house. Two donor conceived people had the courage to talk about their personal and very agonising stories. I was disappointed that we did not have any representation at the forum by the government because I thought it was an opportunity by the government to hear directly from those experts in the know but also from the very individuals who are so harshly impacted by the lack of a register in South Australia.

Katharine Dawson-Vowels spoke of her tortuous journey. She was conceived in Victoria, where she is able to gain access to VARTA, the standalone Victorian register, and she knows that her donor illegally donated to multiple clinics and that she may have up to 60 half-siblings that she does not know about—60 half-siblings. She knows that her donor has a mental disorder that may present in her or in her children one day. She also knows of two siblings in Victoria and of two siblings in South Australia, as her donor father's sperm was transferred illegally across the border. This is in excess of 65 half-siblings belonging to one person.

She found a half-sibling in South Australia by chance at a forum, as they looked almost identical. The perverse nature of the lack of a donor conception register has meant that in Katharine's

case her half-sibling is not allowed to find out the information that Katharine was able to access through VARTA in Victoria, because her half-sibling was born in SA. It really does make for tragic reading. They are heartbreaking stories and I cannot think of anyone who would be able to sit through and listen to the stories of Katharine or Reese or Damien and not be moved or touched by them, but also not want to do something about it, and that is what we have been trying to achieve.

Again, I appreciate the urgency in terms of proceeding with the bill. It is not my intention whatsoever to hold this bill up, but it is my intention to try to make this a conscience vote issue, not only for this chamber but for the other chamber, so that we can get a clear picture of where the government sits in relation to the establishment of an assisted reproductive technology register.

I make the point again that the amendments are limited to requiring the minister to establish a register. They do no more than that. The rest of that scheme will be completely in the government's hands. At the appropriate juncture, it is my intention, since we are considering a streamlining of surrogacy legislation that will make it easier for children to be born, oftentimes using donor gametes, that it is just and reasonable to consider equally the establishment of a donor conception register.

The PRESIDENT: The Hon. Ms Bonaros, do you have more to contribute to the second reading?

The Hon. C. BONAROS: I have finished.

The Hon. C.M. SCRIVEN (11:18): I think the issue of surrogacy is indeed very complicated. The heartbreak of infertile couples is hard for anyone to hear and hard for anyone to bear. The Hon. Ms Bonaros has outlined the complexity of the implications of surrogacy for those people who, for example, find that they have 60 or 65 half-siblings.

I have received a number of items of correspondence about this issue, with various types of arguments in favour of or against this bill. Some of those include a concern that surrogacy makes children a product that the proposed or intending parents have a right to. Another concern is that it potentially disconnects the child from one or both of their biological parents and deliberately denies the child's right to be brought up by their actual biological parents, or is a deliberate choice to raise children by single parents. I point out that the person who wrote this stated:

> It doesn't for a moment suggest that many single parents cannot and do not do a wonderful job of raising children. The difference is that most single parents have not chosen single parenthood; instead, it has come about through circumstance, such as a breakdown in a relationship, death of their spouse, or similar circumstances that were not sought.

In contrast, they say surrogacy as a means of creating a baby for a single person is deliberately intending that that child will have only one parent. On the other hand, the pain experienced by infertile couples is very real. The difficulties that couples have who are facing that circumstance is very real. Two other objections were made, one being that children are not commodities, and this person had the view that that was what was encouraged by surrogacy; and the final one was a feminist objection, saying that women are not baby-making machines and therefore should not be treated as such through surrogacy.

On the other hand, we need to face the fact that we have an existing situation of surrogacy and, in my view, this bill does make some improvements to the existing situation. I had a number of questions in regard to allowable costs which were not adequately answered at the briefing, nor in the follow-up information, and I will be asking for more information about that in this place. I think the information that the child has a right to know about their genetic parentage in terms of the points that the Hon. Ms Bonaros made are very valid and we should consider that very seriously when we are looking at the donor conception register.

One of the main parts of this which I think is worthy of note is that it insists that the best interests of the child must be paramount. Any bill that we look at in regard to the creation of children through things like surrogacy must ensure that the best interests of the child are paramount, and so that is certainly an advantage of this bill. As mentioned, I have a number of questions to ask at the committee stage which will inform the way that I ultimately vote on this bill, and I look forward to some further debate on those.

The Hon. J.M.A. LENSINK (Minister for Human Services) (11:22): I appreciate all the contributions that honourable members have made and look forward to the committee stage of the debate.

Bill read a second time.

The Hon. C. BONAROS (11:23): I move contingent notice of motion No. 2 standing in my name:

That it be an instruction of the committee of the whole on the bill that it have power to consider additional amendments to the Assisted Reproductive Treatment Act 1988 relating to the donor conception register.

The PRESIDENT: For the benefit of honourable members, the motion has been moved in accordance with standing order 422. As I understand it, and with some guidance from the Clerk, the clause that the Hon. Ms Bonaros is seeking for the committee of the whole to consider is related to the bill that is currently before the council but not in the order of reference of the bill; therefore, an instruction is required to give authority to the committee to consider this provision.

I think the provision seeks to amend the Assisted Reproductive Treatment Act and, whilst that is in the title, this clause, as I said, goes beyond the order of reference of the original bill. Members are entitled to speak on the motion. In other words, we can have a debate on this motion. As President, it would assist me if members could indicate their view, but it is not obligatory.

The Hon. C. BONAROS: I am simply going to refer to what I have just said in my second reading speech; that is, the amendment that I am proposing seeks to require the minister to establish a donor and to keep a donor conception register. It does nothing more than that. The legislation, as it currently reads, states that the minister may establish a register, or words to that effect. We have seen for a very long time that that has not actually occurred, so the intent of this amendment is to replace the word 'may' with 'must', in line with the bill that I moved in this place in the last sitting week, and make it a requirement that the minister keep the donor conception register.

The reasons for that have already been outlined. It is not my intention to hold up this bill, but it certainly is my intention to get an indication of where all government members sit in relation to this issue. I would say to my colleagues opposite, given the importance of what we are dealing with in this bill, that I am certainly hoping that, in this chamber and in the other chamber, individuals will be able to vote according to their conscience and that it will not go beyond that in terms of leading to any other sorts of delays in regard to the passage of this legislation.

However, I do think it is important, for the reasons that I have already outlined, that consideration be given to the requirement to establish a donor conception register. The rules around that will rest entirely with the minister. Everything will be in the government's hand as to how that occurs, but it will certainly now become a requirement that it be done, and that is what we are seeking to achieve.

The Hon. J.M.A. LENSINK (Minister for Human Services) (11:26): I rise to speak on behalf of the government, in particular on behalf of the Minister for Health and Wellbeing. The effect of this motion is to amend, through the bill, the Assisted Reproductive Treatment Act to require the establishment of a donor conception register. The amendments proposed by the honourable member seek to change the wording in section 15 to read 'must' instead of 'may'. In practice, this would force the Minister for Health and Wellbeing to establish and maintain a donor conception register. As such, it is consistent with the minister's previous comments that the government will not be supporting those amendments.

I think nobody disagrees with many of the comments made about the importance of people being able to identify their parentage, for a whole range of personal and health reasons. There is considerable work required to be undertaken in this space to ensure that the maintenance and provision of information is dealt with holistically and does not overlap with any requirements that already underpin our assisted reproductive services. Minister Wade himself has stated his support for donor conceived people to have access to their genetic history. This is important, as every child deserves to know their heritage.

Currently, a child's access to donor information depends on whether the donor was known or unknown. If the parents used a known donor, they are required to list the donor on the birth

registration statement, as per section 14(2) of the Births, Deaths and Marriages Registration Act 1996. This is the case for both clinic and, for want of a better word, do-it-yourself donor insemination and would cover known donors to a surrogacy arrangement.

Section 46(1a) of the Births, Deaths and Marriages Registration Act states that information about the biological parent (or donor) of a child under 18 cannot be released without the permission of the child's legal guardians. Therefore, children under the age of 18 can receive their known donor information with their parents' permission. The donor conceived person can also be provided the official record of their genetic parents when they reach the age of 18. If a donor conceived adult applies for their birth certificate, Births, Deaths and Marriages has a process whereby they issue a standard birth certificate and notify the person that further sensitive information is available.

For anonymous donors, the Assisted Reproductive Treatment Regulations 2010 provide that all ART clinics operating in South Australia must comply with the National Health and Medical Research Council Guidelines, which cover donor conception. These guidelines require the fertility clinic to collect and maintain identifying information and medical history about the donors, which must be provided to any children born from a donor's gametes once they reach the age of 18. The clinic may provide such information to a person under 18 if they determine that the person has sufficient wherewithal.

The PRESIDENT: Before we go on, can I help frame the debate. That is the government's position in relation to the amendment, which will be relevant to the debate itself in committee if this motion passes. I am not commenting on what the minister has said but, for the clarity of the chamber, we are voting on whether we consider this amendment in committee.

If you want it to be considered you would vote in the affirmative, and if you do not want it to be considered you would vote in the negative. I do not want to have a complete debate here about the amendment, although the considerations of the amendment are relevant to your decision. I am not sure I have made that any clearer, but I am doing my best to crystallise it. Minister, is the government's position not to support the motion?

The Hon. J.M.A. LENSINK: That is correct.

The PRESIDENT: Thank you. The Hon. Mr Dawkins, you were seeking the call?

The Hon. J.S.L. DAWKINS (11:30): Thank you for your advice, Mr President. If this motion proceeds, then I will make some comments at the relevant stage of the committee.

The PRESIDENT: Members will have an opportunity to debate the clause in detail if this motion passes.

The Hon. I.K. HUNTER (11:31): I indicate that I intend to support the Hon. Ms Bonaros's amendment.

The Hon. I. PNEVMATIKOS (11:31): I intend to support Ms Bonaros's amendment.

The Hon. T.A. FRANKS (11:31): For the clarity of the council, although there is some difficulty ascertaining numbers when we have a conscience vote—

The PRESIDENT: That is the burden the President will take.

The Hon. T.A. FRANKS: —I am certainly not averse to debating the issue. My position in support of the minister being compelled is already on record, as is the will of this council to support that. We had other amendments moved in the other place. I am certainly not averse to debating each and every amendment, if deemed relevant by the council, and in this case, with the advice of the Clerk, having provided a procedural way to get to this debate. I will support the debate.

The council divided on the motion:

Ayes 11
Noes..... 8
Majority..... 3

AYES

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

NOES

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

PAIRS

Ngo, T.T.	Wade, S.G.

Motion thus carried.

Committee Stage

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. C.M. SCRIVEN: I seek clarification as to how clause 6(1), 'The best interests of any child born as a result of a lawful surrogacy agreement is to be the paramount consideration', interacts with 7(1)(a), 'the human rights of all parties to a lawful surrogacy agreement'. I am seeking clarification as to which human rights are being addressed in the second one I mentioned, and how that interacts with the best interests of any child born.

The Hon. J.M.A. LENSINK: I will attempt to answer it from my understanding of this. In terms of the hierarchy of interests, the child comes first and I think that is inherent in clause 6(1). Also, if the honourable member examines clause 7(3), in relation to the surrogacy principles, which is what clause 7 is about, that subclause explicitly states that clause 6, in the hierarchy of interests, comes first.

The Hon. C.M. SCRIVEN: I am aware of that. I was seeking some clarification as to how in practice they might interact, and I appreciate that will only be an example but just to get a better understanding of the intent of the provisions.

The Hon. J.M.A. LENSINK: I think the honourable member is seeking some hypotheticals. I think that is possibly dangerous territory because trying to insert hypotheticals in this is not necessarily the real-world situation. It is for the parliament to determine the set of principles and the hierarchy, in which order they are, which I have clarified in my previous response. I am also advised that these particular clauses are consistent with the advice of SALRI.

Clause passed.

The Hon. C.M. SCRIVEN: My questions were related, that is why it was clauses 6 and 7. I do not have any further questions on clause 7.

Clauses 7 to 10 passed.

Clause 11.

The Hon. E.S. BOURKE: My question is in regard to paragraph (b). As discussed with the minister previously, I want to put on the record that I note the bill provides in clause 11(1)(b) that 'payments representing loss of income of a kind are set out in the regulations'. Yes, they will be done in the regulations, but I would like to put on the record that, considering the principles outlined in the

bill are to prohibit commercial surrogacy, I would like to make clear my personal thoughts: a need to reflect this principle when drafting the regulations and put in place protections for all parties, the surrogate mother, the intended parents and the child, which reflect these principles.

While I agree absolutely that it is essential to support the needs and reflect the generosity of a surrogate mother, I also feel we need to ensure that vulnerable intending parents are not placed in a situation where they feel compelled to pay for the loss of work, if this cannot be proven to be for medical purposes, as reflected in the SALRI report, recommendation 53G.

The Hon. J.M.A. LENSINK: I thank the honourable member for her questions and appreciate her raising these previously so that we had time to provide some consideration. The advice that I have received is that all these matters will be considered through the regulations. I also highlight that clause 10 provides that the agreements must be conducted with both parties having assistance from a lawyer and that the provisions are for reasonable costs, which I understand are things that are—I am going to freelance here; I will get kicked if I am wrong—well understood concepts within the legal framework.

The Hon. C.M. SCRIVEN: At the briefing that was held on the bill, I asked for clarification around paragraph (c) of the clause, which provides:

> any other payment of a kind relating to the lawful surrogacy agreement of a kind prescribed by the regulations.

It was undertaken that more information would be provided, as I understood it, of some examples, but the information that was sent through simply repeated that. Could I get some clarification on what type of additional payments would be included under this provision?

The Hon. J.M.A. LENSINK: The advice I have received is that there is not anything specific at this stage. The next stage from here is to consult with people who are well versed in this area and practice in this area and determine whether there are other areas that have not been identified. So those things will be considered prior to the drafting of the regulations.

The Hon. C.M. SCRIVEN: Thank you for the answer. I would just like to place on the record that I am uncomfortable with a general kind of any-other-payment statement being included in the legislation without any examples of what sort of things might be envisaged by that and notwithstanding that they will be subject to consultation before regulations are proposed, and they can be disallowed. I just want to place on the record my discomfort with that.

Clause passed.

Clauses 12 to 22 passed.

Clause 23.

The Hon. C. BONAROS: During my second reading contribution I mentioned that I had some concerns about the reality of intending parents entering into a commercial surrogacy arrangement where the outcome is a viable pregnancy, and the paramountcy principle being upheld in those cases. Does the government have any feedback in relation to what it anticipates will happen in scenarios where intending parents enter into a commercial agreement and then there are charges brought before parties, and how that will play out in terms of the paramountcy principle and the child's best interests? Is that something that will be covered in regulation or otherwise to ensure that in those sorts of instances, should they arise, the paramountcy principle will override other considerations?

The Hon. J.M.A. LENSINK: The advice that I have received is that it would not be appropriate for the parliament to give advice to the prosecuting authorities, such as police and the courts and so forth, but it would be subject to the standard guidelines that they operate under. Part of their consideration is also whether things are in the public interest and a whole range of matters that they would take into consideration.

The Hon. I. PNEVMATIKOS: A further point of clarification on that issue: what is the intention if parties are involved in a commercial surrogacy agreement prior to this legislation, if and when it passes? What is the status of that surrogacy arrangement in terms of the interests of all parties?

The Hon. J.M.A. LENSINK: The advice I have received is that it is not a retrospective provision, so it will only apply from when the legislation commences.

The Hon. I. PNEVMATIKOS: I appreciate that, but what about instances where the surrogacy agreement has been commenced but not completed and we have new laws in terms of surrogacy?

The Hon. J.M.A. LENSINK: I can only repeat my previous advice that it is not a retrospective provision and that, in terms of the agreement, it would depend on whether it was factually dependent, if that makes sense to you. You have a law degree, I do not.

The Hon. I. PNEVMATIKOS: Could I indicate that it would be useful that this issue is considered when drafting the regulations and that some of those possibilities be addressed?

The Hon. J.M.A. LENSINK: Yes, thank you. The honourable member's concerns are noted and will be considered.

The Hon. E.S. BOURKE: I would also like to support those concerns as well.

Clause passed.

Clauses 24 to 32 passed.

Schedule.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–2]—

Page 19, after line 34—Insert:

3A—Amendment of section 15—Donor conception register

(1) Section 15(1)—delete 'The Minister may' and substitute:

The Minister must

(2) Section 15(2)—delete 'If the Minister does keep the donor conception register, the register' and substitute:

The donor conception register

(3) Section 15(8)—delete subsection (8) and substitute:

(8) This section applies in relation to assisted reproductive treatment whether provided before or after the commencement of this section.

I will not speak to this for long, because I think I have already fleshed out the reasons for this amendment, but I would like to bring members' attention to clause 27 of the bill. That is in relation to the provision of information, etc., for the purposes of the Births, Deaths and Marriages Registration Act 1996. It reads:

Except as may be provided for in this Act, nothing in this Act affects the requirement of the parents of a child born as a result of a surrogacy agreement to have the child's birth registered under the Births, Deaths and Marriages Registration Act 1996.

As members would know, the details of anyone who is registered under that act enter a register, which is maintained by Births, Deaths and Marriages. Every birth in this jurisdiction, except for those that relate to donor conceived children, is monitored, maintained and collated through a government established and run register.

I make the point that even in this act, again what this highlights is that there is absolutely no reason why we ought to be creating or maintaining a second-class level of citizens when it comes to donor conceived children. They deserve exactly the same benefit that children born under this bill will be provided by virtue of clause 27.

The Hon. J.S.L. DAWKINS: I had hoped that today would see the conclusion of this legislation, and I am not sure that that will be the case if this amendment goes through, because it then means that it needs to go back to the House of Assembly, and the history of the progress of this legislation in the House of Assembly is not one that gives me fond memories. I hear that there is

goodwill about dealing with this, but we do know that in recent weeks people who had never shown any interest in this legislation suddenly showed interest and proceeded to delay its progress, and that is the bottom line for me.

The Hon. Ms Bonaros referred to my concern that I was not aware of the amendments until a couple of days ago. If they were on file, I had not been aware of that. I certainly would have expected that she might have spoken to me about that, and we have had some conversations about that since. I acknowledge that she has the best interests of people at heart, in situations that are not the regular things that happen to most people, and so in that sense I understand what she is trying to do.

I understand it well, because I have been doing that sort of thing for people who are not in regular situations for 14 years. We have been through the births, deaths and marriages issues and we have been through the issues of the other acts. We now have a standalone bill, but if it is the wish of this council today, then we are going to add something to a standalone bill that, in my view, does not deserve to be there. I think it is well placed that we consider these things. The Minister for Health and Wellbeing has given me a commitment, and I think he gave this parliament a commitment, that he is working on ways of that being done other than in this bill.

However, I have been a member of this chamber for over two decades and I am aware of the way that if it is the will of this place to support the Hon. Ms Bonaros, then the sooner it goes to the House of Assembly and the sooner it is dealt with the better, and I trust and hope that the people who say that they will not play games with this in the House of Assembly—as has been done before on many occasions—will not play games with it. I say that because there are people who, in recent times, have never shown any interest in this matter whatsoever, never taken the time to speak to me about it, but sought to delay, and some of those people, I think probably surprisingly, voted against the bill.

I do not wish to delay the chamber any further. I respect the wishes of the Hon. Ms Bonaros in trying to advance this matter for the people she is concerned about. It is not my inclination to support it because I think it is an addition to this bill which should not be there in my view. As I have said many times, if we can expedite it through the other place that is all well and good, but I have heard those things before.

We are getting closer to another Christmas and I was abjectly disappointed nearly two years ago when the government of the day did not fulfil its promise for the compromise bill that the Hon. Mr Hunter and I worked out with the then attorney-general, when that was left languishing in the early hours of the morning because certain members of the Labor Party removed their numbers from the chamber so that there was no quorum left to deal with it.

How do you think I felt, and how do you think all the supporters—the very quiet people out there—felt at the way that this legislation was treated on that occasion? I do not want to see another Christmas go past without this legislation intact.

The Hon. C.M. SCRIVEN: I have a question to the mover, or it may be somebody else who has greater experience in this place than myself: with the amendment in its current form, which simply says that the government must establish a register, is there a time frame for that? I think there is an automatic time frame if it is not accepted in the legislation; is that correct?

The Hon. C. BONAROS: That is correct. We have not set a different time frame, so the time frame would be two years. The government has two years within which to establish the register. Under the bill that I introduced previously, the time frame was four months. Obviously, that was subject to negotiation, which did not occur with the government, but in this instance there are two years within which to establish the register.

The Hon. D.G.E. HOOD: I am of a mind to support the amendment. It is a difficult one for most of us, I think, because a lot of these things are not clear-cut. However, my reasoning is simply that I am from a family—it is not surrogacy but a similar situation—where both my father and my wife are adopted and, therefore, we are not aware of their family history, if you like. These were back in the days of so-called closed adoptions. It has presented some challenges along the way, with respect to accessing medical histories in particular.

They are not insurmountable and they are not things that have been very significant issues for us, but I could imagine a circumstance where it could be very difficult for individuals if they were not able to access their medical history through their ancestry, for want of a better term. I am inclined to support the amendment on that basis. It is not an attempt to undermine the process. I am on record as not supporting the bill, and that has been the case for some time, but if this makes it easier for someone to access their records and therefore to have a smoother process then I am inclined to support the amendment.

The Hon. I. PNEVMATIKOS: I, too, support the amendment. I do not envisage that the amendment will result in considerable delays. I appreciate the concerns the Hon. Mr Dawkins has raised, but I think there is sufficient goodwill on this issue, in both houses, for us to see this through. I am not supporting the amendment to cause delays; I am supporting the amendment because I believe it will lead to a fairer bill.

The Hon. I.K. HUNTER: I find the Hon. Mr Dawkins incredibly persuasive in his arguments to us about this amendment, having had a similar experience with the lower house when dealing with this legislation in the past, with unwonted delays and obfuscation of the issue. In a cynical manner, that makes me want to side with the Hon. Mr Dawkins on this one. In the past, we have also experienced governments using the word 'may' in a way that I think thwarted the intentions of the parliament. So, on this occasion, I will be supporting the Hon. Ms Bonaros.

The Hon. E.S. BOURKE: I would like to echo the words of the Hon. Mr Hunter. I will be supporting the amendment.

The Hon. F. PANGALLO: I will be supporting the amendment. As my colleague the Hon. Connie Bonaros has pointed out, it is important to have this and to have it registered. The Hon. Dennis Hood has given us an example of why it should be there. I think it actually strengthens and improves the bill. I will be supporting it.

The Hon. J.M.A. LENSINK: When I spoke to the motion earlier, I outlined the reasons why the government has opposed it. I will not repeat those arguments, and I will be calling a divide.

The Hon. T.A. FRANKS: I am not as long in this place as the Hon. Ian Hunter, but I have had some of the same experiences. I remember the long history of this bill and, indeed, how the Labor whip in the other place, prior to the last election, played games with this very topic so that the will of the Legislative Council was not heard in full debate. Those reforms never saw the light of day in getting to a vote on that final day. As a result, I do not trust commitments from Labor whips in the other place.

I would like some certainty from Labor members that they will ensure that their party does not obfuscate this time. I have great sympathy for the position that the Hon. John Dawkins has put up, but I also have great sympathy for ensuring that this reform goes through. That is not to say, in any way, that I do not trust that the current health minister will make that happen. I believe that he will act.

However, I do remember that four Labor health ministers have been able to make this reform happen and have not done so. It is the Labor Party in this place that I do not trust. On this occasion, I will support the Hon. Connie Bonaros's amendment, and I will ask the Labor members of the present to ensure that their past practices are not repeated this time.

The committee divided on the amendment:

Ayes 12
Noes 7
Majority 5

AYES

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

NOES

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

PAIRS

Ngo, T.T.	Wade, S.G.

Amendment thus carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (12:18): I move:

That this bill be now read a third time.

The Hon. J.S.L. DAWKINS (12:19): At the risk of being against my own principles of not wanting to delay this bill, I hope that people might give me the courtesy of a minute or two. This has been a long haul over many years. I have only ever wished to advance the causes of people who wish to have surrogacy in South Australia. We have had one or two hurdles on the way.

The bottom line for today is that, while I still do not believe that we needed to do what the council has just done, I respect the wishes of the majority. It is a little bit like what I said the other day: does the bill have everything in it that I wanted? No, it does not, but it is pretty close to it, even with this addition. My only concern is that we do not get a delay, and I echo the comments of the Hon. Ms Franks and urge every member and my friends in the Labor Party to make sure that their colleagues do not do anything to delay this, because there has been a very long history to this legislation.

As I, hopefully, prepare to close my file on surrogacy, I would like to thank those in the great majority of people, whether they have wholeheartedly supported me on surrogacy or, in the case of some, have had reservations and have always had some reservations about all assisted reproductive technology but who have not run campaigns against me or undermined me. I appreciate that.

I have done only what I suppose I came here to do, and that is to assist people. I know that sometimes our friends in the other place believe we do not have constituents, but this issue, and all the work I have done on suicide prevention, has basically evolved from the fact that I have taken up the causes of constituents that have concerned me greatly. That is why I am very pleased this has gone through. I will have even greater gratitude and joy once we get a message back from the House of Assembly to say that we can get on with this.

With those words, I thank those who have supported me across the board. While I directed my comments to members of the Labor Party, there have been members of the Labor Party who have been with me right the way through on this, and I am not blanketing that, but there have been others who have obstructed me at every turn. I do not want that to continue. Thank you, Sir. I commend the bill to the house.

Bill read a third time and passed.

LAND ACQUISITION (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (12:24): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

The important Bill that I have introduced today amends the *Land Acquisition Act 1969.*

The Act governs the acquisitions of land by approved Authorities. Generally, this means a Government agency undertaking to acquire land for various road or infrastructure projects. A special Act of Parliament is required to authorise *compulsory* acquisitions of land, and the special Act also designates the relevant Authority for the purposes of the Act.

The Act outlines the procedures to be followed in acquisitions, and also provides statutory authority for compensation to be paid to persons whose properties are being acquired.

The Act is committed to the portfolio of the Attorney-General, however operationally the Department of Planning, Transport and Infrastructure (referred to here as DPTI) takes carriage of significant State land acquisitions affecting multiple parties for the purposes of delivering large scale infrastructure projects. Some examples here are the work undertaken on the Torrens to Torrens road project, or the Northern Expressway.

The amendments to the Act contained in the Bill have originated from several sources.

In 2015, the Parliamentary Select Committee on Compulsory Acquisitions of Properties for North-South Corridor Upgrade (which I'll refer to as the Select Committee) was formed to examine the compulsory acquisition of properties for the North-South Corridor under the former Labor Government. It handed down its report in June 2017.

Of the recommendations in the report, 6 were legislative. All legislative changes were accepted by the Government and recommended for implementation. There were also a number of non-legislative policy and operational changes recommended in the report. The majority of these policy related changes were either already part of DPTI's processes or have since been implemented at the Departmental level.

There are also a number of amendments in the Bill that address ongoing issues that commonly arise during land acquisitions, as well as significant amendments to clarify the position of the Act in relation to acquisitions of underground land.

The amendments arising out of the Select Committee recommendations are briefly as follows:

- Section 23(1) has been amended to require that both an Authority and claimant must negotiate in good faith during compensation negotiations.
- An amendment to oblige claimants to respond to an offer of compensation within 6 months of the date of acquisition. An additional provision has been added to allow a claimant to apply for an extension of the time to respond to the Authority. If no response is received, the offer reverts to the Authority and no longer accrues interest. The right to compensation is not affected by the reversion.
- An amendment to introduce a *solatium* payment to the compulsory acquisition process. A *solatium* payment compensates a person for non-financial disadvantage or loss resulting from the need to relocate the person's principal place of residence. This payment applies to residential owner occupiers who are losing their principal place of residence due to the acquisition. The payment will be 10% of the assessed Market Value of the property or $50,000, whichever is the lesser amount.
- An allowance of $10,000, payable in advance, to cover professional fees for claimants who own their properties has been introduced. The balance of any further reasonably incurred fees will be paid at the conclusion of a matter, however this will assist claimants with upfront fees (most likely to be legal fees). The dollar figure will be prescribed in the Regulations, but it is intended that it will be $10,000.
- Introduction of a compulsory settlement conference before court proceedings can be commenced. A conference must be convened if requested by the claimant, and must be held prior to court proceedings being commenced. The cost of the conference is to be borne by the Authority. An offence has been introduced if a person fails to follow a direction of the conference coordinator, with a maximum penalty of $2500. The qualifications of the conference coordinator will be prescribed.
- An amendment defining 'professional costs'. The current Act only deals with the payment of legal costs, however the inclusion of non-legal professional fees, such as property valuers and accountants, will provide guidance to these professional industries and any acquiring Authority to ensure that only reasonable fees are reimbursed. The full list of professional fees that can be reimbursed will be prescribed by regulation.

Other reforms include:

- The introduction of a valuer's conference, which must be held if requested by either party. This conference generally only involves the professional valuers for each party, and is intended to allow the valuers to address any factual issues involved in their respective property valuations. For example,

discrepancies in the boundaries of the property that has been valued, agreement on the value of fixtures etc. This conference occurs early in the process of compensation negotiations and is of great assistance in resolving factual issues.

- An amendment to require that compensation monies must be withdrawn from the Supreme Court Suitors' Fund within 24 months. The Suitors' Fund sits within the Supreme Court and is used to hold monies for litigants, in a similar manner to a trust account. If the monies are not withdrawn, they revert to the Authority and will no longer accrue interest. It does not affect the claimant's right to compensation.

- An amendment to allow offers of compensation to be varied up or down. Where offers are increased, the Bill allows for the excess to be paid directly to the claimant. If the Authority wishes to vary an offer down, they will be required to apply to the Court for an order to do so, with new information that was not previously known to the Authority.

- An amendment to provide that for parties with an interest not exceeding $10,000 (the dollar figure will be prescribed), payment can be made directly to the claimant without the requirement for monies to be paid into the Supreme Court Suitors' Fund. This amendment will save on administrative costs and time associated with withdrawing the money, leading to improved outcomes for the dispossessed tenants.

- An amendment has been introduced to allow the Authority to determine the rent to be paid by claimants if they remain on the premises following the expiry of the three-month grace period following acquisition. The rent must not exceed a reasonable market rate for the property.

- An amendment to expressly provide that the Authority can make a payment to a tenant whose interest in land is subject to acquisition, but is not readily able to be purchased by agreement prior to the acquisition. The Act does not currently allow payments to be made (for example) to tenants prior to the serving of a Notice of Acquisition except with an exemption being sought from Treasurer's Instructions. The issue generally arises when dealing with the holder of a subsidiary interest in land the subject of a Notice of Intention to Acquire. As the land has not yet been acquired, there is no damage and no compensation is payable under section 25 of the Act. This amendment will allow an Authority to negotiate and make a payment to an interest-holder in advance of the formal acquisition, paid on the same basis as for land which is compulsorily acquired. This allows for more flexibility in the process and would also allow easy claims to be finalised early on, providing more certainty for claimants.

- An amendment to place a statutory obligation on the landowner to disclose persons with an interest in the land and the nature of their interest. This will apply to both 'regular' acquisitions and underground acquisitions. DPTI have encountered issues in past acquisitions where landlords have refused to disclose the names and contact details of tenants, which can delay claims for an extended period of time. Often this has happened with unscrupulous landlords who have tenants paying cash and no registered bonds with Consumer and Business Services for residential tenancies, or who have too many tenants or are otherwise not complying with their legal obligations as landlord/proprietor. This amendment will ensure that landlords are obligated to supply the details of their tenants so that DPTI and other acquiring authorities can ensure compensation is paid to those that are properly entitled to it. A criminal offence with a maximum penalty of $5,000 has been introduced for a failure to provide this information without a reasonable excuse.

Finally, some of the most important amendments in the Bill relate to acquisitions of underground land. A new set of provisions will be inserted into the Act to clarify the position in relation to compensation for underground acquisitions, and create a modified procedure for dealing with underground acquisitions. The Act is currently silent on the question of compensation for underground acquisitions, which causes legal and operational confusion.

In South Australia, landowners also own the underground parts of their land with no limit as to depth, and therefore an acquisition needs to take place in order to tunnel under private property, but it is not always necessary to acquire the surface land and structures.

The Act will be amended to provide that no compensation will be payable for underground acquisitions, as landowners will not suffer any detriment or loss of enjoyment of their land.

A modified notification procedure has also been created, removing the need for DPTI to serve a Notice of Intention to Acquire. A Notice of Acquisition will instead be served at the time of acquisition. This will apply only where the underground part of the land will be acquired.

New South Wales and Western Australia all have provisions in their equivalent legislation that provides that no compensation is payable for underground acquisitions, and therefore the new provisions in our Act are in keeping with the position in other jurisdictions.

The amendments that relate to underground acquisitions are vital for the next stages of the Government's North-South Corridor infrastructure projects. Clarification of the procedures for underground acquisitions allows the Government to explore options for the remaining sections of the Corridor that involve tunnelling, which allows the possibility of vastly improving road infrastructure with a minimum of disturbance in built-up urban areas.

I commend the Bill to Members and I seek leave to insert the Explanation of Clauses in *Hansard* without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Land Acquisition Act 1969

4—Amendment of section 6—Interpretation

This clause amends the definition of *compensation* to provide that payments made under Part 4 Division 4 (other payments inserted by this Bill) do not constitute compensation for the purposes of the Act.

5—Amendment of section 7—Application

This clause puts beyond doubt that a special Act that authorises the compulsory acquisition of land will be taken to authorise the acquisition of underground land.

6—Amendment of section 10—Notice of intention to acquire land

This clause removes the requirement that a notice of amendment be served in the same way as the notice of intention to acquire the land. It also clarifies that a notice of amendment does not constitute a new notice of intention to acquire land for the purposes of the Act.

7—Insertion of section 10A

This clause imposes an obligation on an owner of land who is given a notice of intention to acquire land to notify the Authority of any other person who, to the owner's knowledge, has an interest in the land to which the notice of intention to acquire land relates, and the nature of that interest.

8—Amendment of section 12A—Right of review

This clause extends the period in which the South Australian Civil and Administrative Tribunal has to complete its proceedings from 14 days to 21 days.

9—Amendment of section 15—Acquisition by agreement etc

This clause removes the requirement that a notice of a decision not to proceed with acquisition be served in the same way as the notice of intention to acquire the land.

10—Amendment of section 16—Notice of acquisition

This clause changes the time period after which the Authority may publish a notice of acquisition in relation to land from being 3 months after the last occasion on which a notice of intention to acquire land was given to 3 months after the first occasion on which any notice of intention to acquire land was given.

11—Substitution of heading to Part 4

This clause amends the heading to Part 4 to include reference to other payments contained in inserted Part 4 Division 4.

12—Amendment of section 22B—Entitlement to compensation

This clause amends section 22B to provide that only persons with an interest in land that is capable of alienation are entitled to compensation. This requirement has not been extended to interests consisting of native title.

13—Amendment of section 23—Negotiation of compensation

Section 23(1) currently provides that the Authority must negotiate in good faith in relation to compensation. This clause broadens subsection (1) by providing that claimants must also negotiate in good faith.

This clause also introduces a valuers conference into the statutory scheme. The Authority must convene a valuers conference on the request of the claimant, or may do so of their own volition at any other time. The purpose of the valuers conference is to determine a valuation, if possible, with which both valuers agree, and to determine other agreed facts and issues of contention.

14—Amendment of section 23A—Offer of compensation and payment into court

This clause amends section 23A to allow the Authority to not make an offer of compensation when it gives notice of the acquisition of land in certain circumstances, being if the Authority is of the view that the amount of compensation is unable to be determined or in any other circumstances prescribed by the regulations.

The Authority is also given an ability to vary an offer of compensation in this clause. The Authority may increase the offer by notice to the person who received the original offer. Alternatively, if after making the original offer, the Authority becomes aware of information that negatively affects the value of the land, the Authority may apply to Court for an order that the offer be decreased. This clause also provides for the manner in which the difference between the original offer and the offer as varied will be paid back to the Authority or to the claimant, as the case may be.

15—Insertion of sections 23AB and 23AC

Inserted section 23AB requires a person to whom an offer of compensation is made to respond to the offer within 6 months, or within such other period as may be specified by the Authority on application of the person. If, on application, the Authority refuses to specify a longer period in which the person has to respond, the person may refer the matter to Court for review.

If the person does not respond within the prescribed period, the money which was paid into Court under section 23A will revert back to the Authority (though this reversion will not affect the person's entitlement to that compensation). Once this has occurred, the claimant will not be entitled to any interest that accrues on the money so reverted.

Inserted section 23AC provides money that has been paid into Court under section 23A as an offer of compensation to a person must be withdrawn by the person within 24 months after the money is last paid into Court. If the money is not withdrawn by the person within this period of time, the money will revert back to the Authority (though this reversion will not affect the person's entitlement to that compensation). Once this has occurred, the claimant will not be entitled to any interest that accrues on the money so reverted.

16—Insertion of section 23BA

Inserted section 23BA provides that upon the application of the claimant a settlement conference must be convened by the Authority before a matter is referred to Court under section 23C (and may otherwise take place on the volition of the Authority). A number of requirements apply in relation to a settlement conference including the appointment of a conference coordinator. A coordinator has the power to give directions for the purposes of a settlement conference, and an unreasonable failure or refusal to comply with a direction will amount to an offence. The conference is to be conducted on a without prejudice basis.

17—Amendment of section 23C—Reference of matters into court

This clause amends section 23C to provide that a claimant must apply to the Authority to convene a settlement conference before referring a matter to Court under that section. The clause also requires that once convened, the claimant take part in the conference.

18—Substitution of section 24—Entry into possession

Section 24 of the Act is substituted by this clause to change the manner in which the Authority can enter into possession of land where an interest in possession has been acquired under the Act in relation to that land. This clause removes the requirement for the Authority to obtain agreement from the relevant claimant as to the terms on which it will enter into possession of the land, and provides that the Authority may enter into possession on a date fixed by the Authority, being no sooner than 3 months after acquisition has taken place. The Authority is required to notify the person who is in occupation of the land of the date on which the Authority will take possession. This will not be required where the relevant land is vacant, in which case the Authority may enter into possession from the date of acquisition of the land.

The occupier has the ability to apply to the Authority to fix a later date, and if the Authority refuses to do so the occupier may refer the matter to Court.

The Authority may enter into possession of the land at an earlier time either upon agreement with or application of the relevant occupier, or if the occupier vacates the land prior to the date specified in the notice.

A person who remains in occupation of land after the date specified by the Authority will be taken to occupy the land pursuant to a tenancy, the terms and conditions for which (including the amount of rent payable) are to be determined by the Authority.

This clause also proposes to insert new section 24A, which provides that the Authority may apply to the Court for certain orders.

19—Insertion of section 25A

This clause provides a mechanism by which the Authority may increase the amount of compensation payable to a person by 10% of the market value of the land or $50 000 (or such other amount as may be prescribed by the regulations), whichever is the lesser. This increase in compensation is available to a person who owned and occupied the acquired land and whose principal place of residence was acquired.

20—Insertion of Part 4 Divisions 3 and 4

Inserted Part 4 Division 3 provides a mechanism by which the Authority may make a payment of compensation directly to the claimant where the amount of compensation is under a prescribed amount, rather than paying the amount into Court.

Proposed Part 4 Division 4 inserts several payments that may be made by the Authority to the claimant depending on the circumstances. Inserted section 26B provides for payments relating to professional costs to persons who are owners and occupiers of land to which a notice of intention to acquire land has been given. Under this proposed section, the Authority has discretion to pay a person an amount or amounts of money towards payment of their professional costs relating to an acquisition of land (or a proposed acquisition). In determining any subsequent payment under this section, the Authority will take into account any other amount paid under this section.

Inserted section 26C allows the Authority to make payments to residential tenants after a notice of intention to acquire land is given to the tenant but before the relevant acquisition occurs. A residential tenant who accepts a payment under this section will not be entitled to further compensation under the Act in relation to their interest as a tenant. Conditions may be attached to a payment under this section with which the residential tenant must comply; in the event of non-compliance the payment made under the section will become a debt owing to the Authority.

Under inserted section 26D, the Authority may pay transfer costs to a person who was an owner of certain land (the whole of fee simple land) that was acquired under the Act and who purchased land to replace that land. A person must apply to the Authority to receive this payment.

21—Insertion of Part 4A

Inserted Part 4A relates to the acquisition of underground land. Much of the Act is disapplied to the acquisition of underground land, and, as such, section 26F provides for the way in which underground land is to be acquired. The Authority may acquire the land by publishing a notice of acquisition in the Gazette at any time, and must thereafter, as soon as is reasonably practicable, give notice to the person who was the owner of the land. A person is not entitled to compensation for the acquisition of underground land under this Part.

In accordance with inserted section 26DA, inserted Part 4A does not apply to an acquisition of underground land in which native title exists.

Section 26G imposes an obligation on persons from whom underground land has been, or may be, acquired to notify the Authority of other interests in the underground land.

22—Amendment of section 36—Costs

This clause amends section 36 to provide that the Court, in making an order for costs, may take into consideration a failure on the part of the Authority or the claimant to negotiate in good faith.

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

LOTTERIES BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (12:25): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

The *Lotteries Bill 2019* seeks to consolidate the licensing and regulation of lotteries and trade promotion lotteries in the State under a new Act and repeals the relevant equivalent provisions under the *Lottery and Gaming Act 1936*.

The introduction of this Bill contributes to the Government's gambling reform agenda, which began last year, following the consolidation of all gambling regulatory and policy functions within Consumer and Business Services and the appointment of the Liquor and Gambling Commissioner as South Australia's sole gambling regulator in December 2018.

Following this change to the gambling regulatory framework, the Government began seeking views from industry, the non-Government sector and affected Government stakeholders on the future of gambling regulation in South Australia, with a view to ensuring that the regulatory landscape moving forward is contemporary and meets the expectations of industry and the broader community.

The feedback received throughout this process has informed the drafting on this Bill and associated *Gambling Administration Bill 2019* and *Statutes Amendment (Gambling Regulation) Bill 2019*. These Bills will be introduced shortly.

The existing *Lottery and Gaming Act 1936* and *Lottery and Gaming Regulations 2008* establish the framework to distinguish between unlawful and lawful gaming and for the licensing of certain lottery products (instant scratch tickets, bingo, fundraiser lotteries, home lotteries etc) and trade promotions (lotteries promoting the sale of goods or service).

Fundraiser lotteries are an important way for groups to raise funds to support their community minded and charitable objectives, and trade promotions are popular activities for businesses to promote their products and services.

As part of the broad review of gambling in South Australia and feedback received from stakeholders it has become apparent that the regulation of lotteries (which includes Trade Promotions) in South Australia is outdated and does not adequately reflect contemporary trends in the industry and developing technologies.

In order to simplify and modernise lottery legislation in South Australia it is proposed to repeal the relevant lottery provisions from the existing *Lottery and Gaming Act 1936*, and to introduce a new legislative regime to better regulate lottery and trade promotion products under a modern framework applying modern drafting standards. The existing provisions governing, for example, what constitutes unlawful gaming will remain in the current *Lottery and Gaming Act 1936*.

Key changes included in this Bill include:

- allowing the Commissioner to exempt a lottery or class of lotteries from specified provisions of the Act;
- providing for the nomination of a person who will be responsible for complying with requirements under the Act for licence applications made by an unincorporated association;
- allowing for the renewal of licences;
- allowing the Commissioner to add, vary and revoke licence conditions;
- requiring licensees to notify the Commissioner of change to their particulars;
- introduction of expiations fees for a breach of lotteries regulations; and
- renaming the Lottery and Gaming Act 1936 as the Gaming Offences Act 1936.

Furthermore, it is proposed that the enforcement of lotteries regulation by CBS inspectors will form part of the associated *Gambling Administration Bill 2019*. These changes, along with the proposal to introduce expiation fees, will allow a more balanced approach to enforcement, proportionate to the differing levels of any potential offending.

This Bill is the first step to modernising lotteries regulation in South Australia. It will establish a footing to review and update the regulations which provide the mechanism to permit and licence certain classes of lotteries and prescribe relevant conditions and rules for conducting such lotteries.

I commend this Bill to the House and seek leave to insert the explanation of clauses into *Hansard* without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects

This clause sets out objects of the measure.

4—Interpretation

This clause defines terms used in the measure.

5—Interaction with Gambling Administration Act 2019

This Act and the *Gambling Administration Act 2019* will be read together as a single Act.

6—Meaning of lottery

This clause defines a lottery for the purposes of the measure.

7—Prohibited goods and services

The Commissioner may, by notice in the Gazette, prohibit particular goods or services from being the prize in a lottery or otherwise offered or promoted as part of a lottery.

8—Position of authority in trust or corporate entity

This clause defines what constitutes a *position of authority* in a trust or corporate entity.

9—Application of Act

The Act will apply to any lottery in which persons resident in this State can participate and also binds the Crown.

Part 2—Unlawful lotteries

10—Conducting unlawful lotteries

This clause creates the central offence underpinning the licensing regime. The offence of conducting or assisting in conduct of unlawful lotteries is punishable by a maximum fine of $10,000. In addition, it will be an offence to pay money or provide goods connected to an unlawful lottery punishable by a fine of $5 000 or an expiation fee of $315.

11—Participating in unlawful lotteries

This clause creates the offence of participating in unlawful lotteries, punishable by a maximum fine of $2,500 or an expiation fee of $210.

12—Advertising and promoting unlawful lotteries

This clause creates the offence of advertising or promoting unlawful lotteries or proposal of unlawful lotteries, punishable by a maximum fine of $5,000 or an expiation fee of $315.

13—Tickets etc for unlawful lotteries

This clause creates offences of printing or publishing tickets, or selling or supplying tickets, for an unlawful lottery, punishable by a maximum fine of $5,000 or an expiation fee of $315.

14—General defence

It is a defence to an offence against the Part if the defendant proves that the defendant believed on reasonable grounds that the lottery was a licensed lottery or a permitted lottery.

Part 3—Licensed lotteries

15—Application for licence

This clause provides for the grant of lottery licences.

16—Licence may be conditional

A licence may be subject to conditions. Contravention of or failure to comply with a condition of a licence is an offence, punishable by a maximum fine of $5,000 or an expiation fee of $315.

17—Nomination of responsible person for compliance

An unincorporated association or group of unincorporated associations, must in their application, nominate a person or group of persons to the Commissioner, who will be responsible for compliance. A nomination is not effective unless the Commissioner approves it.

18—Term of licence

A licence has effect for a period specified by, or determined in accordance with, the regulations or determined by the Commissioner and specified in the licence, (if there is no such provision in the regulations). A licence of a prescribed class may be renewed in accordance with regulations.

19—Variation of licence

This clause allows applications for the variation of a licence to be made to the Commissioner.

20—Cancellation, suspension or surrender of licence

This clause provides for the cancellation, suspension or surrender of a licence and creates relevant offences to ensure matters relating to the licence are properly finalised.

21—Licensee to notify change of particulars

The holder of a licence must notify the Commissioner, within 14 days, after a change in any prescribed particulars. Failure to do so is punishable by a maximum fine of $2,500 or an expiation fee of $210.

Part 4—Licensing of suppliers of lottery products

22—Interpretation

This clause defines *lottery product* and *supply* for the purposes of the Part.

23—Suppliers must be licensed

It is an offence to be an unlicensed supplier of lottery products, punishable by a maximum fine of $10,000.

24—Application for licence

This clause provides for the grant of licences for the supply of lottery products.

25—Licence may be conditional

A licence under the Part may be conditional. Contravention of, or failure to comply with, a condition of a licence under the Part is punishable by a fine of $5,000 or an expiation fee of $315.

26—Term of licence

A licence granted under the Part has effect until the following 30 June, unless it is cancelled, suspended or surrendered before that day. The Commissioner must renew a licence for a period not less than 1 year if a renewal application is made and the prescribed fee is paid.

27—Cancellation, suspension or surrender of licence

The Commissioner may, by written notice, cancel or suspend a licence. A notice of suspension may specify an action to be taken by holder of licence to remedy any breach of this Act or condition of the licence. A licence holder may also, with consent of the Commissioner, surrender a licence.

28—Licensee to notify change of particulars

The holder of a licence must notify the Commissioner, within 14 days, after a change in any prescribed particulars. Failure to do so is punishable by a maximum fine of $2,500 or an expiation fee of $210.

Part 5—Miscellaneous

29—Commissioner may grant exemptions

The Commissioner may exempt a lottery or class of lotteries from specified provisions of the Act. Contravention of, or failure to comply with, a condition of an exemption is an offence punishable by a maximum fine of $5,000 or an expiation fee of $315. It is a defence if the defendant took all reasonable steps to prevent the contravention or failure to which the prosecution relates.

30—Dishonest, deceptive or misleading conduct

A person involved in the conduct or promotion of a lottery that acts in a dishonest, deceptive or misleading manner is guilty of an offence punishable by a maximum fine of $50,000 or 2 years imprisonment.

31—Restriction on sale of lottery tickets by children

A person must not cause or permit a child under 15 years of age to sell lottery tickets without supervision or accompanied by an adult. The offence is punishable by a maximum fine of $5,000 or an expiation fee of $315.

32—Evidentiary provisions

This clause sets out evidentiary provisions for the purposes of the measure.

33—Regulations

This clause is a regulation making power.

Schedule 1—Related amendments and transitional provisions

The Schedule sets out related amendments to the *Lottery and Gaming Act 1936* to limit that Act to dealing with unlawful gaming (because lotteries are now to be dealt with by this separate measure). The Schedule also sets out transitional measures.

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

LEGISLATION (FEES) BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (12:26): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Mr President, the Bill I introduce today is the Legislation (Fees) Bill 2019.

The Bill repeals and replaces the *Fees Regulation Act 1927*, which provides the authority for regulations to be made for the prescription and variation of fees for the purposes of various Acts. In particular, the Bill converts the existing statutory power to set fees by regulation into a power to set fees by Ministerial notice or by regulation.

Rather than amend the existing Act, the Bill repeals and replaces that Act, which had not been amended since it came into operation in 1927. The Bill is simpler and reflects modern drafting styles.

At present, each year schedules of increases to annual fees and charges are prepared by Departments and provided to the Office of Parliamentary Counsel for the preparation of amendments to the relevant regulations..

The only reason that the Office of Parliamentary Counsel is involved is that currently the only process to set fees is by the regulation-making powers contained in the principal Acts under which the fees are imposed.

Nearly half of all of the Office of Parliamentary Counsel's publishing for the year occurs on the single date of 1 July as a result of the annual fee increases which are coordinated by the Department of Treasury and Finance..

The removal of Parliamentary Counsel from this process would allow them to provide a better service in getting legislation published promptly. It would also mean that Departments will be responsible for ensuring the fees increase notices are prepared and published in the Government Gazette in a timely manner. This will remove the need for back-and-forth versions of the regulation shells between the Departments and the Office of Parliamentary Counsel.

Clauses 4 and 5 of the Bill creates these efficiencies by enabling Departments to prescribe their fees by fee notices. The relevant Minister or Department that administers an Act under which a fee arises will take responsibility for preparing fee notices and arranging for their publication in the Government Gazette.

The Bill recognises, however, that in some instances it will be preferable for some fees to continue to be prescribed by regulation. This is permitted by clauses 4 and 6 of the Bill, which provide that prescribing fees by a notice is discretionary, and that regulations may still be made or varied under any other relevant legislation. One instance in which this might be used is for fees which are currently set pursuant to a national scheme, such as the *Motor Vehicles (National Heavy Vehicles Registration Fees) Regulations 2008*. In those circumstances, users of those schemes will benefit from the uniformity of the way in which the fees are set out in different jurisdictions.

Clause 4(3) enables an authority to vary a fee prescribed by a fee notice. This can be done by the authority publishing a new fee notice in substitution of the current fee notice. This will have the effect of revoking and replacing the earlier fee notice, so that there is one complete fee notice in operation at any given time. Similarly, clause 4(4) of the Bill entitles an authority to revoke a fee notice outright.

Clauses 4 and 5 will also be used when agencies need to apply fee increases outside of the annual process, or when new fees need to be imposed outside of the usual 1 July timeframe.

Clause 5(3) of the Bill removes the current irregular commencement provisions (which provides for commencement within 14 sitting days after the regulation was laid before Parliament) in favour of the more usual commencement arrangements (a day specified in the notice; where the relevant Act authorises, a day before the notice is published; or the day on which it is published in the Gazette). There are no negative consequences but a number of technical advantages to this change, including:

- making it easier to identify when regulation variations commence as there will be no need to refer to and review Parliamentary notice papers;
- making it easier to populate the legislative history of regulations as there will be a fixed point to anchor to the changes; and
- reducing the risk of future error by Departments which will assume responsibility of the process, by establishing one process.

The Bill retains Parliament's scrutiny over the notices. Clause 5(4) of the Bill provides that sections 10 (other than subsection(1)) and 10A of the Subordinate Legislation Act 1978 apply in relation to a fee notice. This means that a fee notice must be laid before each House of Parliament within six sitting days after it has been published in the Government Gazette and that a copy of the fee notice must be provided to the Legislative Review Committee along with an accompanying report. The fee notices will be disallowable (in the same way that regulations are). They will also have the same evidentiary value as fees published by regulations, because courts are required to take judicial notice of publications in the Government Gazette.

This proposal arises from a request by the Office of Parliamentary Counsel to implement measures to cease publication of annual fees and charges regulations by its office. The beneficial effect of the Bill is wider, however. It brings efficiencies to all of the other agencies and entities which are currently involved in prescribing fees by making regulations, including the Departments themselves, Cabinet, the Governor in Executive Council (whose approval is required make the regulations under the existing Act) and the Government Printer.

I commend the Bill to Members and I seek leave to insert the Explanation of Clauses in *Hansard* without my reading it.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms and phrases used in the measure.

4—Relevant authority may prescribe fees by fee notice

This clause provides that, where an Act allows for fees to be prescribed, or makes no provision in respect of charging fees for services provided by the Crown etc, then the relevant authority under that Act may prescribe fees by fee notice.

5—Fee notices

This clause sets out requirements and procedural provisions in respect of fee notices.

6—Saving provisions

This clause clarifies that fees may, where appropriate, continue to be prescribed by regulation. The clause also provides that, where a particular fee is prescribed both by regulation and fee notice, the fee is to be determined by reference to the most recent instrument.

7—Regulations

This clause confers regulation making powers in respect of the measure.

Schedule 1—Repeal of Fees Regulation Act 1927

This Schedule repeals the *Fees Regulation Act 1927*.

The Hon. K.J. MAHER (Leader of the Opposition) (12:27): I am the lead speaker on this bill for the Labor Party, and indicate that the Labor Party will support the speedy progress of this bill through the second reading and committee stage. We think this bill is a sensible bill. It means that, in effect, the process of drawing up increasing fees and charges will not be something that needs to be done by parliamentary counsel as regulations and then go through all the associated processes; it will be something that can be done departmentally and will free up the parliament's and the executive's time, but importantly (and the reason we are supporting it) is because it is still a disallowable instrument, so either chamber of parliament can disallow it if it so chooses. On the basis that it remains a disallowable instrument, the Labor opposition will support the bill.

The Hon. M.C. PARNELL (12:28): The Greens support the second reading of this bill, which provides for a more efficient way to set fees and charges under various acts. Rather than having to go through parliamentary counsel, the relevant documents can be prepared by appropriate departments and a fee notice put in the *Government Gazette* under the minister's name or even under the department's name (presumably the CEO or another nominated official).

The Greens support increased efficiency in public administration, provided it does not decrease services, reduce accountability or add uncertainty in interpretation. On my reading of this bill, it passes all those three tests. In relation to accountability, the bill provides that fee proclamations under this new regime will be disallowable instruments, that is, disallowable by either house of parliament, as is the case with existing regulations.

Fee notices will also need to be referred to the Legislative Review Committee in the same way that regulations are referred, and that is the effect of clause 5 of this bill, which invokes section 10A of the Subordinate Legislation Act. In terms of ensuring certainty in interpretation, I think that this is covered by the express references in the bill to the Acts Interpretation Act. Some of the new fee notices under the bill would have already fallen within the definition of 'statutory instruments' under the Acts Interpretation Act, particularly those fee notices that are made by ministers, but the grey area was probably fee notices made by agencies other than ministers, so that is now made explicit in the bill.

This means that the rules of statutory interpretation, including all the definitions in the Acts Interpretation Act, will apply to fee notices in the same way that they apply to acts and regulations. Unless something new emerges in committee or from constituents that we have not considered yet,

I expect the Greens will support the third reading of the bill, but for now we are happy to support the second reading and we look forward to further debate.

The Hon. R.I. LUCAS (Treasurer) (12:30): I have canvassed other members, who have indicated that they do not intend to speak and they are prepared to support the bill, so I thank the two members who have spoken and indicated their support for the bill and support for its passage through the committee stage today.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (12:32): I move:

That this bill be now read a third time.

Bill read a third time and passed.

FLINDERS UNIVERSITY (REMUNERATION OF COUNCIL MEMBERS) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (12:33): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

South Australian universities have an important role to play in the provision of outstanding higher education and world leading research, both of which are essential to South Australia's ongoing prosperity and economic growth. Our universities also introduce thousands of students from across the world to South Australia and attracting more international students to study here in Adelaide is important for our local economy. It is vital that South Australia has an education and training system driven by quality courses and student choice with training programs to ensure South Australians are job-ready and able to capitalise on emerging industries here in South Australia. Our universities undertake this important work in an increasingly complex and competitive environment. The government is amending the *Flinders University Act 1966*, at the request of Flinders University, to enable the council of the university to remunerate its members.

Specifically, the Bill will provide for the Flinders University council to make a determination to remunerate a council member. A determination of the council may fix different amounts of remuneration for different members according to the office held by the member or other factors.

The Bill will dis-apply section 18C of the Act, so that council members will not be in breach of their duty in respect to conflicts of interest in relation to the making of determinations regarding remuneration.

These amendments will put Flinders University on a similar footing to the University of South Australia. The University of South Australia has provision within its governing legislation to make statutes to set the terms and conditions under which the council members hold office. Many other universities across Australia also have provision for the remuneration of council members.

The amendments will ensure Flinders University continues to have access to the highest quality candidates for membership of its council.

The Government has consulted closely with Flinders University in developing these amendments.

I commend the bill to members. I seek leave to have the explanation of clauses inserted into Hansard without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of Flinders University Act 1966

3—Insertion of section 7

This clause inserts new section 7 into the Act to provide that the Council of the University may determine that a member of the Council be remunerated.

Section 18C of the Act, which imposes certain obligations on members of the Council in the event of a conflict of interest, has been disapplied to the making of determinations in relation to remuneration.

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

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 15 October 2019.)

The Hon. D.G.E. HOOD (12:34): I rise to indicate my support for this bill, which makes some important legislative changes pertaining to the retail and commercial leasing sector, which aligns with the Marshall Liberal government's agenda of ensuring South Australia is an attractive place to invest and conduct business. The proposed amendments will primarily support the smaller enterprises throughout our state, which is imperative, given there are well over 140,000 small businesses in South Australia, comprising no less than 98 per cent of all businesses, which provide employment to over a third of our workforce and contribute $35 billion to our economy.

The government's bill implements the recommendations arising from the formal review of the Retail and Commercial Leases Act 1995, conducted by former District Court Judge Mr Alan Moss, that were handed down in 2016 in addition to amendments resulting from the Marshall government's own consultation process following its election to office.

The primary purpose of this act and the regulations is to, of course, protect the lessees of retail shop premises who pay rents that fall under a specified threshold. Naturally, landlords and tenants will often have differing interests, and there is a notable inherent imbalance of power in some cases in favour of the lessors. As rent will usually be the largest continual financial outgoing for small businesses, the fair operation of leases is critical to their viability and longevity.

Some members present may recall that the former Labor government and the then Liberal opposition committed to undertake a review of the act in 2014 to assess the effectiveness of its provisions, as it had not been reviewed in some 20 years of operation, despite the fact that it had been extensively amended during that 20-year period. A bill was subsequently developed that was informed by Mr Moss's 20 recommendations and the submission of interested parties, including organisations, industry bodies and individuals, following their release.

Although the bill received passage in the other place, it lapsed just prior to the last election due to the prorogation of parliament before it could progress any further. The current Liberal government has incorporated the amendments of that bill along with five new amendments into its revised iteration in an attempt to address ambiguities concerning how existing provisions of the act are to be applied, to clarify key aspects of the legislation and to enhance existing protections. Specifically, it:

- makes it explicit that retail shop leases can move into and out of the jurisdiction of the act either as a result of an adjustment in the rent threshold that triggers its operation or an alteration in the amount of rent payable;
- dictates that certain sums, such as the rent threshold and security bonds, are to be exclusive of GST;
- establishes a formal process by which the Valuer-General is to review the rent threshold periodically;
- stipulates requirements for the disclosure of information by landlords to tenants;

- increases penalties for breaches of the act with a shift that is broadly in line with CPI, accompanied by two new penalties;
- increases the value of a bond from four weeks' rent to three months' rent;
- extends the application of the act to ensure public companies limited by guarantee and registered with the Australian Charities and Not-for-profits Commission are captured; and
- excludes overseas companies from coverage of the act if they are registered on an international stock exchange.

A number of technical amendments are also included in the bill in addition to those I have just outlined.

Another amendment not previously considered by our parliament when Labor's bill was debated also makes it express within the act that a registered lease that at the time of registration falls outside the rental threshold shall remain outside its scope, despite any future increases to the threshold. This provision seeks to remedy issues that arose when the former Labor government increased the rent threshold by regulation from $250,000 to $400,000 GST exclusive in 2010.

Although it was an arguably necessary move to account for the consumer price index and other economic factors, the manner in which the adjustment was executed caused considerable difficulties for lessors and lessees with long-term leases in particular, due to uncertainties as to how existing agreements at the time would be affected. I am sure I am not the only member in this place who has been personally contacted by South Australians who were significantly impacted by this abrupt change. I do note that in the other place, the need to enforce transparency where there is an intent to register a lease was raised by both the opposition and crossbench and the Attorney-General was swift to respond by introducing further amendments to provide for these provisions.

It is no surprise that under the leadership of the Marshall Liberal government South Australia has defied the national trend in relation to small and medium business confidence, with recent survey results revealing owners and operators of these enterprises are now the most positive in their business prospects in the nation, with a significant lift within regional South Australia and Adelaide outperforming all other capital cities. It also found that this government continues to lead the way in supporting small and medium businesses, with approval of state government policies at a six-year high.

The proposed amendments in this bill will certainly complement the delivery of an array of innovative reforms and initiatives as part of our determined effort to support this vital sector of our economy. I support the bill.

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

Sitting suspended from 12:40 to 14:15.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2018-19—
District Council of Elliston
District Council of Robe

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2018-19—
Adelaide Festival Corporation
Australian Children's Performing Arts Company (Windmill Theatre Co)
Child Development Council

Country Arts SA
Department of the Premier and Cabinet
History Trust of South Australia
National Education and Care Services Freedom of Information Commissioner, Privacy Commissioner & Ombudsman
Office of the Director of Public Prosecutions
Teachers Registration Board

Leave No One Behind—Commissioner for Children and Young People—Report 2019

Notices under Acts—

Liquor Licensing Act 1997—

Liquor Licensing (General Code of Practice)
Liquor Licensing (Late Night Trading Code of Practice)

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

Reports, 2018-19—
Department of Planning, Transport and Infrastructure
Urban Renewal Authority

Review of the Operation of the Fisheries Management Act 2007—
Report, as of 27 August 2019

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

Reports, 2018-19—
Child and Young Person's Visitor
Children and Young People (Safety) Act 2017 Minister's Functions
Department for Child Protection
Dog and Cat Management Board
Ikara-Flinders Ranges National Park Co-Management Board
Lake Gairdner National Park Co-Management Board
Nguat Nguat Conservation Park Co-Management Board
Nullabor Parks Advisory Committee
Mamungari Park Co-Management Board
Training Centre Visitor
Vulkathunha-Gammon Ranges National Park Co-Management Board
Witjira National Park Co-Management Board
Yumbarra Conservation Park Co-Management Board

Child Protection Systems Royal Commission Progress—Report, September 2019

Response to the Natural Resource Committee Inquiry into Management of Overabundant and Pest Species Report

By the Treasurer (Hon. R.I. Lucas) on behalf of the Minister for Health and Wellbeing (Hon. S.G. Wade)—

Reports, 2018-19—
Department for Health and Wellbeing
Health and Community Services Complaints Commissioner
Office for Recreation, Sport and Racing
South Australia Police
Witness Protection Act 1996

Question Time

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding tourism.

Leave granted.

The Hon. K.J. MAHER: On 17 October 2019, the minister stated in this chamber that:

I have not visited or stayed at the property known as the Luxe Haus, and I have not received any gifts or complimentary stays.

More recently, this week, on 29 October, the minister was asked if he had provided any assistance to convicted sex offender and owner of Luxe Haus, Corey Ahlburg, to obtain a visa to travel to China. The minister responded, 'I have no recollection of providing Mr Ahlburg any assistance at all.' My questions to the minister are:

1. Has the minister ever visited or stayed at the property when it was known as Ora Luxury Villa or when it existed under any other name?

2. Now that the minister has had 48 hours to check, will the minister advise whether he played any role in securing a Chinese visa for convicted sex offender Corey Ahlburg, including sending letters of support or introduction so that a convicted sex offender would be allowed to travel to China?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:20): I thank the honourable member for his question. In the first instance around the Luxe Haus or Ora or whatever the address is at Moana, the answer is no. In relation to letters of support for Mr Ahlburg, no.

TRADE, TOURISM AND INVESTMENT MINISTER

The Hon. C.M. SCRIVEN (14:20): My question is to the Minister for Trade, Tourism and Investment. Why is the minister complaining to industry groups about the way he is being treated by his Liberal parliamentary colleagues?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:20): I thank the honourable member for one of the most stupid questions I have ever been asked. I have not complained to any industry groups.

The PRESIDENT: Supplementary, the Hon. Ms Scriven.

TRADE, TOURISM AND INVESTMENT MINISTER

The Hon. C.M. SCRIVEN (14:21): Is the Premier aware that the minister has been complaining to industry groups about his treatment by parliamentary colleagues?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:21): No.

OFFICE OF THE STATE COORDINATOR-GENERAL

The Hon. E.S. BOURKE (14:21): I seek leave to make a brief explanation before asking the Minister for Trade, Tourism and Investment a question about the Office of the State Coordinator-General.

Leave granted.

The Hon. E.S. BOURKE: The Joyce review recommended that the Office of the State Coordinator-General move to the Department for Trade, Tourism and Investment. The department has confirmed that this recommendation was accepted by the government and was implemented on 1 April 2019. However, in answers to estimates questions the minister advised that the government is expecting $1.1 million in savings from not renewing the funding to the State Coordinator-General. I am advised that 100 projects, valued at approximately $1.89 billion, have been granted development plan consent under the Coordinator-General scheme. My questions to the minister are:

1. Why has the Marshall Liberal government decided to close an office that helped to approve $1.89 billion of developments?

2. Was the decision to close this office made before or after the transfer to the Department for Trade, Tourism and Investment?

3. Will this decision discourage investment in South Australia?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:22): I thank the honourable member for her question. It is interesting that on 31 December 2018, the regulatory powers of the State Coordinator-General will change and the Office of the State Coordinator-General will close. We advised the honourable member during estimates—not her, but her colleagues, because she can't participate in estimates—that there will be no specific funding allocation in the 2019-20 budget.

As the assessment scheme under the Planning, Development and Infrastructure Act and the associated Planning, Development and Infrastructure General Regulations 2017 become operational across the state by mid-2020, the following regulatory powers currently exercised by the State Coordinator-General will change:

- the State Commission Assessment Panel (SCAP) will be the relevant authority in relation to a proposed development where the minister, by notice served on the proponent, calls the proposed development in for assessment;
- the relevant authority will assess diplomatic development, such as new or upgraded consular facilities; and
- the relevant authority will consider proposed development at The Bend Motorsport Park.

To effect the office closure, the Office of the State Coordinator-General will accept and process until 15 November 2019 any requests concerning call-in assessment, diplomatic development or proposed development at The Bend Motorsport Park. As from 18 November 2019, the Office of the State Coordinator-General will still accept requests until 13 December 2019 but it is likely that the final processing of these requests and any request beyond 18 December 2019 will be referred to the Director, Legal and Statutory Services, Department of Planning, Transport and Infrastructure.

Key stakeholders of the Office of the State Coordinator-General have been informed of the aforementioned changes. Post 31 December 2019, employees of the Office of the State Coordinator-General will retain a specialist function within the Department for Trade, Tourism and Investment within the context of their industry teams to provide support to investment clients in the form of specialist services, navigating them through the planning system to secure government approvals.

OFFICE OF THE STATE COORDINATOR-GENERAL

The Hon. E.S. BOURKE (14:25): Supplementary: can the minister confirm who it was that advised that this should be closed?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:25): I thank the honourable member for her supplementary question. As I explained, if the member had been listening, the functions of the Office of the State Coordinator-General are transferring to the Department of Planning, Transport and Infrastructure. So it was going to be a duplication, and the decision was made by cabinet that we believe, once the regulations and the new act are operational, these functions can be performed quite adequately by the internal staff in the Department of Planning, Transport and Infrastructure.

SCHOOL CHRISTMAS CONCERTS

The Hon. T.J. STEPHENS (14:25): My question is to the Treasurer. Treasurer, what has been the community reaction to the AEU decision to force some schools to hold their Christmas concerts at times when working parents cannot attend?

The Hon. R.P. Wortley: You love attacking the teachers, don't you? Now the nurses. You are attacking the teachers and the nurses. What do you stand for? What do you actually stand for?

The Hon. R.I. LUCAS (Treasurer) (14:26): It's good to hear the Australian Labor Party, through the former president of this chamber, the Hon. Mr Wortley, defending the actions of union bosses in the teachers union in what they have done and announced in recent days. So that's disappointing. In answer to the honourable member's genuine question, there has been an enormous community reaction to this crazy decision by the union bosses in the teachers union to, in essence,

prevent many working parents from being able to attend the Christmas celebration of their kids at their local school.

I ask members, particularly those of the Labor Party who are defending this decision, to put themselves in the position of those young kids at primary school who work hard in terms of their Christmas celebration, their concert, and who, because of the union bosses in the teachers union, at 10 o'clock on a Tuesday morning, when they look out into the audience to see the smiling face of their mum or their dad, or their grandmum or their grandad, won't see the smiling face of their mum, dad or grandparent because they have to work at 10 o'clock on a Tuesday.

That's the sort of decision by the union bosses, who are so out of touch with community and parent reaction, and that is now being supported by members of the Labor Party in this particular chamber, that demonstrates how out of touch the union bosses are in relation to these particular issues. There has been enormous community outrage, as demonstrated by talkback radio—texts and callers to talkback radio stations—about the extraordinary position of the Australian Education Union.

Interestingly, the phone of Mr Howard Spreadbury, who was meant to do a radio interview, had a problem all of a sudden and he couldn't actually engage in the debate on the ABC. Mr Andrew Cole, who is described on AEU websites as the chief organiser for the Australian Education Union but in fact was a former president of the Australian Education Union going back many years, when asked to defend why he could defend a position where working parents were not going to be able to get to see their kids' school concert said the following:

> It's really about…if parents are keen to see their children to be involved in those performances then they take their time off from work, it's like what they're asking us to do, like asking teachers to do...

Mr Byner said:

> So you're saying to the parents…if you don't like it you give up your time and you do it in the morning when it's convenient for us...

Mr Andrew Cole said:

> If seeing children perform is a priority then parents will make the commitment to go and see their children perform.

Mr Andrew Cole just kicked the biggest own goal in the teachers union history. This is an indication of how out of touch the union bosses in the Australian Education Union are and how out of touch the Hon. Mr Hunter, the Hon. Mr Wortley and all the members of the Labor Party are, who demonstrate their support for the out-of-touch attitude of the union bosses—

Members interjecting:

The PRESIDENT: Order! I can't hear the minister.

The Hon. R.I. LUCAS: —within the Australian Education Union. The taxpayers of South Australia have made an extraordinarily generous offer to the teachers of South Australia—2.35 per cent, then 3.35 per cent—

The Hon. K.J. MAHER: Point of order: in a question time when we are getting through many questions in order to give the crossbenchers as great a chance as possible, the Treasurer has now been talking for quite some time on his own government question.

The PRESIDENT: I am actually keeping the time on the Treasurer: he has about a minute left.

The Hon. R.I. LUCAS: —3.35 per cent for principals and preschool directors, particularly at a time when the inflation rate has been in and around 1.5 per cent (or maybe a little bit higher), together with very significant additional support for teachers within the classroom by way of extra support up to $40 million over 3½ years. It is an extraordinarily generous offer the taxpayers of South Australia have made to the teachers, and it has been repaid in kind by the out-of-touch union bosses like Mr Andrew Cole and others who have demonstrated how out of touch they are with community and parent reaction.

Members interjecting:

Parliamentary Procedure

VISITORS

The PRESIDENT: Can Labor benches just quieten down for a moment. Before I give the call to the Hon. Ms Franks, I acknowledge the Hon. Andrew Evans, a former member of the council, in the gallery.

Question Time

SCHOOL CHRISTMAS CONCERTS

The Hon. T.A. FRANKS (14:31): Supplementary: despite the minister's previous support for deregulated shop trading hours, insisting that workers will be allowed to refuse outside of hours work, is he now saying that workers should not be allowed to refuse outside of regular hours work?

The Hon. R.I. LUCAS (Treasurer) (14:31): It is an interesting extrapolation from the question, but I am very happy to respond if it is in order. It is quite clear from the position that the bosses of the union movement have adopted in relation to the teachers union that they are massively out of touch with the community and parent response in relation to these issues. In relation to the issue of shop trading hours, 70 per cent of people in the community support the government's position of freedom of choice in relation to shop trading hours, so there is massive support for the government's position on freedom of choice in shop trading hours.

I am saying here that there is massive support from the community and parents for this government's position in opposition to the out-of-touch union bosses, who are not only going to cause sadness and grief to the poor kids in the primary schools of Adelaide who just want to see their parents' smiling faces at a Christmas concert, but the grinches within the union movement, the grinches on the Labor Party backbench, are stealing Christmas. They are stealing Christmas from the children in the primary schools of Adelaide. Shame on the union bosses, and shame on the Labor Party—they are all Christmas grinches.

SCHOOL CHRISTMAS CONCERTS

The Hon. T.A. FRANKS (14:33): Supplementary arising from the original answer: did the minister discuss this matter with Daniel Gannon, who is a parent at Trinity Gardens Primary School?

The Hon. R.I. LUCAS (Treasurer) (14:33): No, Mr President.

The Hon. T.A. FRANKS: Mr President, I didn't hear the answer.

The PRESIDENT: The Treasurer answered in the negative.

SCHOOL CHRISTMAS CONCERTS

The Hon. T.A. FRANKS (14:33): Further supplementary: is the Marshall government now saying that schools do not have the freedom of choice to decide when their end-of-year celebrations shall be held?

The Hon. R.I. LUCAS (Treasurer) (14:33): Union bosses and schools can decide what they want, but they will have to defend the community outrage and the parent outrage that is engendered by those particular decisions. In the end, you have to be answerable for the decisions you make. The Andrew Coles and Howard Spreadburys of this world, and the Labor Party, and other members in this chamber, who want to defend the union boss grinches who are pinching Christmas from the poor kids in the primary schools of Adelaide, shame on them for, in essence, inflicting that pain and grief on young children who work hard to do the Christmas concert for their parents and their grandparents, and to have that snatched away from the out-of-touch grinches within the union movement—

The Hon. K.J. MAHER: Point of order: the answers given to the supplementaries were already in the public domain, because they were exactly the same nonsensical shouting that the minister had given in the original answer.

The PRESIDENT: Treasurer, be warned; I am hot on information in the public arena. The Hon. Ms Franks, you had the call—not for a supplementary—you actually had the call for a question.

PSYCHIATRIC IMPAIRMENT ASSESSMENT GUIDELINES

The Hon. T.A. FRANKS (14:34): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Industrial Relations on the topic of ReturnToWorkSA's Psychiatric Impairment Assessment guidelines.

Leave granted.

The Hon. T.A. FRANKS: Under the Return To Work Act 2014, a person must have a whole person impairment of at least 30 per cent to be entitled to damages. It is the same for a physical injury as it is for a psychiatric injury. I would like to draw the minister's attention to the assessment matrix for the mental function at chapter 16.1 of the impairment guidelines, evaluation of psychiatric impairment. Under this matrix, the categories include thinking, perception, judgement, mood, behaviour, and also intelligence. Can the minister explain why intelligence is a measure on the assessment matrix for impairment of mental function?

The Hon. R.I. LUCAS (Treasurer) (14:35): I am happy to take advice from ReturnToWorkSA and bring back an answer to the member's question.

PSYCHIATRIC IMPAIRMENT ASSESSMENT GUIDELINES

The Hon. T.A. FRANKS (14:36): Supplementary: can the minister also provide information about how many people have been assessed who have an impairment rating of between 3 and 5 on that matrix under the intelligence category of that matrix?

The Hon. R.I. LUCAS (Treasurer) (14:36): I am happy to take that question on notice as well.

COMMUNITY VISITOR SCHEME

The Hon. R.P. WORTLEY (14:36): I seek leave to make a brief explanation before asking the Minister for Human Services a question regarding the Community Visitor Scheme.

Leave granted.

The Hon. R.P. WORTLEY: The community visitor can now only visit state-operated services. This leaves thousands of people living in services now principally funded through the NDIS (that is non-government services) without access to the community visitor. The opposition is aware that many operators and residents would prefer the oversight of the community visitor, with organisations prepared to sign agreements with the community visitor to allow entry.

In July, the minister stated she was working with the Attorney-General's Department to make the appropriate legislative arrangements to allow the visitor to continue their important and vital work. The minister explained that the Victorian government has made the legislative changes required to allow the community visitor to continue to visit non-government schools.

My question to the minister is: why is it that the Victorian government has been able to make the legislative changes required to allow the community visitor to continue to visit non-government services in June 2019, and yet the South Australian government has not, leaving vulnerable South Australians at risk?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:37): I thank the honourable member for his question. At the outset, can I reject the last assertion in his comments, because all the NDIS participants—and South Australia is now at full scheme—are funded through the National Disability Insurance Scheme and therefore their services are registered and regulated through the quality and safeguarding commission, which is part of the new system that has been operative in South Australia since 1 July of this year, and that is now the appropriate oversight body for regulation of services.

We have, indeed, had a Community Visitor Scheme for mental health and disability in South Australia for some time. I was actually the person who moved the amendments to the Mental Health Act, whenever it was some time ago, that established the Community Visitor Scheme under the Mental Health Act, which was then extended to disability services. Disability services were able to

be visited through the funding arrangements that the South Australian government held with providers.

I do understand, as I have received representations on the matters that the honourable member has raised, but it is also important to remember that, regardless of what the providers themselves might think, it's actually somebody's home that we are talking about. It is like inviting someone into someone else's home without their permission, I think is the analogy that should be made. Providers can also, if they wanted to, in some way approach the community visitor to use that service as a quality assurance process, which is what a number of them found useful. Then that is something that could also be looked at.

We have also made some changes recently which the honourable member referred to. He might have missed the more recent media in which we have been able to extend the role of the Community Visitor Scheme to include people who are under guardianship of the Public Advocate. That has extended that to a cohort of—it is several hundred people, from memory.

So the participants who are still in state-funded, state-run government properties are still covered by the community visitor, as are that cohort of people under the Public Advocate, and the quality and safeguarding commission is the appropriate place for regulation, complaints and so forth for anyone who is a fully transitioned NDIS participant who is not covered under those state areas I have referred to.

COMMUNITY VISITOR SCHEME

The Hon. R.P. WORTLEY (14:40): Supplementary: given that visits by officers of the NDIS Quality and Safeguards Commission are only undertaken when a problem is reported and that the community visitor had a proven track record of uncovering issues with random visits, will the minister admit that a combination of these two approaches is the key to moving forward?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:41): I think the honourable member misunderstands what the quality and safeguarding commission can do. They can do unannounced visits. I have heard people in the disability community make the claim that they can't; they can. As recently as last week I have seen a letter signed by the federal minister, the Hon. Stuart Robert, that says that the commission certainly is able to do that.

I think one of the lessons that we have to learn from Oakden, if I can remind Labor members of that disastrous experience, is that when you have multiple agencies who have oversight, they need to be clear about what their roles are. The primary investigation body for these issues now is the quality and safeguarding commission. I have certainly made numerous representations to the commonwealth government that I believe that a Community Visitor Scheme is a useful adjunct to that as we go forward. We are yet to receive the final report that the commonwealth has commissioned on that matter. That is a position that I continue to argue.

COMMUNITY VISITOR SCHEME

The Hon. R.P. WORTLEY (14:42): When will the minister table the findings of the 2018 review of the community visitor schemes across Australia given the embargoed copies were sent to stakeholders nearly one year ago, in January 2019?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:42): I haven't received that report yet. It's not for me to table; it's a commonwealth report.

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

COMMUNITY VISITOR SCHEME

The Hon. R.P. WORTLEY (14:43): Yes. Is it true that the findings of the report are overwhelmingly for the continuance of the community visitor schemes as they were before the transfer of the NDIS?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:43): I can't comment on a report that I haven't received.

The Hon. R.P. Wortley: Well, everyone else—the stakeholders—have got it. You haven't got it.

The Hon. J.M.A. LENSINK: Well, no, they shouldn't have released it. It's under embargo. Do you know what 'under embargo' means? If anybody has—

Members interjecting:

The Hon. J.M.A. LENSINK: Sorry, I haven't finished yet.

The PRESIDENT: Through me, minister, through me.

The Hon. J.M.A. LENSINK: If anybody has publicly commented on this report, they should not have done so.

Members interjecting:

The PRESIDENT: The Hon. Mr Wortley—

Members interjecting:

The PRESIDENT: The Hon. Mr Wortley!

The Hon. R.P. WORTLEY: Supplementary, Mr President.

The PRESIDENT: Only because you are an ex-president am I going to allow a supplementary after that tirade. You must promise me not to do another tirade until the end of question time.

COMMUNITY VISITOR SCHEME

The Hon. R.P. WORTLEY (14:44): The tirade came from the minister. When will the minister be introducing legislation to ensure this problem is fixed?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:44): I haven't committed to do so.

Members interjecting:

The PRESIDENT: The Hon. Mr Wortley! You had your say.

TOUR DOWN UNDER

The Hon. D.G.E. HOOD (14:44): My question is to the Minister for Trade, Tourism and Investment. Can the minister update the council about the Santos Women's Tour Down Under?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:44): I thank the honourable member for his ongoing interest, particularly in women's sport. I am delighted to announce that all four stages of the 2020 Santos Women's Tour Down Under will be streamed live for the first time on Seven West Media's digital platforms.

Members interjecting:

The Hon. D.W. RIDGWAY: I am surprised that members opposite want to interject. I thought they would like to sit and listen.

The PRESIDENT: The Hon. Mr Ridgway, that is my job, not yours. Get on with the answer.

The Hon. D.W. RIDGWAY: The Santos women's tour will be held from 16 to 19 January 2020, and we couldn't be more excited. The live streaming of the race will mean more eyes on South Australia. It's a great chance to show off our amazing Hills, picturesque beaches and fantastic tourism offerings. As we know, the regions are incredibly important to South Australian tourism, with 43¢ of every tourism dollar spent in the regions. Showcasing these areas will continue to solidify South Australia as a world-class tourism destination.

The Santos Tour Down Under, Australia's premier cycling race, is eagerly anticipated each year. The event continues to go from strength to strength, with this year's Santos Women's Tour Down Under elevated to a UCI ProSeries status. This follows the announcement in 2018 that equal prize money will be awarded to both male and female competitors. This is just another way that women's sport is taking centre stage right here and now in South Australia.

The Matildas versus Chile, the friendly match on 12 November, will be a welcome return to Coopers Stadium and is sure to be a great game. Additionally, the news that world number one, Ash Barty, will play at the brand-new Adelaide International this summer alongside world number five, Simona Halep, is another huge announcement for South Australia. The live streaming of all four stages of the women's Tour Down Under is a fantastic opportunity to grow the profile of the sport. It is clear there is growing interest in women's sport of all kinds, and the Marshall government is thrilled to support women's sport.

I might just give members a bit of information following Tuesday's question time, if I may quickly while I'm on my feet. I was asked a question by the Hon. Clare Scriven about the meeting I held with E3Sixty. I can inform her that there were three gentlemen I met with: a Mr Brett Goodin, a Mr Wayne Breeze and a Mr Mark Riddiford. That was held at level 19, 1 O'Connell Street, Sydney.

FIFA WOMEN'S WORLD CUP

The Hon. K.J. MAHER (Leader of the Opposition) (14:47): A supplementary arising from the answer, where the minister talked about the Matildas soccer team: can the minister inform the chamber if Adelaide will be a potential host of any matches under the 2023 FIFA Women's World Cup bid?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:47): I thank the honourable member for his supplementary question. We are still awaiting some final details from the FFA. There are some negotiations around whether New Zealand is involved in the bid or Australia is in the bid. As soon as we have those, we will be able to finalise our approach.

FIFA WOMEN'S WORLD CUP

The Hon. K.J. MAHER (Leader of the Opposition) (14:47): A further supplementary for the sake of clarification: is the minister saying that it remains a live option that Adelaide may host some World Cup women's soccer games in 2023 should Australia be successful, or has the Liberal Party abandoned plans completely?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:48): No. We have expressed to the FFA that we are still interested in participating in the 2023 World Cup bid. They then went out to see whether New Zealand might be involved or not. We still don't have clarity on that. As soon as we have clarity, we will be able to move forward.

FIFA WOMEN'S WORLD CUP

The Hon. K.J. MAHER (Leader of the Opposition) (14:48): A final supplementary: is the minister aware whether the FFA has ever commented that Adelaide doesn't have the facilities to host such a World Cup women's game?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:48): Obviously, the FFA has a 22,065-person threshold. That is what the FFA stated in their very first expressions of interest. Clearly, Coopers Stadium is not that big. Interestingly, it was built back in the 1990s. We had 16 years of a Labor government that didn't actually do anything to make it any bigger.

It seems a bit rich saying, 'What about the actual capacity?' It was 16 years of a government that could have done a little bit extra to get it a bit bigger or could have done something new and different. That is an ongoing concern. Its current capacity is about 15,000. I think if you fill in the corners with temporary seating, it can be 18,000, but we did inform the FFA that we would not be providing them with a stadium of 22,065.

SA HEALTH

The Hon. C. BONAROS (14:49): I seek leave to make a brief explanation before asking the Treasurer a question about SA Health.

Leave granted.

The Hon. C. BONAROS: The Independent Commissioner Against Corruption, the most senior legal representative in the state, recently went public with his concerns about alleged corruption and maladministration within SA Health. In a letter he sent to SA Health CEO Dr Chris McGowan, Commissioner Lander outlined his six areas of concern. They included employment

practices of medical officers and whether there are systems in place to ensure they are properly accountable for their time, arrangements relating to the regulation and administration of rights of private practice, conflicts of interest between SA Health employees, questions around sufficient recordkeeping measures, the management of clinicians, and cultural issues across the mammoth department.

Commissioner Lander believes a full anticorruption evaluation of SA Health would save taxpayers millions of dollars, yet the Treasurer has refused to entertain the request for an additional $2 million that the commissioner needs to undertake the task. My questions to the Treasurer are:

1. If your government is genuine in its intent to fix SA Health, why are you so reluctant to provide the necessary funds to allow the commissioner to undertake the evaluation he believes SA Health needs so much?

2. With the tens of millions of dollars that have already been thrown at administrators KordaMentha to keep the doors of the NRAH open, isn't $2 million a small price to pay if the commissioner is indeed correct and his forensic evaluation of SA Health saves taxpayer dollars in this state?

3. Have you or the health minister met with, or do you intend to meet with, the commissioner to discuss his concerns face to face; if not, why not?

The Hon. R.I. LUCAS (Treasurer) (14:51): I assume I am allowed to answer; I have answered this question the public arena on a number of occasions, but I assume I am allowed to answer the question.

The PRESIDENT: You are allowed to answer. It's a question of whether you're reading from a media release or not.

The Hon. R.I. LUCAS: I am happy to answer the question, Mr President. My views are very clear on this issue. The ICAC commissioner is very well funded by the taxpayers of South Australia. He is funded somewhere between $15 million and $16 million a year to primarily root out corruption in South Australia. He also has responsibilities in relation to serious and systemic maladministration.

I understand, and so it has been reported, that he has indicated publicly that he has had, over the last four to five years, up to a thousand allegations of corruption within SA Health. Not unreasonably, I have said, 'That's great, that is his responsibility, he is funded to look at corruption,' and I think it is really for the commissioner to indicate publicly what has happened to those investigations of a thousand instances of alleged corruption.

Of course, many of them automatically get dismissed because complainants say, 'Hey, this is corruption,' and the commissioner would look at it and immediately dismiss it, etc. However, I would imagine that if there had been a thousand allegations of corruption, and if he has a view that there is a serious concern of corruption, there may well have been, or may well be, an instance where one of those cases proceeds to a prosecution, and there may well be a case where one of those cases are successfully prosecuted.

That is ultimately an issue for the commissioner. He is entirely independent of the government. We are not privy to where he is up to in relation to these investigations of a thousand allegations of corruption, but they are not recent. As I understand it he has told the media that it has been over a period of four to five years that these allegations of corruption have been there.

That is his job: to investigate corruption and serious systemic maladministration. In addition to that, last year the taxpayers of South Australia provided an additional $14.5 million over the forward estimates to the commissioner, about half of which related to investigating expenditure and about half of which related to operating expenditure.

It was reported, incorrectly, that the government was insisting that he had to have his own courtroom, and that is why he had to spend so much money on capital works. That was incorrect—I have pointed that out to the journalist—because, when the commissioner said he needed a courtroom, we said, 'There are many existing courtrooms that you could use, and we could reduce the cost to taxpayers of providing your own courtroom.'

The commissioner indicated that, for security reasons and other reasons, he was not prepared to use existing unused courtroom space. He wanted his own courtroom; therefore, the government provided additional capital works expenditure to allow that to occur. It was not the government's wish or intention that he have his own courtroom. We didn't require that of him: that was his request.

The third of four points I will make in relation to expenditure is that the commissioner, last financial year, came to me and said that he had underexpended his operating budget by a six-figure sum but that he had very important work to be done in relation to a particular investigation. I don't know the detail of that. I shouldn't know, and he wouldn't tell me anyway. He asked whether or not I would agree, which is a little unusual, to actually allow him to carry over unspent money for this investigation.

I agreed, on behalf of the taxpayers of South Australia, to allow a six-figure sum to be carried over into this year's budget from last year's budget. So, it is my very strong view that, in relation to allegations of corruption, the commissioner has the dollars and he has the legal authority to investigate any allegation of corruption within SA Health or indeed anywhere.

In relation to his further request, in addition to the $14½ million that we provided, he asked for a further $2 million to do this evaluation of SA Health. I indicated, on behalf of the taxpayers, 'No, we don't have the additional $2 million to give to you.' That was one part of the answer. The other part of the answer was the commissioner said it would take about 12 months. In my experience—this wasn't what he said—these things tend to take a bit longer than first indicated, but he said 'about 12 months' for him to produce the results of that.

I said to the commissioner, 'We can't wait another 12 months or 18 months to take corrective action in relation to SA Health. We know there is a problem of financial mismanagement and maladministration in terms of financial management within SA Health. We have a plan to fix it, correct it and save the millions of dollars. We can't afford to wait for another 12 months for you to tell us what we already know. We know there is a problem. We inherited it after 16 years of financial mismanagement by the former Labor government. We need to make changes and we need to do that straightaway. We don't need to spend another $2 million to tell us what we already know in terms of financial mismanagement.'

The final point I would make is that the ICAC commissioner is an expert on legal issues. He is an expert—and that's what he has been appointed to—in relation to corruption issues. That is his bread and butter. We have other investigative bodies, like the Auditor-General. We have parliamentary committees and others, and you have Treasury and treasurers with responsibility in relation to financial mismanagement and saving the taxpayers' dollars within SA Health.

It is my view that that is not the primary role of the corruption commissioner. We have an Auditor-General, as I said. We have a Treasurer, we have Treasury, we have parliamentary committees. We've got many other vehicles through which financial mismanagement should be corrected and corrective action taken.

So with great respect to Commissioner Lander, I accept his greater expertise in relation to legal issues and corruption. I don't accept the fact that he is the expert, or indeed the pre-eminent expert, in relation to financial management issues. I am sure there are things that he could throw light on in relation to various aspects of corruption and other things like that—that's his responsibility, not ours—but in relation to financial mismanagement, that is a job for the government, for the minister, the new management and indeed the other bodies that exist in South Australia.

Could I say in conclusion that I chuckle a little bit at some members of the Australian Labor Party. The Hon. Ms Bonaros isn't from the Labor Party, but others have expressed the view that we should spend the $2 million. Can I say there are two senior members of the shadow cabinet who, when we gave the commissioner $14½ million extra, came to me in the corridors of Parliament House and said, 'Why on earth are you giving the commissioner an extra $14½ million? He's got more than enough money already.' These are two very, very senior members of the shadow cabinet and yet we have the same people going out into the public arena saying, 'This is terrible. Why didn't the government give the commissioner an extra $2 million?' The hypocrisy of the Labor Party on this issue is evident to everyone.

SA HEALTH

The Hon. C. BONAROS (14:59): Supplementary: can the Treasurer confirm whether the views that he has expressed today, or the justifications he has expressed today, have been directly made to the commissioner and what has been his response?

The Hon. R.I. LUCAS (Treasurer) (15:00): I have indicated most of those views to the commissioner when he first raised the issue. Of course, in subsequent days, I think the letter to which the member has referred is his most recent letter. There was an earlier letter, which came to me, and I addressed the letter. Perhaps the earlier letter went to the Minister for Health and I responded on behalf of the government to him, and that has been released publicly.

I think the member has just referred to another letter that has gone from the commissioner to the Minister for Health in more recent days. I have not spoken to him in recent days, but my experience with the commissioner is that he is very well aware of what members of the government say. He has a very good communications division and reporting division. I have not been backward in coming forward and expressing my views in InDaily, *The Advertiser*, *The Australian*, and in the parliament. Commissioner Lander will be well aware of my views.

In response to the final part of the question—what is his response?—I don't know, because he has not conveyed that to me, but I am sure at some stage he will convey his view in relation to the issues that I have raised.

The PRESIDENT: Supplementary, the Hon. Ms Bonaros.

SA HEALTH

The Hon. C. BONAROS (15:01): Can the Treasurer also confirm how much has been spent on administrators to date?

The Hon. R.I. LUCAS (Treasurer) (15:01): On administrators?

The Hon. C. BONAROS: KordaMentha.

The Hon. R.I. LUCAS: If the question is in relation to KordaMentha, I would have to refer that to my colleague the honourable Minister for Health. I think he has put a figure on the table. My recollection is that it was $18 million, but he has also indicated how much money has already been saved from that wise investment on behalf of the taxpayers of South Australia. Again, KordaMentha's expertise is in financial management, accounting, those sorts of issues. It is not the area of expertise of a lawyer and the ICAC commissioner.

TRAINING CENTRE VISITOR

The Hon. I. PNEVMATIKOS (15:02): I seek leave to make a brief explanation before asking the Minister for Human Services a question regarding the Training Centre Visitor.

Leave granted.

The Hon. I. PNEVMATIKOS: On 25 September 2018, the parliament received the annual report of the Training Centre Visitor, Ms Penny Wright. On pages 26 and 27 of that report, Ms Wright stated she had received Crown law advice about the limits of her role, which potentially raised significant risk for her, her staff and the vulnerable children she advocates for in the youth justice system. Recommendations were made for legislative change, which would assist and protect her and the vulnerable young people.

This particularly refers to young people in the youth training centre who are in temporary care in a hospital, for example, and where the visitor has no jurisdiction to advocate. Also raised is that the visitor, Ms Wright, is unable to delegate any part of her role in order to deal with the demand placed upon her role. My question to the minister is: why, over a year later, has the minister not acted on this report and made changes?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:03): I thank the honourable member for her question. In relation to the first issue, which is the matter of the mandate and scope of the locations where the Training Centre Visitor can conduct her role as the Training Centre Visitor,

that was a decision that was laid down by the parliament. I think it was in 2016, when the act was brought into parliament.

My reading of that debate was that it was not anticipated that the Training Centre Visitor was responsible for young people in custody who were located outside of the physical centre, that is, to state the obvious, that the parliament took the view that we had a Training Centre Visitor to inspect the physical site of the centre and not beyond that. The Training Centre Visitor has a particular view that it would be desirable to have a role to inspect other places where somebody may be. The government's view is that there are other particular responsibilities within other sections that have those specific responsibilities.

The other matter is in relation to delegation. The advice I have received is that the Visitor is able to provide tasks to other staff who are employed in her office, but that to provide a specific delegation would be inconsistent with similar roles.

TRAINING CENTRE VISITOR

The Hon. I. PNEVMATIKOS (15:05): Supplementary arising from the original answer, on the basis of what you have responded. Has the minister responded in writing to Ms Wright about her recommendations for legislative change and, if so, will the minister table that correspondence?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:05): I can't recall whether I have actually written back to the Training Centre Visitor. I have met her on several occasions. She also meets not just with staff at the training centre but also with staff within my department. I'm reasonably certain that these views have been expressed in the past. I will check whether there is any specific letter that I have on record that I can provide, and go through the usual processes to ensure whether that can be tabled or not. I'm not sure whether I have actually provided that information in writing.

COMMUNITY CENTRES SA

The Hon. J.S. LEE (15:06): My question is to the Minister for Human Services about the Community Centres SA and Volunteering SA and NT 2019 conference. Can the minister please provide an update to the council about the importance of the Being Connected conference which is happening today?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:06): I thank the honourable member for her question and for her ongoing interest in this area. I pay tribute to her role as a community representative who no doubt comes into contact with a lot of people who are involved in community and volunteer organisations, so there is a lot of personal interest for her in this issue.

I was very pleased this morning to open the first conference jointly held by Community Centres SA and Volunteering SA and NT. Honourable members, particularly those who have been ministers or shadow ministers, will be familiar with the Community Centres SA annual conference which has often been held at Morphettville over two days with another day of site visits. This year they collaborated with Volunteering SA to put together a program for one day, located at the Hilton.

These conferences always have very thought-provoking speakers attending them, and I think they are very valuable for the people who attend. This year's theme was social connectedness which is fundamental to survival. Like most creatures, we are social creatures. It provides safety, security, support, a sense of belonging and provides meaning of purpose. I have spoken in this place before I think about the wonderful impact of volunteering as part of that social connectedness. Many people who volunteer find it a happy coincidence that they get a lot more out of it as they had not been looking for that particular outcome.

Community Centres SA have over 35,000 people visit them every week. I have spoken in this place before about the intersection between this and other policy areas, particularly in the domestic violence space, where we have opened our first regional hub at Murray Bridge at The Haven, which has Women's Information Service trained volunteers who assist people in the community to gain information and provide more details if they need it.

The keynote speaker this morning was Professor Alex Haslam who is one of the co-authors of a book called *The New Psychology of Health. Unlocking the Social Cure*. It demonstrates that

people, particularly those who are over 50, who join social groups can cut the risk of depression by some 24 per cent. There are also a number of positive health determinants in terms of physical exercise in a range of areas, an investigation into community centre users, building connectedness through pet-friendly communities, a speaker on the digital age and a range of other speakers.

I am looking forward to discussing, with both of those organisations, how they found this new partnership. We are always very interested in partnerships in this particular sector, because the sum is greater than the parts—whatever that saying is; I always get it wrong—and people are able to come together and find some fantastic solutions.

The PRESIDENT: Supplementary, the Hon. Ms Scriven.

COMMUNITY CENTRES SA

The Hon. C.M. SCRIVEN (15:10): What will be the impact on Community Centres SA of the $3 million cuts over four years to the ACE programs that are predominantly delivered through community centres?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:10): ACE programs aren't part of my portfolio. I don't think I can comment on those particular funding cuts because I am not the minister responsible for the ACE program.

COMMUNITY CENTRES SA

The Hon. C.M. SCRIVEN (15:10): Further supplementary: my question was around the impacts on Community Centres SA, about which the minister has just given—at length—an answer to her own side's question.

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:10): I can't comment any further.

NATIONAL PARKS ZONING

The Hon. M.C. PARNELL (15:11): I seek leave to make a brief explanation before asking a question about the zoning of national parks of the Minister for Human Services, representing the Minister for Environment and Water.

Leave granted.

The Hon. M.C. PARNELL: As members are aware, the state government is going through a process of rewriting the planning rule book for South Australia. That project includes the preparation of a new planning and design code to replace 68 individual council development plans. Public consultation for country areas closes next month, and in the metropolitan area and in large regional centres it closes at the end of February. Part of that exercise involves reducing the number of zones and setting out what kind of development is appropriate or inappropriate in each zone.

When it comes to national parks, most people would assume that these are all zoned for conservation, because that is why national parks were created in the first place. However, what the government is now proposing is a whole range of zones for our parks, including zoning some of our most iconic national parks as rural, which is the same zone as adjoining private farm land. That is exactly what is being proposed for parts of Flinders Chase National Park on Kangaroo Island, an iconic park that this month is celebrating its centenary. Similarly, over 80 per cent of outback parks—including parts of the Flinders Ranges, Gammon Ranges National Park and all of the Simpson Desert, Nullabor, Yellabinna and other outback parks—are being zoned as remote areas, which is the same zone used for pastoral leases running sheep and cattle.

My questions of the environment minister are: does the minister support zoning national parks and other protected areas as rural or remote areas so that the same planning criteria apply to parks as to farmland or pastoral leases? Secondly, if the minister is not supportive, what is he doing about it? Will he insist to his colleague the planning minister that all national parks and other protected areas need to be zoned for conservation in recognition of the protection of the environment being the number one priority in those areas?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:13): I thank the honourable member for his question. I will take those on notice and bring back a reply from the relevant minister.

INDUSTRY JOB LOSSES

The Hon. J.E. HANSON (15:13): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment, regarding industry job losses.

Leave granted.

The Hon. J.E. HANSON: Architecture firm Hassell, which was established in Adelaide in 1938, has announced that it will be shutting down its Adelaide office after completing its remaining projects here at the end of 2021. This is disappointing news, as are recent announcements from Singapore Airlines and Emirates, who have decided to shut their respective Adelaide offices as well. The minister has repeatedly told this chamber how he likes to be a deal-maker. He shakes hands and makes deals at restaurants; he flies interstate and says hello to people, many of whom can't recall meeting him. My questions to the minister are: when did the minister first discover that Hassell would be leaving South Australia? What advocacy, if any, did the minister provide to try to retain Hassell in our state?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): I thank the honourable member for his ongoing interest in the South Australian economy, in particular the architecture firm Hassell. It was disappointing to read in the paper that Hassell is leaving, although three of their principals are staying here and starting up, if you like, consultancies, so I suspect that Hassell will still be quite well represented here, albeit not having the presence it has had in the past. It is disappointing, but its head office interstate has made a decision to close the Adelaide office. However, I am sure they will still be pitching for work. The article in the paper showed a number of great iconic projects that Hassell has worked for.

It is interesting also that, if you look at the context of the honourable member's question, he talked about Singapore Airlines and Emirates Airlines. I think Singapore Airlines has had the same corporate structure in place for 50 years. I have met with Singapore Airlines and they have wanted to change their corporate structure, but the honourable member forgets that it was last year that Singapore Airlines brought their new A350 aircraft to Adelaide—the first airport in Australia to have that service—because they were giving us extra capacity to fly people and freight between Adelaide and Singapore.

They are our longest serving international airline partner, and that partnership is as strong as ever. With the digital age we have, we do not necessarily need to have their marketing team here in Adelaide. Emirates are the same, they have shifted their marketing team, but we are still extremely well serviced with a high-quality service from South Australia and Adelaide to Dubai. Only recently, Qatar announced bringing their A350-1000 plane, which has an extra 16 per cent capacity. Even though we see some changes in the on-ground presence of the staff, we are getting an increased service from those particular organisations.

When the honourable member talks about job losses, I am reminded, when I look out of my office window (and members opposite would be very familiar with that office because it was the office of their very good friend the former minister Martin Hamilton-Smith), and one can only see a little bit east, a little bit west and mostly south, there are 11 cranes on the skyline—none of them funded by the taxpayers. I could not see towards the north, but I know that there are probably another three or four cranes. We have an unprecedented number of cranes on the skyline.

I will refer members to a little article about job losses and economic activity, and a headline recently in *The Advertiser*, 'Adelaide's CBD development: The CBD's $1 billion building boom to continue into 2019.' More than $1 billion! I won't read the article because it would be inappropriate to read an article and quote from an article in *The Advertiser*, but it goes on to talk about the boom we are having—all the hotel development that is coming. We have the Sofitel under construction, we have the Hyatt—a whole range. We have the world's tallest student accommodation building.

I think that it takes a little while for the business community and the global community to realise that there has been a change of management in South Australia. It is about 18 months, and now they are starting to say, 'This is a place to invest.' As you well know, Mr President, we are seeing

record numbers of international students and record tourism expenditure. With the Joyce review, we have identified our nine key sector targets. You have all heard the Premier talk about space, that is going to be one of the most exciting new sectors. There will be jobs aplenty in the space sector.

We know about defence and the opportunities that will abound over the next decade from a defence point of view. Then you have some of the emergence areas, like the creative industries, the high-tech sector and then, of course, you have the fintech sector.

Members interjecting:

The Hon. D.W. RIDGWAY: My colleague interjects, 'Tell us about blockchain'. There simply isn't enough time today to talk about blockchain, but there are some really exciting times, and it is a sad day that the opposition continually wants to be negative and talk down this state, when in fact we have some unprecedented exciting times ahead and I can't wait to get back and tell the chamber about all the good news.

The PRESIDENT: Let's be very clear everyone, I would not have allowed the clock to be talked down if it weren't for a Liberal Dorothy Dixer coming next on the whipping sheet.

Motions

GENETICALLY MODIFIED CROPS

The Hon. M.C. PARNELL (15:19): I move:

That the regulations made under the Genetically Modified Crops Management Act 2004 concerning Designation of Area, made on 10 October 2019 and laid on the table of this council on 15 October 2019, be disallowed.

The Greens are moving to disallow these regulations that lift the moratorium on the cultivation of genetically modified crops in South Australia, other than Kangaroo Island, and we are doing so for a number of reasons. The first reason is that, less than two years ago, this parliament decided to extend the moratorium that banned GM crops across the entire state until September 2025.

The bill passed by both houses of parliament was done with the understanding that any future decision to lift the moratorium could only be done with the support of both houses of parliament and by legislation. During debate on that bill in 2017, the Liberals, while in opposition, opposed it, even moving to adjourn debate during private members' business to prevent it passing. Their position was made crystal clear at the time, so it comes as no surprise that the Marshall Liberal government now wants to lift the moratorium.

However, rather than bringing an amendment bill to this parliament to test the will of the parliament to lift the moratorium, they found a loophole in the drafting of the 2017 amendment act that they could exploit. The Marshall Liberal government has instead chosen to go down a sneaky path of changing the scope of the regulations, whilst leaving the moratorium expiry date, agreed by parliament, in place. As I have said previously, the government's move is sneaky, cynical and it treats the parliament with contempt. For this reason alone, I think an appropriate response for this chamber is to disallow the regulations and force the government to introduce an amendment bill that we can test in debate.

The next reason to allow disallowance of these regulations is that, for the last year, a select committee of the Legislative Council has been inquiring into the genetically modified crops moratorium and has now tabled its report. In this report, the select committee has not recommended lifting the moratorium. As a member of that committee, I will be speaking to that report on the next private members' day, but it is important to note this outcome now as it is relevant to this disallowance motion.

Another reason to disallow the regulations is the consideration of marketing and economic benefit. The world is demanding cleaner, greener and more natural food, which includes non-GM and organic foods. We know that this demand is continually growing. In order to take advantage of the opportunities to supply to these important and lucrative niche overseas markets, South Australia needs to maintain its clean and green image. Retaining the statewide South Australian moratorium will position us well for the future.

We also know that in those states where both GM and non-GM canola is grown, the non-GM crop attracts a higher price at the silo. There is indisputable evidence that the market favours non-GM. The market will pay you more per tonne for non-GM canola, compared with genetically modified varieties. According to the state government's own data, provided in evidence to the select committee by the Chief Executive of PIRSA, Scott Ashby, non-GM canola achieves on average $30 to $35 per tonne more than GM canola in those states that allow both GM and non-GM canola to be grown. That is not an opinion, that is a statement of fact.

Where South Australian grain growers have marketed South Australia's clean and green image to these overseas markets—and with an important part of their marketing being the existence of our GM crops moratorium—they have been successful in securing lucrative overseas markets. A case in point is Kangaroo Island Pure Grain, which sells their products to buyers in Japan who are very particular about the non-GM status of the place of origin of the grain they purchase.

Two large Japanese consumer cooperatives have written to the select committee asking that South Australia retain the moratorium. The success of Kangaroo Island Pure Grain's marketing of SA's clean, green, GM-free status is a good example of what can be achieved by other grain producers, but this can only happen if we retain the moratorium.

The final reason that I will raise today is the issue of choice. The problem we face, if the government lifts the moratorium, is that the choice of a farmer to grow GM crops impacts on the choice of neighbouring farmers to grow non-GM or organic crops. This is because wherever GM crops are grown alongside non-GM or organic crops, there is a substantial risk that contamination will occur.

Again, this is not opinion, this is fact and it is supported by evidence of numerous instances of contamination in locations where GM crops are grown. The cost of these contamination incidents is usually borne by the farmers whose crops have been contaminated. So, in providing the choice for farmers to grow GM crops, we need to recognise that this can impact the choices of other farmers to remain free of contamination.

The Greens' view on the GM crops moratorium is well known. We think the moratorium should remain because there is clear evidence that it is the best result for South Australia. We also know the view of the Marshall Liberal government: they want to lift the moratorium, and if it were not for my 2017 amendment bill they may well have been proposing to lift the moratorium across the entire state.

What we are not sure about, though, is the view of the Labor opposition, so I would like to remind the Labor Party of what position they took to last year's state election. In response to a gene ethics election questionnaire that was sent to all parties and candidates in the 2018 state election, the South Australian Labor Party stated:

> The State Labor Government's long-standing policy on genetically modified (GM) food crops is very clear.

They also said:

> The State Labor Government is committed to maintaining the moratorium on the commercial cultivation of GM food crops in South Australia.

Expanding on this they submitted the following:

> South Australia is the only remaining mainland state in Australia to prohibit the commercial cultivation of GM food crops. Our non-GM status is one of the elements underpinning our global reputation as a supplier of premium products, and supporting the State Labor Government's Premium Food and Wine Produced in our Clean Environment and Exported to the World economic priority. These credentials give the State's primary producers and food and beverage manufacturers a competitive marketing advantage in the global marketplace.
>
> In 2004 the State Labor Government implemented a moratorium on the commercial cultivation of genetically modified food crops, which we extended until 1 September 2019. We recently supported an extension of this moratorium until 2025 because we believe so strongly in realising the opportunities provided by South Australia's non-GM status.
>
> Extending the prohibition on growing GM food crops provides greater certainty to our trading partners and industry, enables South Australia to maintain its market position as a producer of premium, non-GM food, and responds to the expected increase in global demand.

> The State Labor Government is fully committed to maintaining this policy position.

It does not come any clearer than that. That was the specific response of the Labor Party to questions that were asked of them in the lead-up to the last state election. So the Greens are calling on the South Australian Labor Party, now in opposition, to keep their word and remain fully committed to maintaining this policy position.

I would also like to take the opportunity to highlight the legacy of SA-Best's previous leader, Nick Xenophon, and his support in this place of not only a GM-free South Australia but of stronger GM labelling laws and laws to protect farmers whose crops are contaminated by GM material. Back in 2007, the Hon. Nick Xenophon, the Australian Democrats MLC the Hon. Sandra Kanck and I agreed to work together to introduce a suite of three bills into the council on these three issues.

Unfortunately, the Hon. Nick Xenophon resigned from the Legislative Council a few weeks before he had the chance to introduce his GM labelling bill, so only two of these three bills were ultimately introduced into the council. However, prior to this, the Hon. Nick Xenophon made numerous speeches expressing his concern about GM crops and foods. In debate on genetically modified food in July 2003, Nick Xenophon began his speech with the following words:

> I refer to the very important issue of genetically modified foods and crops and the debate that has been raging not only here in Australia but overseas. This is an issue that is very dear to my heart and also to that of the Hon. Ian Gilfillan, given his consistent, persistent campaign on this issue, and my colleague the Hon. Julian Stefani, who has raised concerns about genetically modified crops and foods on a number of occasions in this chamber.

During debate on the Hon. Ian Gilfillan's private member's bill the Gene Technology (Responsibility for the Spread of Genetically Modified Plant Material) Bill in December 2003, the Hon. Nick Xenophon said:

> I indicate my support for the Hon. Ian Gilfillan's bill. I, too, share his concerns about the potential liability impacts of genetically modified crops. I am concerned that farmers will not have sufficient protection.

Finally, in debate on the Genetically Modified Crops Management Bill in March 2004, the Hon. Nick Xenophon stated:

> If we allow the contamination of non-GM crops in this state by GM crops, that will be irreversible and irrevocable, and it will damage forever the state's clean and green reputation.

The Hon. Nick Xenophon was absolutely correct in his assertion about the damage this could cause to our state's clean and green reputation. This is something that this parliament cannot ignore. I implore both the Labor Party and SA-Best to continue to stand firm on retaining South Australia's GM-free status and support the motion for disallowance of these regulations so that we can retain the moratorium across South Australia.

For the benefit of members, I advise that I will be bringing this motion to a vote on Wednesday 27 November, which is prior to the commencement of the government's regulations, which will, if not disallowed, come into operation on 1 December. Farmers need certainty about whether or not they can start growing GM crops next season, and the decision of this chamber prior to the commencement of those regulations will provide that certainty for farmers. With these words, I commend the motion to the chamber.

Debate adjourned on motion of Hon. D.G.E. Hood.

Bills

HEALTH CARE (HEALTH ACCESS ZONES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 30 October 2019.)

The Hon. I. PNEVMATIKOS (15:32): I rise to speak in support of the Health Care (Health Access Zones) Amendment Bill. I thank the Hon. Tammy Franks for introducing the bill to this place, and I also thank my fellow party member Nat Cook, the member for Hurtle Vale, of the other place for co-sponsoring this important bill. The bill recognises the need for better protections for workers and patients around reproductive healthcare services.

In terms of reproductive rights, South Australia is once again lagging behind. Excluding Western Australia, all other states and territories have legislation similar to the bill in front of us today. It is important that we recognise the difference between the bill being discussed today and the previous Criminal Law Consolidation Act. The previous bill has already led to heated arguments and contentious discussions about the rights of women.

I would like to emphasise that this bill focuses on the safety, privacy, dignity and wellbeing of staff working at women's healthcare clinics and those who access the essential healthcare services they provide. Abortion may be a contentious issue, but the issue of women's health and workers' safety is not. Workers at facilities where abortions are being performed are constantly targeted by anti-abortion protesters. At the Pregnancy Advisory Centre in Woodville, intimidation towards workers is common.

Brigid Coombe, who worked at the clinic for 18 years, has said that she and other staff had to take self-protective actions around the protesters. Brigid noted that the staff avoided walking in front of the anti-abortion protesters and had to make sure the protesters did not become familiar with their cars. The protesters harassed her, making her feel unsafe. It is totally unacceptable that someone arriving and leaving their job is made to feel like this.

People who go to access the clinic for their health services are perhaps the most targeted. We have heard countless stories in this place, and from constituents, of the harassment patients face when accessing abortion services. Patients at the clinic feel as though their safety is threatened, with protesters often invading their personal space. The patients are intimidated, making them feel lesser, impacting on their dignity and mental wellbeing. Women entering a clinic for an abortion already feel distressed, anxious and fearful about their unplanned pregnancy or any procedure they may undergo.

It is completely unacceptable for women to be targeted by anti-abortion groups. Just two weeks ago I talked, in this place, about International Safe Abortion Day: patients going through this harassment is not what safe access to abortion looks like. Women are having consultations in these clinics on a variety of health and reproductive issues; however, to the protesters the reason you visit does not matter. Everyone who enters the building is targeted by the anti-abortion protesters.

This includes a support person the patient may bring along. Although these people are not accessing the services, the protesters target them by intruding into their personal space, displaying vulgar pictures and taunting them as they enter. How is someone expected to support the patient when they are confronted with this sort of targeted protest? There is no way that a support person can feel safe entering a space like this.

There are large misconceptions about the women who access clinics that offer abortion services. It is almost guaranteed that the women entering the clinic for an abortion have done an incredible amount of research and have been told about the procedures from a qualified healthcare professional. One woman interviewed about her experience entering abortion clinics said that she had thought long and hard about the decision to come to the clinic. She was informed, and had done the research to make the difficult decision. She expressed that the protesters did not respect her personal circumstances, and that she knew she had made the most appropriate decision for herself.

It is distressing that women entering these clinics are not understood within the context of their personal circumstances by the protesters. Women accessing abortion services often talk through their decision with significant others, and gain advice from healthcare professionals within the clinic about the options available. This is not an easy decision for women to make. In fact, it is probably one of the most challenging decisions a woman would ever have to face, and it is unbelievable that protesters would seek to further challenge a woman's decision to seek an abortion.

Many people have specifically made mention to me that praying in silence around the clinic is not causing any inconvenience for those entering. I would like to make it clear that these people have many other places to pray: their home, a church, a temple, a mosque. They do not need to make a public display of their individual right to worship and pray.

As the Hon. Tammy Franks made mention in her second reading of the bill, the City of Charles Sturt, the council in which the Woodville advisory centre is located, has recognised that protesters are blocking access to the centre. The City of Charles Sturt acknowledged that they had

to ensure the 'safety of the community when accessing services'—those are their words—and in 2010 introduced by-law permits to limit the activities of the protesters. Despite their best efforts, these by-laws have been largely ineffective in keeping workers and patients feeling safe.

We have a responsibility to enforce safe zones, giving the police force the ability to act on unwarranted behaviour. In part to strengthen this bill, I have moved an amendment bringing this bill into line with other state jurisdictions and following similar language to the High Court ruling. My amendment specifies that health access zones are created specifically to protect those accessing abortion services and other health services, a person supporting the patient, and health professionals providing health care. It also makes it very obvious that these protesters excluded from the 150-metre radius are those protesting against abortion.

It is important that we emphasise the High Court ruling that upheld the constitutional validity of safe access zone laws in Victoria and Tasmania, specifically provisions that prohibit certain communications and protests about abortions within 150 metres of abortion clinics. This was a significant win for gender equality. The High Court acknowledged, and I quote, 'women seeking an abortion and those involved in assisting or supporting them are entitled to do so safely, privately and with dignity, without haranguing'. This ruling gives South Australia the platform to move forward with this health access zone bill and ultimately reinforces the decision that South Australia have health access zones.

In supporting this bill, I am fortified by my party's commitment made at our 2019 state convention. The state Labor Party supported the introduction of safe access zones of 150 metres around any clinic, hospital or service that provides abortion, to ensure that staff and those seeking services are protected from intimidation and harassment. The intimidating behaviour from anti-abortion protesters acts as a barrier for women accessing the essential healthcare services.

With the recent closures of the women's advisory centre's surgical abortion section and the closure of the entire Women's and Children's abortion service, we are on a downward spiral, making these services completely inaccessible. This bill is just one part of the remedy to access in terms of reproductive rights for women in our state. The time for paternalistic rhetoric has passed. We must not just drive for the legalisation of essential healthcare services, we must make those services literally accessible.

The Hon. C. BONAROS (15:41): I, too, rise to speak in support of the Health Care (Health Access Zones) Amendment Bill 2019 and take this opportunity to thank the Hon. Tammy Franks for taking the crucial step of introducing such a simple yet powerful piece of legislation to this chamber. The bill, as we know, seeks to establish health access zones to provide a level of protection for aborting care in this state—zones that are already operating in every other jurisdiction in Australia except for Western Australia and, of course, South Australia.

These health access zones are sometimes called bubble zones because they create a bubble within a specific radius around an abortion clinic in which certain conduct is prohibited under the law. Health access zones protect the privacy, the dignity and the safety of women accessing health care. Once again, South Australia stands as an outlier in this area of sensible reform. Tasmania was the first state to legislate for health access zones. Their legislation commenced in February 2014 and provides a buffer of 150 metres and imposes a steep fine and/or a term of imprisonment for contravention of the legislation.

Since then, jurisdictions around Australia have been gradually reforming their laws with similar legislation to protect people from harassment and abuse when they access abortion services and now it is South Australia's turn to do the same. I note that health access zones are also contained in the abortion reform bill, which is due to be debated once the South Australian Law Reform Institute reports on the bill. The delay by SALRI in reporting has resulted in the issue of health access zones being dealt with in a separate bill. I think it is worth noting also that the abortion debate is obviously going to be a highly contentious debate; there is nothing contentious about what we are debating today.

I also want to commend the work of the member for Hurtle Vale, Ms Nat Cook, who has worked together with the Hon. Tammy Franks to prepare and co-sponsor this piece of legislation, which was simultaneously moved by the member for Hurtle Vale in the other place. The intent of the

bill is to protect patients, doctors and staff alike so that staff can operate in a safe workplace and patients are not harassed, abused, intimidated or filmed as they make their way to the Pregnancy Advisory Centre.

We do know this is occurring. Documents produced in response to the Hon. Tammy Franks' FOI request from the City of Charles Sturt substantiate that. There have been media reports in recent days also substantiating that and substantiating the extent to which this issue occurs. I have also heard firsthand from a clinician about the harassment and abuse that they deal with on a regular basis, so it is not just the women accessing these procedures who are being subject to these protests but also those people who are privately and diligently going about their work each and every day.

Staff and patients alike should not be faced with a barrage of abuse, and I concur with the remarks of the Hon. Tammy Franks and others that, while there is an implied freedom of communication within the commonwealth constitution, that implied freedom is not absolute. The law is also very clear on this issue. From 9 to 11 October 2018, the High Court of Australia heard two challenges to the constitutional validity of the legislation establishing safe access zones in Victoria and Tasmania respectively.

These High Court challenges were based on the contention that the legislation in each state impermissibly burdened the implied freedom of political communication. The Attorney-General for Western Australia intervened in the proceedings and filed publicly available submissions. These concluded that safe access zone laws do not unnecessarily limit political communications. This is because the restriction on free political communications created by each safe access zone is slight and reasonably appropriate, and adapted to advance the legitimate object of the legislation in a manner that is compatible with the maintenance of a constitutionally prescribed system of representative and responsible government.

The High Court delivered its decision on these challenges on 10 April of this year, with the majority of the High Court dismissing the constitutional challenge to the Victorian legislation, and the High Court unanimously dismissing the constitutional challenge to the Tasmanian legislation. The High Court held that both the Victorian and the Tasmanian legislation burdened the implied freedom argument.

However, in both cases, it was considered the burden was justified by reference to the legitimate purposes of the legislation. This includes the protection of the safety, wellbeing, privacy and dignity of persons accessing lawful medical services. The justices of the High Court unanimously affirmed the importance of the law. For example, Justice Nettle said:

> …women seeking an abortion…are entitled to do so safely, privately, with dignity, without haranguing or molestation.

The Victorian legislation was challenged by Kathleen Club, an active member of the anti-abortion group known as Helpers of God's Precious Infants. Founded in the US, the group picketed an abortion clinic in East Melbourne for more than two decades and actively engaged in protests in Albury, New South Wales. The Tasmanian legislation was challenged by Graham Preston, a Queensland-based anti-abortion protestor. Both protesters have been convicted of breaching the legislation in Victoria and Tasmania respectively.

Should certain persons and cashed-up lobby groups yet again seek to challenge the constitutional validity of the proposed South Australian laws, I would instead counsel them that their money is better spent on assisting the thousands of children in care across the nation. The High Court's decision should reassure members present today that there is no constitutional impediment to enacting health access zone legislation.

In my view, there are clear reasons justifying the introduction of the new legislation for the provision of health access zones outside places providing abortion and related services. It is a sad indictment that legislative intervention is required to better regulate and manage the behaviour of protesters and demonstrators outside clinics that provide abortion services. That behaviour does not have to be explicit. It does not have to be explicitly haranguing or harassing or intimidating; it can be implicit. The mere presence of these protesters would be enough to cause harm to people trying to seek access to these procedures and, of course, to people who are trying to go about their daily lives in terms of their work.

We live in a democratic country and that allows people the right to share their views, but I think the point is that they must do so in a respectful way, free of harassment, free of abuse and intimidation and, in some cases, this simply is not occurring. Whether it is explicit or implicit harassment, it requires intervention in the form of this piece of legislation.

I do not think any woman, any family, makes the decision to terminate a pregnancy lightly. I am sure all of us would agree that it is a decision made with the heaviest of hearts and one that anyone accessing a termination will have to live with and come to terms with for the rest of their lives. The very graphic images that protesters deem necessary will live in those women's minds forever and a day. They do not need to be shown them to appreciate the gravity of the medical procedure that they are undertaking or the decision that they have made.

Why any of us would want to add to that anguish is plainly and simply beyond me. It is incomprehensible and it is unnecessarily cruel. It is an affront to their right to privacy and their entitlement to access health services safely, and that is precisely what this is: a perfectly legal health-related procedure. As I have said again and again, these do not need to be explicit acts of intimidation or harassment to be defined as such.

The unimaginable vulnerability of these women also warrants decisive action by this chamber no matter how often or otherwise protests take place and no matter what our position on the abortion debate may be. This is not a walk of shame for women, their families and their partners. For very personal reasons, reasons known only to them, they have chosen to access a medical procedure, a perfectly legal medical procedure, and they are entitled to do so with every protection that we can offer. For those reasons, I will be supporting the bill and I commend the honourable member for introducing it into this place.

The Hon. D.G.E. HOOD (15:52): I rise to indicate that I will not be supporting the bill. There are a number of reasons for that, which I will go through in some detail. The principal reason for me is that I believe—there is an old saying, and many members will be familiar with this saying, and that is: using a sledgehammer to crack a walnut, or something to that effect. I believe that is what this bill does. It is a very blunt instrument to deal with a situation where there seems to be very scant evidence that there is any actual issue to deal with.

Let me give you some detail to that: the Pregnancy Advisory Centre, which has been the subject of a lot of the debate—and of course that is entirely appropriate because that is where most South Australian abortions are performed—was established in 1990, I understand, so that is coming up to 30 years, 29 to 30 years. During that time, the protesters or those involved in the vigils, those praying, or whatever term people want to use for those individuals, have never had their permit to do so revoked by the relevant council, Charles Sturt council. That is in a period of nearly 30 years. I do not know how many permits were issued over that time but it would be very many, one would imagine, and never once has it been revoked.

There has never been a successful prosecution about the behaviour of any of the people involved in prayers or vigils, never a single successful prosecution over that entire time. There was one attempted prosecution during that period, but it failed, I understand due to lack of evidence. In fact, the charges were withdrawn, as I understand it. That is a very long period of time. If this was a really significant issue, if there were lots of these events occurring, if people were genuinely subjected to acts of violence or intimidation or something of that nature, then surely over that time there would have been some recourse. Surely the permits would have been revoked at some period, after a series of warnings perhaps, or surely there would have been multiple successful prosecutions. We already have laws that deal with these types of issues, and I will go into that detail a little bit in a moment.

I would like to contrast the behaviour of the people involved in these vigils with the sort of behaviour that we have seen in recent days and weeks from other protest groups or other groups that have strong views on issues that have received a lot of coverage. The Extinction Rebellion movement is one example—there are others—whose behaviour is appalling, in my view. They have resorted to violence and clearly intimidating tactics. In fact, members may have noticed an article in yesterday's *Advertiser*, on page 16, entitled 'Violence erupts at climate rally'. I will read it in part. It is written by Alanah Frost and James Dowling. It says:

Several police officers and protesters were injured as a climate rally turned ugly on the steps of the Melbourne Convention Centre yesterday.

Chaos broke out when about 250 protesters tried to block entry to a global mining conference.

The activists, who formed a human chain by linking arms, clashed with police who tried to clear a path into the centre.

Two people were arrested—

I think this is staggering—

on animal cruelty charges after a police horse named Will was slapped in the face and had to be treated for cuts.

Two officers [police officers] were taken to hospital, one for a dislocated finger, while the other suffered head wounds.

Police arrested 47 activists—

in one demonstration—

mostly for obstructing a footpath and intentionally obstructing an emergency worker.

Victoria Police Commander Tim Tully expressed his disappointment, saying the demonstrators sought confrontation and refused to protest peacefully.

The article goes on, giving the view of the organiser of the protest. Regardless of that, what is not in dispute is that 47 protesters were arrested—this is on one occasion, one single day. Contrast that with nearly 30 years of people holding vigils, praying or protesting—whatever term we want to use—at the Pregnancy Advisory Centre and we have not had a single successful prosecution. There has not been a single revocation of a permit from Charles Sturt council. These are vastly different groups with vastly different approaches to issues that obviously both groups feel very strongly about.

On a personal note, I must say that I know some of the people involved in the groups that pray and hold vigils at the Pregnancy Advisory Centre and I can tell you that they are peaceful people, on the whole. I do not know all of them, of course, but certainly the ones whom I do know are peaceful people. Again, their record of no successful prosecutions—in fact, only ever one prosecution, which was withdrawn—and no revocation of permits is clear demonstration of that.

We have had the organisation 40 Days for Life highlighted in this debate. They were used as an example of groups that were engaged in some sort of undesirable behaviour. It may help members to understand that 40 Days for Life requires all the people involved in these prayer vigils to sign what they call a peace statement. I have a copy of it here.

This peace statement is quite extensive in that it lists a number of things that people are required to sign up to in order to be part of the prayer vigils. I will read it in part because I think it is quite compelling. I will not read it all because some of it is not relevant, to be honest. I am not selectively editing the document; I am giving the thrust of what it is about. Let me read it in part. Remember, all the volunteers need to sign up to this:

I understand that acting in a violent or harmful manner immediately and completely disassociates me from the 40 Days for Life Campaign.

That is probably enough, even just that one point. Just to reiterate:

I understand that acting in a violent or harmful manner immediately and completely disassociates me from the 40 Days for Life Campaign.

They also have to agree as follows:

I will not obstruct driveways or walkways while standing in the public right of way. I will not litter in the public right of way.

I will closely attend to any children that I bring to the prayer vigil.

That is to maintain some sort of order. It continues:

I will not threaten, physically contact or verbally abuse abortion facility or planned parenthood employees, volunteers or customers.

I will not damage private property.

I will cooperate with local authorities.

Again, isn't that in stark contrast to the demonstrations we saw yesterday? It further says on this document, which all volunteers are required to sign up to (again, in part as it does go on a bit):

This approach avoids shouting, confrontation with patients and employees and the use of graphic abortion images.

This is 40 Days for Life's official document. I have read the main thrust of it—there are other bits on there that are not necessarily relevant to our discussion today, but if you are going to volunteer for this campaign they need to sign it, date it, provide their address, provide their email address and their phone number and sign up to that. Again, to be explicit:

I understand that acting in a violent or harmful manner immediately and completely disassociates me from the 40 Days for Life campaign.

I ask members today: what else could the organisation, 40 Days for Life, do in order to ensure that people representing them at these prayer vigils actually behave in a manner that is appropriate? They have taken all of the precautions that I think it is reasonable to ask them to take, and I think the fact that this document is easily downloadable from their website and is used for all their volunteers is very strong proof of that. That is strong evidence to suggest that the organisation is doing everything it can in order to avoid or minimise any potential issues that might occur at the site.

One other point that is important for members to note is that, whilst this bill seeks to focus on particular hate behaviour—it talks about harassment and intimidation—we already have laws that deal with those exact issues. The Summary Offences Act 1953, section 7, is, I think, a good case in point. It provides specifically:

7—Disorderly or offensive conduct or language

(1) A person, who in a public place or a police station—

(a) behaves in a disorderly or offensive manner; or

(b) fights with another person; or

(c) uses offensive language,

is guilty of an offence.

There is a $1,250 fine or potential for imprisonment for three months. It continues:

(2) A person who disturbs the public peace is guilty of an offence.

Again, a $1,250 fine, potentially, or imprisonment for three months. It goes on to detail what disorderly is, and it is exactly as you would expect it to be. It defines the word 'offensive' and includes 'threatening, abusive or insulting'. My clear understanding is that that is exactly what people are taking issue with here, if it has occurred. That is in dispute, but if it has occurred then we have laws that deal with that that do not single out a particular group or a particular issue, and could well be dealt with under this legislation but, of course, the truth is that there is insufficient evidence because, as I have already said, there has never been a successful prosecution.

Moving on: when the Hon. Tammy Franks gave her speech when she introduced this bill a few weeks ago now, she cited three particular events of incidents, you might call them, which certainly sounded undesirable, and I do not think anyone would like to see those sort of things happen. I point out that those three events are disputed by the organisation, on my understanding. In fact, I think one of them they said they had no knowledge of whatsoever, but the other two are disputed. Let us imagine they are completely true for the moment. I am not disputing the Hon. Ms Franks, I am sure that she has delivered that information to the chamber in good faith; whether or not it has been delivered accurately to her, I do not know.

Let us just assume for a moment that what has been conveyed is entirely accurate, that exactly what has been conveyed to the Hon. Ms Franks and she has conveyed to the chamber is exactly what happened. Those events, I should say, were over the period since 2014 to the current time, so that is about five years.

Over that time, there would have been roughly 22,000 abortions conducted in South Australia. These are approximate figures, of course, but they are not far off. About 60 per cent of those are conducted at the Pregnancy Advisory Centre. That means there would have been roughly 13,000 visits by women seeking abortions at the Pregnancy Advisory Centre. If you do the maths on that, that is a complaint rate of 0.003 per cent—a very, very low number.

You might argue, and I think not illegitimately, that it should be zero, but it is very close to zero. As I say, the incidents are actually disputed by the organisations and one of them they had no knowledge of whatsoever. It is important that we acknowledge that even if it is not absolutely true that some of these things do very occasionally happen, it is extraordinarily occasionally: 0.003 per cent, which seems to me an extraordinarily low number and, frankly, a number so low that I believe it is not worthy of creating legislation to deal with such an issue.

On that issue, I point out that the Charles Sturt council, as part of the process where they issue permits also require protesters, the people involved in these prayer vigils, to be at least 50 metres away from the Pregnancy Advisory Centre anyway. In fact, in practice, I have been down there and my estimate is it is probably more like 75 metres where people actually stand.

I turn now to a letter from the Law Society to the Hon. Ms Franks dated 24 October 2019, dealing with her bill, and I understand all members have received a copy of the letter. The Law Society did as they normally do: went through the bill in some detail, first of all explaining what the bill was and then gave their impression of it. My colleague the Hon. Mr Wade made mention of it in his contribution yesterday. At page 3, point 16, general comments section, the letter states:

> The society notes that SALRI is due to provide a report to the parliament on its abortion law reference in the coming months or possibly weeks. Given the establishment of safe access zones was part of SALRI's reference, there may be some benefit in waiting for SALRI's report and recommendations to be delivered. Notwithstanding the importance of this issue, it may be a more prudent approach to pursue this matter as part of a holistic reform of abortion law in the state.

Of course, that is exactly what is happening. Members would be well aware that SALRI is looking at this issue, as they were invited to by the Attorney-General some months back now but I understand they are due to report, in fact I think they were due to report today.

The Hon. T.A. Franks: They were due to report in August, actually.

The Hon. D.G.E. HOOD: That is right and as I understand it got put back to today, 31 October. It is a matter of weeks, in their words, not mine. Their words are this is weeks or possibly months away. I will just refresh myself. It says 'in the coming months or possibly weeks'. Then it says further on that it may be a more prudent approach to pursue this matter as a holistic reform of abortion law in this state. All I am saying to that is that I agree. Why rush? If we really are talking weeks and months, then this is not far away at all. That is the Law Society's view. I for one am very keen to see the South Australian Law Reform Institute's report. I understand it may in fact just be weeks away, as the Law Society has indicated. I think that is one reason for us to draw breath and consider if this should be part of a holistic reform rather than a standalone bill.

I would like to quote some information I have from 40 Days for Life. After this matter was aired in this place, I approached them seeking their response to some of the allegations or issues raised. I will not read this at length—it is quite a lengthy document—but I will touch on some highlights. I quote directly from the response from 40 Days for Life. It says, in part:

> 40 Days for Life fully agrees with Mrs Franks that—

The Hon. T.A. Franks: 'Ms', not 'Mrs'. They just married me off.

The Hon. D.G.E. HOOD: I beg your pardon, Tammy. Okay, I beg your pardon.

An honourable member interjecting:

The Hon. D.G.E. HOOD: The Hon. Ms Franks, you are right. But I am quoting from their document, and their document does not say that. So I will start again:

> 40 Days for Life fully agrees with…[Ms] Franks that patients who seek to access health services that provide abortion should be able to do so without harassment, without intimidation, without fear and without obstruction.

They agree with that. I think their peace statement, that I have just read to you and that they require all of their volunteers to sign, says that they are doing everything they can to make sure that actually happens. It continues:

> 40 Days for Life does NOT harass or intimidate patients, nor impede access by patients or staff. All prayer volunteers are required to sign a peace statement (copy attached).

As I have already read out. It continues:

> We strongly disagree with…[Ms] Franks' contention that 40 days for Life impedes patients accessing the clinic or that staff working in reproductive support services do not have a safe workplace.

So that is their view. They should have a right to respond to that. I think what is crystal clear is they are doing everything they can, including getting their own members to sign documents, to ensure that these matters are handled fairly, appropriately and carefully. It seems to me that the evidence that there is a real problem down there is simply not convincing.

I would also like to bring up another issue which I think is of some significance. That is a chain of emails which has come my way. It has really sprung out of what one might have considered to have been a claim by the member for Hurtle Vale that somehow the South Australian Law Reform Institute was involved in the drafting of this bill or that they somehow supported it. I want to be fair to the member for Hurtle Vale. I do not want to be misquoting her, so I am going to quote word for word from the email to make sure we get it exactly right.

She said in her speech, when she introduced her bill in the other place, on page 7503 of *Hansard* for that day—and I quote word for word:

> I would like to acknowledge the work of the Hon. Tammy Franks, the Attorney-General—

fair enough, but it then goes on—

> the South Australian Law Reform Institute and many other people who took the initiative of developing and supporting conversations around this private member's bill to address a longstanding problem.

I have been sent an email by a South Australian barrister who was quite surprised to hear that comment from the member for Hurtle Vale, because his understanding, as was mine and no doubt that of many others in this place, was that the South Australian Law Reform Institute was involved in an overall review of abortion law, as the Attorney-General had initiated some months back, and therefore it would be somewhat inappropriate, I would think—in my estimation anyway—for them to be involved in a specific bill dealing with that issue that was included in the broader terms of reference or that was one of the issues they would be considering.

What I want to do is read an email from the barrister to the Law Reform Institute seeking clarification: were they in fact involved in framing of this legislation with the member for Hurtle Vale? The barrister, a gentleman by the name of Mr Christopher Brohier, who people probably know, wrote to the director of the South Australian Law Reform Institute, Dr Williams, and I will read his email word for word. It is dated Friday 27 September at 3.26pm this year:

> Dear Dr Williams,
>
> I and many others have participated in good faith in the SALRI consultation in relation to the issue of abortion law reform pursuant to the Attorney-General's reference. As the SALRI website shows, the reporting date has now been put back to 31 October.
>
> In parliament on Wednesday 25 September, Ms Nat Cook, the member for Hurtle Vale, introduced the above bill, which seeks to create exclusion zones around abortion clinics. That is one of the issues expressly being considered by SALRI. At page 7503 of *Hansard* for that day Ms Cook said:
>
> > I would like to acknowledge the work of the Hon. Tammy Franks, the Attorney-General, the South Australian Law Reform Institute and many other people who took the initiative of developing and supporting conversations around this private member's bill to address a longstanding problem.
>
> I attach the full text of *Hansard* for that day so you will see that I have correctly quoted Ms Cook. On the face of Ms Cook's comments it would appear that SALRI is in the midst of consultation, and before reporting to the Attorney, has assisted a private member to produce a bill which is subject of the reference that it has received from the Attorney. In the light of that, I have the following questions:
>
> 1. What assistance, if any, did SALRI give to Ms Cook to develop and support conversations around her bill?

2. Who provided any such assistance?

3. If such assistance was provided, how is that consistent with SALRI responding to the Attorney's reference in an unbiased manner?

4. If such assistance was provided, can, and how can, SALRI provide an unbiased report in response to the Attorney's reference?

I would appreciate a response as soon as possible.

Kind regards

Christopher Brohier, barrister

The response came later that day; in fact, it was quite late that night, at 10.34pm on Friday 27 September—the same day. It was to Mr Christopher Brohier and copied in a Mr David Plater. David Plater is the Deputy Director of the South Australian Law Reform Institute. It is from the director, Professor John Williams. It says:

Dear Mr Brohier

Thank you for your email regarding the private member's bill regarding safe access zones recently introduced to the South Australian parliament. I am able to confirm that neither Dr Plater or myself were aware of either of the bills. Their existence and the timing of introduction to parliament was a complete surprise to us. We had no advance warning of their introduction or even existence. To be clear, we provided no assistance with their production or drafting, and we were not consulted or approached on it.

The focus of SALRI remains on completing the reference which has been before us and to deliver a report to the Attorney-General. As for being acknowledged and thanked in Mrs Cook's speech, I am afraid we cannot assist as to what prompted her to do this. Whilst SALRI has been thanked before by members of parliament, I am afraid it's in error on this occasion. I hope this answers your questions. Thank you for bringing this *Hansard* reference to my attention.

Kind regards

Professor John Williams, Director, South Australian Law Reform Institute

I would say that is puzzling, to say the least. To be fair to the member for Hurtle Vale, it could be that she simply made an error; she was on her feet, and she included them in the attributing of people who were involved in error. That is possibly true. I would like to think the best; I would like to think that is the case. Whatever the reason, it is important that members here know that this bill, whether it be introduced in the lower house or the upper house, does not have the backing of the South Australian Law Reform Institute. They had no involvement in its composition whatsoever.

These are difficult matters for many people, and I think it is important that we understand there are always two sides to these stories. Very briefly, in the time that the Pregnancy Advisory Centre has existed in South Australia, approaching 30 years now, no permits have been revoked. There have been no successful prosecutions. One was attempted, which was withdrawn. I present that as a case in stark contrast to other protests that we have seen in recent times.

The volunteers are required to sign that peace statement, as I said, which really locks them in to behaving well. Do we need this law at all? I think it could be easily argued that the Summary Offences Act, in particular section 7 but also others, deals with appropriate penalties for what we might call behaviour that disturbs the peace or in any way intimidates or offends, etc., and certainly behaviour that threatens or harms.

I want to finish by saying to members that we have a more comprehensive review coming soon, as I mentioned in my contribution. I think it is wise for us to look at that in a more holistic sense. This bill may pass today—I do not know—but I would ask members to consider looking at it in a more holistic sense when the Attorney comes back to the parliament with something else. I will not be supporting the bill.

The Hon. F. PANGALLO (16:18): This is a conscience vote and I will be opposing this bill. I appreciate the intent of it, and I would certainly never support persons being harassed, abused or assaulted while going about their everyday business, accessing a medical centre, hospital, school or sporting facility or just going to their workplace. My opposition to this bill is based on a wider picture, on a fundamental right for people to be able to express their views.

I abhor and reject hate speech, racial vilification and criminal defamation. However, there are also a lot of other radical or wacky views out there and, while I would not agree with them, I could not deny a person's right to express them if they do it peacefully and respectfully.

I realise there is a High Court judgement relating to this issue of safe access zones and the implied right of free speech in our Constitution. While this bill does not attempt to curtail that right of free speech, of course, by creating an exclusion or safe access zone of 150 metres, it does attempt to distance and silence a person or persons with opposing views from being seen or heard while being legally on public property.

This bill does focus on abortion and the right for a person to go into a clinic or a centre unhindered. I agree with that: a person's security should always be paramount. Yet, as the Hon. Dennis Hood has pointed out, from the lack of evidence it does not seem to be happening here. In fact, the Hon. Clare Scriven has given us examples of where people have actually been assisted by them making their views known.

I have not seen examples of extreme violence in South Australia, as we have seen in the United States, for instance, and I would never want to see that here, but I will go back to the precedents that this can create with public protests and expressions of opinion on a variety of issues. There is an alarming trend where progressives, empowered by social media and fuelled by left-leaning media outlets, are super quick to shut down and castigate those with opposing views. Our society is heading down a dangerous path when laws are enacted that aim to deny our right to know, inform or silence.

Just because you do not agree with their viewpoint, you should not deny people the right to make it or to shame them and place legislative obstacles in their path. Have members seen exclusion zones in Hong Kong to stop pro-democracy demonstrators? Take animal rights protests at racing events like Oakbank: the Hon. Tammy Franks is known for her opposition to jumps racing—and I fully support that—but they have not exactly been peaceful. Imagine the furore if the Oakbank Racing Club or the SAJC sought an exclusion zone to prevent protesters coming near their racetracks, or if Greenpeace was stopped from challenging Japanese whalers.

Do we impose exclusion zones to stop animal activists from PETA or opponents to the live sheep trade—of which I am one? Will there be an exclusion zone introduced around brothels should that legislation become law or, if this law is passed, will it mean that someone wearing a T-shirt with a protest message could not even walk through one of these exclusion zones without fear of prosecution?

As the Hon. Dennis Hood has pointed out, there are laws and council by-laws already in place that can be used to correct or address these concerns we are hearing. As anyone knows, you can easily get an AVO; AVOs can be taken out even by vexatious complainants. They can go to a court or a police station, make a complaint without any evidence and get an interim order. So the laws are in place for people who feel they have been harassed or stalked, or whatever, to get a court order and stop people from doing that. In closing, all I am saying is that if this bill succeeds, where does it stop?

The Hon. R.I. LUCAS (Treasurer) (16:24): I rise to oppose the bill as well, and I support a number of the views the Hon. Mr Pangallo has just put, which are my prime reasons for opposing the legislation. I also support some of the views my colleagues the Hon. Mr Hood and the Hon. Ms Scriven have put as well.

Can I say at the outset, as I think all members have, whatever their view is on this legislation, I do not think any of us support intimidation or harassment of people seeking to access health services or worksites, so there is a unanimity of view in relation to that, but where I am in furious agreement with the Hon. Mr Pangallo, in particular, and others is: where does this actually stop? The Hon. Mr Pangallo has used some examples, but one can think of any number of examples in recent times that are not directly analogous but, nevertheless, raise the same principle: if you do not like the views of an opposing force of people, what is it that you can do legislatively to prevent them from expressing that particular point of view?

In this case, you do not like the views of those who pray or, from the viewpoint of some in this debate, have intimidated or harassed people seeking services or delivering services at these particular centres. The Hon. Mr Pangallo has raised some examples. I think the Hon. Mr Hood raised some examples, but in a wider context, not too far along North Terrace only recently, when far right activist speakers have attended universities to give seminars or sessions, elderly South Australians who tried to attend particular venues were harassed, intimidated and abused by those seeking to prevent them from entering a university hall to listen to someone expressing their particular views on a particular issue.

The protesters took a radically different view in relation to the speaker's views, which is fair enough but, nevertheless, sought to intimidate, harass and prevent access to those particular sites for people to even go and listen. You see any number of examples in recent times of, in particular, conservative speakers, even conservative politicians, seeking to speak at universities where organised protesters harass, intimidate and abuse either the people going there or the speaker who attempts to go there to speak.

We have recently seen the mining conference in Melbourne, I think it was. I think the Hon. Mr Hood—I only came in at the tail end of that part of his contribution—referred to some terrible footage of people endeavouring to prevent people from even going into a lawful meeting to go about their business in terms of discussing the mining industry or something as broad as that. We have seen other examples, such as the anti-Adani protests all over Australia over a period of time, where intimidation, harassment and abuse have been directed at people going about their lawful work on a worksite.

I must admit that on occasions, as a politician, I would not have minded the 150-metre antiharassment zone around me in terms of the abuse and harassment, but that is part of the job that we sign up for willingly, that is, to be publicly abused on occasions. That is what we are paid the big bucks for.

There have been many other examples, and I think the slippery slope example that the Hon. Mr Pangallo in particular highlighted is an important one because one of the parts of this particular argument is that workers should be entitled to go about their work, and I agree with that. They should not be intimidated, harassed or prevented from so doing. It will be an interesting debate in relation to picket lines, where some workers want to go about their work, want to enter a worksite, but a union-organised picket line forcefully seeks to prevent the entry into a worksite of a worker who wants to go to work.

The precedent of a 150-metre secure access zone to allow workers to go to work, now being supported by many within the Australian Labor Party, is an interesting issue because, if they are so minded that workers who want to work in one of these particular health services centres have an entitlement to enter, free of harassment, intimidation or abuse, then a worker who wants to enter a worksite to work, even though he or she might not even be of the minority view, it might just be a view that is different from the view of the union delegates and the union that has coverage of the worksite, then the same principle perhaps can be applied: those workers are entitled to a free access zone to enter that particular worksite to work. Why is their access to the worksite any different to the health workers' access to this particular worksite?

I am sure the members of the Labor Party would never, until the end of their days, be allowed to support something along those lines, but nevertheless that is the slippery slope argument that one opens in terms of where you draw the line. I agree with the Hon. Mr Pangallo. There are a lot of wacky views out there with which I do not agree. We do have things that we are prevented from doing. There are hate laws and a range of other things like that that we are prevented from doing, but within that legal construct, if there are wacky views out there then people, by and large, should be entitled to put them.

They should not be able to physically harass or intimidate people, but in terms of abuse, again, I am not sure that there is anything. I guess there are restrictions in terms of the extent of the abuse, but one only has to look at social media directed at members of parliament and others, to which I have referred in recent times, to see that it is a pretty liberal view of abuse that is allowed generally in the community at the moment, in terms of public life and public office, and indeed public debate.

It is a slippery slope argument. I think those who want to support breaching in this particular case open themselves up to the debate and the argument where inevitably others will seek to argue, 'Well, let's extend the same principle to other areas.' I am sure there will be furious disagreement, in particular from those from the left of politics who will say, 'Well no, that's okay, because we are comfortable with those views and protests being expressed because that's a view that we share.' I do not think that is how parliaments and legislators should operate. Ultimately, there should be a principle there, and that principle ought to be that, within reason, people are entitled to express their differing views.

I think the Hon. Mr Hood has added much to the debate by reading in relation to the particular organisation the requirement or the undertaking that they sign in terms of behaviour. I suspect the overwhelming majority of people—maybe all of that particular organisation—follow that particular undertaking. I do accept, as with any protest, that there may well be others—either people who have not signed that particular undertaking or even people who have signed it—who on occasions breach the undertaking that they might have given.

I do not dispute the fact that there might be occasions, and I think the Hon. Ms Franks and the others have highlighted some examples. I am not in a position to dispute the accuracy or otherwise of particular claims, but my experience in relation to these things is that there may well be occasions when someone oversteps the mark and has done something that they had undertaken not to do, or maybe they are not part of that organisation, even though they are down there sharing part of the protest.

People whose views I respect have indicated to me that in many of these cases people are praying, and that is the extent of their protest. The Hon. Ms Pnevmatikos put the view, with which I absolutely disagree, that these people can pray in their churches or their mosques or whatever it is, why do they need to pray in a public place?

Up until this law, they are entitled to pray wherever they wish. If it is silent prayer and they want to pray within 150 metres of a particular institution and they are not abusing anyone, they are not intimidating anyone and they are not harassing anyone, why is it that we should be passing a law that says they are not allowed to pray in a public place in a peaceful manner?

That is what we are being asked to support. These people, within 150 metres of an institution, can sit there silently and pray outside one of these institutions, and we are saying that is an offence. Where are we actually heading as a parliament and as a community? Lawful prayer in a public place is going to be banned. This parliament is rapidly heading down a path of evidently wanting to support something as radical as that.

I just cannot see the logic of it, the sense of it or, indeed, whether people have thought through whether this is actually what they want to do. Clearly, it is, because it is quite clear that the vast majority of these people have been protesting for many years and that has been the extent of their silent protest. We are being asked to, in essence, ban lawful prayer in a public place on the issue.

I will not repeat all the points that my colleagues have made but there are a couple of other issues. In relation to the High Court judgement, I accept the fact that what the High Court has said is that the parliament is entitled to legislate—and it has legislated. What the High Court has said is that the parliament has the power to legislate and, in their view, it does not infringe on the freedom of speech issue, and the High Court is perfectly entitled to do that. That does not mean that a parliament cannot either legislate in this particular way or argue to the contrary. It is not as if there is High Court argument arguing against the position the Hon. Mr Pangallo or the Hon. Mr Hood or the Hon. Ms Scriven or myself is putting in relation to this particular issue.

All they have said is, 'A parliament is lawfully entitled to pass these sorts of laws if it so chooses.' My argument is not against that; my argument is that I do not believe that we should so choose because it is a slippery slope and the whole notion of banning lawful prayer in a public place is alien to me and is something which I do not believe we ought to be contemplating for the reasons that I have given.

Another issue I want to raise is in relation to the technical issues in the bill. On my reading, it would appear that protective premises include every incorporated or private hospital in the state and, secondly, the Pregnancy Advisory Centre at 21 Belmore Terrace, Woodville, and then any other premises declared to be protected premises. These restrictions, in terms of prohibitive behaviour—that is, preventing you from praying in a public place—will apply to every incorporated or private hospital in the state or, indeed, the various other prohibited behaviours such as communicating or attempting to communicate with the person about the subject of abortion, etc. in a public place.

Another issue in relation to the definition clauses is that a health access zone is defined to be or proposed to be defined in relation to protected premises means (a) the protected premises, and I have just read out what they are, so it is all the hospitals and the Pregnancy Advisory Centre and anything else that is declared to be a protected premise. It provides that:

> *health access zone*, in relation to protected premises, means:
>
> (a) the protected premises; and
>
> (b) any public area located—

and then there is (i) and (ii), and (ii) provides:

> in any other case—within 150 metres of the protected premises;

So anything within a 150 metres of the protected premises. The paragraph (i) provides:

> If the minister, by notice in the *Gazette*, specifies a distance (being not less than 150 metres) from the protected premises for the purposes of this paragraph—within that distance of the protected premises;

On my reading of that what is intended here is that the minister, by notice in the *Gazette*, can extend this health access zone, or this antipraying area, to an area beyond the 150 metres and there is no restriction on that. He or she could make it half a kilometre or a kilometre or whatever it might happen to be.

It would appear to be that that is the intention and that will be an issue that I guess will need to be pursued in the committee, as to why by just mere notice in the *Gazette* a minister can extend this 150-metre antipraying zone to any particular area as well. The definition of 'prohibited behaviour' has been referred to and read before, but it needs to be considered together with 'protected premises', for example:

> *prohibited behaviour* means—
>
> …to record (by any means whatsoever) images of a person approaching, entering or leaving protected premises...

Again, I think we need clarification because if recording images of people coming and going from any protected premises, and if protected premises are any incorporated or private hospital in the state, together with the Pregnancy Advisory Centre (so we are not just talking about the Pregnancy Advisory Centre but also any incorporated or private hospital), how wide a restriction are we talking about in relation to other hospitals in the state? Does this prevent a minister or a shadow minister, for example, being filmed coming and going on any issue from one of these protected premises? The prohibited behaviour is pretty broad, and it is:

> …to record (by any means whatsoever) images of a person approaching, entering or leaving protected premises; or
>
> …to communicate or attempt to communicate, with a person about the subject of abortion.

Does that prevent a minister or a shadow minister from standing up in a hospital, or just outside a hospital, and doing a media interview and talking about the issues of abortion from whatever perspective they might have in relation to abortion issues?

Clearly, it would appear to prevent people from harassing or threatening anybody entering a hospital, for example. When the Minister for Health is entering a hospital and there is threatening, intimidating or harassing behaviour from union picketers or protesters protesting at the actions of the minister in that particular hospital, union process action outside a hospital would appear, on the surface of it, to be prohibitive behaviour on protected premises. So I think there are some interesting questions in terms of the length and breadth of what is intended by the legislation.

There are many other issues, but I will not delay the second reading any longer by outlining them. Nonetheless, I think there are many other issues that will need to be teased out during the committee stage of the debate.

The Hon. R.P. WORTLEY (16:42): I was not going to speak on this particular bill, but, after hearing the contributions, particularly those of the last two members, I want to put my views to the council. Firstly, I support freedom of speech, people's right to know and people's right to protest. I have done that for most of my life, and I will probably continue to do it for the rest of my life. I have no problem with people protesting. However, comparing a termination clinic with Adani or a mining conference is a typical way for the Hon. Mr Lucas to depersonalise an issue.

For a woman to make a decision to terminate their pregnancy is probably one of the most traumatic experiences this person will ever go through in all their life. Intimidation comes in many forms. The very fact that you have to drive up to a clinic and walk through 50, 60 or 100 people praying for the foetus that is going to be terminated can be very, very intimidating and very traumatic for a person who is undergoing something about which a decision has been made, for whatever reason.

This bill does not actually say that you cannot protest. What it says is that you have to be at least 150 metres away from the clinic. So you could still be on public property and still be able to pray. It does not take away the rights; it is allowing a person who is going into a clinic to undergo a procedure which that person has made a decision on, through whatever circumstances they have made it. There are many circumstances causing a person to make that decision, but the overwhelming majority are because of circumstances that are quite traumatic to that person.

So I will support the bill. I support free speech. Nothing in this bill says to me that we are stopping any group from having free speech. All they want to do is give at least 150 metres of space for a person to enter without their having to walk through a crowd praying for them. That can be very intimidating in itself. Thank you for the opportunity, and I look forward to the vote.

The Hon. T.A. FRANKS (16:45): I really want to thank all speakers who have made a contribution, both today in the debate and yesterday. From the outset, I say that this is still a simple bill. In December last year, when I introduced this as part of an abortion law reform package, the safe access zones were contained within the bill that also sought to decriminalise abortion. That, of course—decriminalisation of abortion—was sent off to SALRI as a terms of reference.

At the time, back in December 2018, I did not seek to progress on safe access zones because the High Court challenge was underway and that ruling had not been made. I note that some attempts have been made to say that it is too soon and that we need to wait for the SALRI report. The fact that we are about to debate abortion in this state is the very reason that we should now debate safe access zones, to protect patients and workers alike before we as a parliament undertake that debate.

It is precisely the same tack that was used in New South Wales. In New South Wales they prioritised a debate on safe access zones and ensured the safety of those patients and those health practitioners before they commenced their most recent parliamentary debate on the decriminalisation of abortion.

It has been said that this bill is a sledgehammer to crack a walnut. I find that claim extraordinary. It has been said by some of the speakers that we are seeking to solve a problem that does not apply to us here in Adelaide or us here in Australia, that these are somehow violations of a patient's privacy, of their safety, of their right to health care, that apparently only occur across the border or across the sea. I certainly do not want to see those things that do happen across the border and across the sea happen here.

I will share one thing that did happen in Victoria, certainly in Australia. On 16 July 2004, one medical facility, the East Melbourne fertility clinic, placed a note on their door. That note said, 'We regret to advise that, as a result of a fatal accident involving some members of staff, we have been forced to cancel all appointments today'—Australia, Melbourne, this century. What happened was that a man, Peter James Knight, walked into that clinic carrying a rifle, other weapons, including 16 litres of kerosene, three lighters, torches and 30 gags, with the intent to kill everyone inside that

clinic. He succeeded in killing Steven Rogers, the security guard. He shot that man in the chest, killing him. The staff and the clients then overpowered that murderer. He had intended to massacre the 15 staff and the 26 patients at the clinic that day.

That struck fear into the hearts of workers in reproductive health centres right across the country. In the briefing to the bill, when Brigid Coombe, who used to be the director of the centre at Woodville, spoke about how that really changed the lives of workers in Australia, increased their mental health stressors and put incredible pressures on those workplaces, that was dismissed by one of the members of this chamber as somehow a figment of her imagination.

The fact that somebody is killed at work because they are doing a particular job strikes fear into the heart of every worker who does the job. This bill is not a sledgehammer to crack a walnut, this bill is actually proportionate and far delayed. We are now one of only two jurisdictions in this country that does not have a safe access zone. There is no slippery slope here. We are, in fact, far behind the eight ball. We have put our patients and our health workforce under undue stress and in an unprotected state.

This is a proportionate measure that has the experiences that have gone before us. In New South Wales, when women seek an abortion, they are no longer handed plastic foetuses. In New South Wales, no longer do sidewalk counsellors follow women to the door. In New South Wales they have these safe access zones. In every other state, except for South Australia and WA, they have these safe access zones for very good reason. WA is about to implement this legislation. They have a discussion paper, which is most informative and certainly was used to help support the bill.

When I hear members say that we do not have to worry in South Australia because there have not been many complaints and 40 Days for Life do the right thing and they all sign a contract, that man who killed that security guard was not a member of any of the regular protesters but he was given the courage to walk into that place, given comfort that somehow he was acting righteously to walk into that place, to seek to kill those staff and those patients because of the ongoing protests that we have seen in this country.

We never used to see them 30 years ago. Increasingly, we see the tactics of the United States, the UK and other jurisdictions employed in Australia and the best way to ameliorate those tactics has been safe access zones. I point to the UK, which has only just introduced their very first access zone. In the UK, the way they have tackled this problem, the way they have avoided using the so-called sledgehammer to crack a walnut, I think has made things worse.

They have counter protests, as they do in the US. They have escorts, and many of us would have seen the escorts in the US where they put fabric over a patient's head, they wear hi-vis, colourful outfits, to escort patients to seek health care. Do we really want that to be the situation in South Australia? Do we really want South Australia to be the sole state that does not have safe access zones?

When you look on the 40 Days for Life website and you look at their activities right across the world, you note that their absolute sole stated intention, their boast of their achievement, is that they have closed 104 abortion centres, is that they have forced 191 workers to quit. Is that really what we want to see in South Australia, where we already have barriers to access abortion health care and we already see staff put under undue stress?

By not giving them the protection of the safe access zones we are actually creating far more harm than these very small 150-metre safe access zones seek to provide; a space free of harassment, intimidation and haranguing; a space where anyone is welcome to pray. I am sure that some of the patients probably pray. I am sure their family members and I am sure staff feel quite free to pray, but if you do so in a way that is stopping somebody accessing health care, that is harassing, that is intimidating, that is violating their rights, then surely it is the least we can do to afford them some small respite so that they can seek health care in peace and free of that harassment. There is no slippery slope here. It is a very small piece of comfort to give patients at a very difficult time in their lives.

We could see other tactics develop in South Australia. I have to say that the 40 Days for Life website has little markers all over the world and the only marker they have, the only target they have on that website currently in South Australia and Adelaide, is at Woodville. They are, of course, not

the only group that exists. They are also not a group that has always been quite as squeaky clean as has been presented today.

I refer members of the council to *The Record*, whose by-line is 'The parish, the nation, the world', published out of WA and proudly the weekly newspaper of the Roman Catholic Archdiocese of Perth. It is published every Wednesday and indeed is boasting that, having been established in 1874, it is the oldest weekly newspaper in Australia. Some four years ago, it reflected the concerns that were raised here by the archdiocese of Adelaide and Port Pirie. In fact, 40 Days for Life was subject to what was perceived to be a ban.

I note that the article, 'Adelaide but not Tasmania to host 40 Days for Life', published on 26 February 2014, bemoaning the fact that Tasmania now had safe access zones but heralding the fact that Adelaide was still fair game to target patients and staff alike, noted that the archdiocese had sent out a letter stating:

> The archdiocese speaks with a united voice under the leadership of Archbishop Wilson and our message and structures of accountability are clear.
>
> This is not always so among other organisations that nevertheless share our deep concerns for the protection of life and the unborn.
>
> For this reason, Archbishop Wilson asks that you do not publicise in our church bulletins the material you may receive from time to time from 40 Days for Life or other similar organisations, but that you continue to make our commitment to life very clear through prayer and action in your parishes and communities.

When even the archdiocese of Adelaide and Port Pirie has concerns about the practices of 40 Days for Life and, according to this article, had to haul them in for a meeting to give them a strict talking to and obviously get them to sign some good behaviour pieces of paperwork, then how can we trust other rogue groups or this group to do the right thing?

There has also been a lot of mention made that permits are issued. Well, permits are actually only issued to 40 Days for Life. There are other rogue protesters, individual protesters, and there is nothing to stop their ongoing activity. That permit system that has been developed has actually been done specifically to try to counter some of the issues that arose with 40 Days for Life.

There is also a car parking system that is used to push them to the edge of the car park, which is why you do not see them right on the door. The staff have had to collude to protect themselves in their workplace by parking cars in ways that the protesters cannot come right to the door. That is how they have dealt with this, and time and time again, if you read all of the FOIs, you will see that the council, the clinic and the police have all been hopeful that we will see law reform.

I will go on to address the suggestions that our current Summary Offences Act might be able to be adapted to reflect and to respond to this situation. Do we really want to get to the point where, as in the UK, restraining orders need to be taken out by healthcare workers to stop these protesters? There was one protester in the UK who was sentenced to 100 hours of community service and subject to a five-year restraining order for her behaviours. Do we want to reward that type of behaviour with lax laws that are not specific and fit for purpose, and do we want to put our police in the invidious situation where they have not been given the appropriate tools to do the job of keeping patients and healthcare workers safe?

I will reflect on just a few of the things that were claimed in the debate. Right from the outset, I will note that this bill does not ban praying by anyone. In fact, as I said in the briefing, my aunt is praying for me to get legislation through this place around the areas of protection. My aunt, being a nurse, has a particular vested interest in seeing this sort of law reform.

People pray for many and varied reasons. Nothing in this bill will stop them from doing so anywhere, anyhow, anytime. But if they are undertaking prohibited practices and harassing, haranguing and restricting the rights of others, then the police will have the appropriate tools to take action. Of course, the police will need to be called before they take that action, and the courts, as the final arbiter, will be able to decide whether or not that is a proportional response. The Hon. Clare Scriven stated:

We have been told that this is a simple bill. We have been told that there must be exclusion zones around abortion facilities because women are being harassed, intimidated and obstructed from accessing appointments they have freely chosen to access. We are told staff are being filmed and the footage is being put on social media.

Yes, they are, and there is ample evidence of that here in South Australia and in other jurisdictions. One new technique of a UK group—I think they are called Abort69, but there are so many names, which are so varied and vivid, that I am not totally sure if that is the exact group—is to Facebook live stream people going in and out of abortion clinics. They also take up other things. They strike up a conversation with patients, find out where they work and call their employer to tell them where they are. This is the sort of behaviour that we seek to stop. The Hon. Ms Scriven said:

It is our role to go more deeply than that and actually look at what this does, what is currently the situation, and whether this bill will assist or not. We need to listen to the stories of people who have been impacted by the current situation. First, where is the evidence base for this bill? Where is the evidence that women are being targeted and harassed?

I refer, of course, to my second reading explanation; the extensive FOI; the SAPOL FOI, which shows the police call-outs; and the countless case studies from both interstate and overseas. Let's remember that we will be the sole jurisdiction left. The target will be on our state's back if we do not create these safe access zones. If that is not enough, how about the evidence that was submitted before the High Court when similar safe zones in Victoria and Tasmania were challenged?

I point all honourable members to Madsen v Women's Health Center, Inc. In accepting medical privacy as a significant privacy interest supporting the restriction of the right to free speech, the Supreme Court stated that the:

…targeted picketing of a hospital or clinic threatens not only the psychological, but the physical, wellbeing of the patient held 'captive' by medical circumstance.

I refer members also to the Human Rights Law Centre in their written submission. It is an example from Victoria but is a similar situation, presented to the High Court by the Human Rights Law Centre. I quote:

One clear illustration is the findings of the Supreme Court in Fertility Control Clinic v the Melbourne City Council…McDonald J cited the unchallenged evidence that activities of the anti-abortion protesters included the following:

- standing outside the Clinic every day for more than 20 years from Monday to Saturday inclusive in numbers from three to 12 persons with 50 to 100 persons once per month;
- approaching women apparently coming to the Clinic, imposing their presence even when clearly unwelcome;
- harassing women entering or leaving the Clinic, engaging in arguments with the women and passers-by;
- attempting to block women's entry to the Clinic;
- blocking the footpath outside the Clinic;
- entering the laneway that runs along the side of the Clinic to follow patients or stand and pray, sing and shout outside the Clinic's consulting rooms;
- jostling and striking people passing the area and entering the Clinic;
- making offensive, frightening and misleading statements to patients and staff;
- engaging in loud singing, praying and shouting, clearly audible in the Clinic;
- intimidating and harassing patients of the Clinic, with the effect of deterring patients from attending the Clinic; and
- causing significant injury to the personal comfort of staff members, patients and others.

I note, particularly when it comes to the PAC in Woodville, that a number of complaints have been recorded by the council from community members and those seeking the services of the PAC. The protesters have been blocking and/or obstructing footpaths leading to the PAC to the extent that one particular local resident—a mother who had to push her pram down the street—was often unable to use her local footpath.

Other examples of the behaviour that will be prevented by safe access zones, as submitted to the High Court by the Castan Centre for Human Rights Law are included in the research of Dr Sifris and Dr Penovic that identified the adverse impact of protester behaviour that is constrained by the operation of safe access zones, pursuant to part 9A of the Public Health Act, on patients seeking to access the premises. These included but were not limited to:

- protesters approaching, following or walking alongside people approaching the clinic premises;
- distributing pamphlets and distributing plastic models of foetuses;
- protesters equating foetuses with babies by imploring patients not to 'kill' their 'baby';
- castigating patients as murderers;
- protesters chasing, photographing, heckling, threatening and verbally abusing patients and staff;
- protesters preventing patients from exiting cars, impeding entry to clinics or clinic car parks and access along footpaths along clinics;
- protesters displaying large and graphic posters depicting what purported to be foetuses post abortion, foetuses in buckets, or skulls of foetuses;
- protesters distributing visually graphic literature containing medically inaccurate and misleading information that abortion results in infertility, failed relationships, mental illness and cancer.

There have been some claims, given that the Pregnancy Advisory Centre at Woodville has been in operation for almost three decades, asking where these terribly intrusive protests all are in the media. Members who claimed this have also said that protesters have permits and that these have not been denied or rescinded by the council, so how can anything they are doing be wrong. This is quite misleading.

The 40 Days for Life vigil does have a permit, yes. If members were to read the FOI documents properly and fully they would see that there have been occasions where they have breached conditions of the permit and licence, but that is another matter. The point is that outside the 40 Days for Life vigil, other protesters do not apply for and nor are they granted permits, but they do protest.

Furthermore, not every breach is reported. Indeed, as individual patients and their supporters come in the last thing on their mind, the last thing they want to do with their day, is call the police or the council. It is an undue burden that you put on these people in a very, very difficult and vulnerable time. I note that under the FOI documents the letter that stated, 'I am mindful of the resources required by the South Australia Police and the City of Charles Sturt in the monitoring of compliance with permit conditions and hence I do not report every breach' was left out of the representations of these FOI documents.

You do not need to make a media spectacle of something for it to be real or for it to be recognised as an issue. If we look at police call-outs to the centre—and we know that issues do occur—over the past three years there have been at least 20 police call-outs, the majority of which are coded as 101—Disturbance. The next most common code is 404—Suspect/Vehicle Loitering. Seven of these call-outs have actually happened since I introduced my previous bill for abortion law reform.

That same letter goes on to demonstrate some of the behaviours that people working at or visiting the PAC face that make this bill necessary:

> In the last two weeks Pregnancy Advisory Centre has responded to a complaint to the Premier's department about the protesters' presence, responded to the distress experienced by attending ambulance officers who were filmed on a mobile telephone while leaving the site and staff [have] provided clients with support who have reported being verbally harassed and intimidated when entering the premises.

> The content of the verbal tirade is incorrect and seditious. Domiciliary Care who own Pregnancy Advisory Centre building have previously reported a male person blowing a trumpet creating a noise hazard and people have wandered to the rear of the complex to peer into the back doors of the Pregnancy Advisory Centre.

There have of course been other complaints, such as the one where 'A male was under the tree on the opposite side of the road and approached a female in her car, used inappropriate language, accusations and spat at her car.' There was another complaint about two protesters harassing two women who were entering the site. These complaints have been disparaged within this debate. Firstly, I would contend that the FOI is not the full and accurate reflection of the number of complaints, because so many would not be reflected in those FOI documents.

On that note, it was put that somehow the staff members involved in this provision of health care were overreacting with regard to their safety. I reiterate, they have seen a person, who was there to provide them with security, killed. They have seen threats on their lives. They receive correspondence. I have spoken to a particular doctor who is quite expert in this field, nearing retirement. He has that collection of hate mail, of death threats, of threats of violence, and those things, as many of us in this place know, add up over time. They create psychological harm and they serve to deter people from providing the health care that our patients in this state need.

Another claim made was that the bill prohibits discussion of abortion within 150 metres of the abortion clinic or of other hospitals that perform abortions. The Hon. Clare Scriven stated:

> Indeed, it currently says within 150 metres of any hospital in the state. So the question arises: should discussion of abortion be prohibited at an abortion facility?

The answer is clearly no, and that was a very twisted comprehension of the bill. I note also that the Hon. Clare Scriven went on to say, 'We need to remember that this is a pregnancy advisory centre, so one would expect that abortion is not the only reason that people go there.' That is actually a really salient point, and I would agree with that. The same goes for hospitals that provide abortion services. The honourable member was completely right: people who are seeking other healthcare services are also affected by having to run this gauntlet and they should not have to. Similarly, staff providing a range of care should not have to and they should not face this intimidation just for doing their job.

I note that some claim was made by the Hon. Ms Scriven, as a member of the Labor Party, supporting and advocating for freedom of assembly. She claimed that this bill stops people from having that freedom of assembly. The bill does not say that. The bill does not prohibit the freedom for people to assemble. It says that they cannot assemble in this particular very defined and very small place. The High Court has upheld such a provision and has found that it does not impinge unduly on freedom of speech and other human rights. Furthermore, people are not being prevented from assembling. Indeed, if you look at Queensland, where they now have the safe access zones, they are having a rally in the next few weeks and they are very welcome to.

I note in this place that we are a temple of democracy, but we are afforded protections. People cannot come in here and stop us from doing our jobs, stop us from going about our business. The public gallery is full today and rightfully so. People may well be quietly praying for this bill to fail. People may be quietly praying for me to shut up. They can do so. They are free to do so. This bill not only does not take away the ability for people to pray, it will not shut me up in this place at this time.

I note that in New South Wales the Labor Party had a party vote, a party position on protecting patients and workers alike by supporting safe access zones, and they saw the need to do so. I note that the WA government, a Labor government, is introducing safe access zones and we have the benefits of their discussion paper and their extensive work to support our bill here today.

I note and concur with the WA Labor health minister, Roger Cook, that all patients in Western Australia have the right to safety, privacy and respect when accessing health care and that he could only imagine the distress a patient will experience when they arrive at a clinic to undergo a legal medical procedure and are confronted with a group of protesters. That is a Labor health minister and a Labor government doing the right thing by workers and patients alike. It is sad that we do not have a party vote here from the Labor Party in South Australia, when in other states they have taken that position in recent times.

However, the union has come out strongly today, and I draw members' attention to the email received just this afternoon from the ANMF of South Australia, who are standing up for workers. That email states that the core business of the ANMF SA branch is the representation of their members in all professional, industrial and legal matters relating to nursing, midwifery, health and aged care. They go on to say that they write to express their strong support for the Health Care (Health Access Zones) Amendment Bill 2019, which is before the Legislative Council today. They state:

> We urge you to vote in support of this Bill to respect a woman's right to dignity and privacy when seeking access to abortion services in South Australia.
>
> At its heart, this Bill recognises abortion care is health care and that those needing and providing abortion services require and deserve the same respectful and private environment as applies to all other health care services. Because of the invasive and at times hostile activities of anti-abortion protests outside the Pregnancy Advisory Centre in Woodville, it is necessary to legislate to ensure women and staff can access this essential and sensitive health care service without fear, intimidation, harassment or obstruction.
>
> This Bill, which supports safety for both patients and workers, will align South Australia with other Australian states who have legislated to protect their community. The introduction of safe access zones legislation in Victoria, Tasmania, the ACT, the NT, Queensland, and NSW demonstrates governments' commitment to ensuring the right to provide and access health services without hindrance. Western Australia and South Australia remain the only Australian jurisdictions that have not responded to the need for Safe Access Zones around abortion services.
>
> Legislators are supported by Australian opinion polls which demonstrate overwhelming community support for this legislated protection of areas around abortion services.
>
> In April, the High Court of Australia found that Safe Access Zone laws in Victoria and Tasmania were constitutional and that any burden to communication or protest prohibition is justified because of the laws:
>
> > 'legitimate purposes, which include the protection of the safety, wellbeing, privacy and dignity of persons accessing premises at which abortions are provided and ensuring unimpeded access to lawful medical services.'

They go on to urge the council to support this bill.

I note that many suggestions have been made that people simply go and pray outside of an abortion centre. Apparently, this bill suggests that one should not be able to pray outside of a centre and that the restriction on the freedom to pray is apparently hindered by this bill. To describe what some people do outside the Pregnancy Advisory Centre as 'simply praying' is disingenuous and deceitful, and demonstrably untrue.

There is evidence, not just in South Australia but around the world. As I said, if we are the last jurisdiction in this country—we have seen that people are prepared to travel, not just from interstate but also from overseas, to protest around abortion health care. You just need to look at the High Court challenge and the people who took that up. They had crossed state borders to go and protest outside those centres. They were prepared to take their challenge to the High Court, and they will be prepared to come to South Australia to continue to prosecute their beliefs and, obviously, to pray.

The activities in the FOI documents that were not documented by the speakers against the bill both yesterday and today forgot to mention that there was defined and reported inappropriate name-calling: 'child killer' was stated to one client; 'going to the devil's advocate' to another. PAC staff frequently respond to the clients who experience distress, and that distress takes the form of frustration, tearfulness and anger when they are approached by the members of these prayer groups. In fact, one support person was so distraught when approached by the prayer group, he stated, 'I don't know what I would have done if I had not spoken to you'—being the PAC counsellor—'today,' raising the PAC's concerns not just for the patients but also for others.

The timing of this bill and waiting for SALRI have been raised as reasons not to progress. I think there was also an interesting interpretation of the Law Society's point 16, that there may be some benefit in waiting. The Law Society did not urge this place to wait, and the Law Society is not necessarily in the position of ensuring the safety of the citizens of this state when they seek health care, but this council is. We know that this council will soon, in coming months, receive the SALRI report and debate abortion law reform. I hope and pray that it will remove abortion from the criminal code.

But the protection of patients and workers alike in the meantime is our role and responsibility. We have benefited from the SALRI process. I think the member for Hurtle Vale was a little verbal today, but where we did benefit from the process was that we had the submissions that were made to that inquiry and we were able to write to the main proponents to seek their input, so we have benefited in that way from the SALRI process. There is no need to wait to provide protection for patients and workers alike because we have the High Court ruling now which we were waiting on back in December.

My final point is that there were some claims made that it was a little harsh of the member for Hurtle Vale to call into question the work and the particular shop called Reborn. I understand, from some of the complaints that are registered in the FOI you would have seen, that they hand out anti-abortion pamphlets in that shop. However, as the Hon. Clare Scriven pointed out, they have nothing to do with 40 Days for Life or the other groups and, in fact, she is quite right: it is the Genesis Pregnancy centre.

That rang a few bells for me because I remember back in the late nineties and early 2000s that the Genesis Pregnancy advisory centre was the subject of deceptive advertising, particularly in the Yellow Pages and were also the subject of a community affairs legislation committee of the Senate for these disreputable practices because they pretended to offer all three options when a woman sought help and counselling for an unplanned and sometimes unwanted pregnancy, but they did not actually provide the option of abortion and, deceptively, did not present this in the Yellow Pages or in their advertising. So I am not sure that I disagree with the assessment of the member for Hurtle Vale about their practices.

I will go on to address what I am sure will be a very long committee stage in this place here today. We all have our voices and we have a diversity of voices. This is not a pro-choice versus pro-life argument. This is also not a freedom of speech versus right to healthcare argument because as the Universal Declaration of Human Rights quite appropriately and simply affirms, human rights are universal and indivisible. You may have your freedom of speech, but it need not impinge on the right of patients to health care or the right of workers to go about their rightful employment. In doing so, this bill provides an incredibly small, simple and proportionate response. I commend the bill to the council.

The council divided on the second reading:

Ayes 12
Noes..... 5
Majority..... 7

AYES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Dawkins, J.S.L.	Franks, T.A. (teller)	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A.	Parnell, M.C.
Pnevmatikos, I.	Ridgway, D.W.	Wortley, R.P.

NOES

Hood, D.G.E.	Lucas, R.I.	Ngo, T.T.
Pangallo, F.	Scriven, C.M. (teller)	

PAIRS

Maher, K.J.	Lee, J.S.	Wade, S.G.
Stephens, T.J.		

Second reading thus carried; bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. T.A. FRANKS: At this point I note that the Minister for Health yesterday tabled a document, and that will certainly be the topic of a conversation between the houses and may see some small amendments made in the other place. We will have, I am assured by the Marshall government, the SALRI report by the time this matter is debated in the other place, but knowing the submissions, we have crafted this bill to the best of our understanding of the input and feedback that that provided.

One particular area that I know will be the subject of some reform, and an amendment to be put up by the member for Badcoe most likely, will be around ensuring categorically the freedom of press. Certainly the bill does not currently exclude press freedom, but we will seek to categorically ensure that in the other place.

I just want to thank the very many members who have had conversations, provided input and who today will move amendments, addressing in particular the concerns of the Hon. Rob Lucas and the Hon. Irene Pnevmatikos, who has some amendment around that. While the amendment is being put up by the Hon. Irene Pnevmatikos, it has been a conversation with many parties who came to the table. I thank those who have come to the table to have conversations, and I look forward to the committee stage.

The Hon. R.I. LUCAS: Could the honourable member who has moved the bill indicate whether she is in broad support of the proposal from the Hon. Mr Wade in relation to the extension of the protection zone to services beyond abortion services, to which he spoke in his contribution. Without the words necessarily being agreed at this stage, is that a principle that the mover of the legislation is indicating her preparedness to support?

The Hon. T.A. FRANKS: That was in my original bill in terms of the extension of the ability for the 150 metres to be extended. If you look at safe access zones around the country, typically they are 150 metres. Here in South Australia we specifically have in our legislation the clinic at Woodville, because that is where the majority of abortions in this state are currently performed. There are particular situations in the ACT where they only have a 50-metre proviso, because similarly they had a single centre.

In the submissions made to SALRI it was suggested that we may need to slightly extend at times the area from 150 metres, given the South Australian situation. It certainly was not a conversation I had with the Hon. Stephen Wade as Minister for Health, or in his role as a private member; it was from the various submissions put to SALRI.

The Hon. R.I. LUCAS: The other question I have is that the member evidently has indicated that another member in another place may well look to protect the freedom of the press in relation to these exclusion zones, and I gather from her comments that she may be supportive of that. One of the issues I raised was, in essence, the freedom of members of parliament to be able to express themselves.

I did not raise the issue of whether it infringes parliamentary privilege, for example, because it probably does not, but in essence is there a discussion going on with the member and others in relation to the issue of members of parliament, but in particular ministers for health, shadow ministers for health or minor party spokespersons for health—anyone who might be interested in it—being able freely to express their views if members of the media are able freely to express their views within an exclusion zone?

If members of the media are able to freely express their views within an exclusion zone, is the member interested in catering for the circumstance of a duly elected member of parliament being able to express their views in a similarly protected way as members of the media might?

The Hon. T.A. FRANKS: The honourable member has misunderstood the idea of press freedom. The press are not there to express their views. They are there to document and so some concerns were raised around the filming provisions, for example. In regard to that, I have undertaken

to continue conversations with the member for Badcoe, who is quite keen and we will probably consult with free TV to ensure that their legal expertise is taken advantage of.

In regard to the idea that somehow this bill will impinge on the ability of members of parliament to go about their duties, if a member of parliament were to go and protest at an abortion clinic and seek to harass and intimidate members of the public from accessing that healthcare service, then as an individual they might find that they have to stay outside the 150-metre zone.

If they are going there to cut a ribbon, visit a friend, do their parliamentary duties, go to a car parking protest, which has been the main one raised, go to protest health cuts—again that has been raised in the conversations—I think there have been conversations to address those particular cases to ensure, with absolute clarity, that that freedom of speech, if you like, will be protected. But, if the member chooses to go and stop people, with sidewalk counselling, from seeking lawful health care, then they will find no particular privilege attached to their actions above any other member of the public.

The Hon. R.I. LUCAS: Clearly, given the views that I have expressed about anyone threatening, intimidating or harassing a person, I would not be supporting that a member of parliament be entitled to do that. For example, the member's bill at paragraph (d) provides: 'to communicate, or attempt to communicate, with a person about the subject of abortion'.

So if a minister for health or a shadow minister for health were to give a press conference at a particular health facility or, indeed, a hospital or private hospital, about either improving abortion services or indicating a change to abortion services, an issue in relation to abortion services generally, he or she would be covered by paragraph (d), which is a prohibited behaviour, which means communicating or attempting to communicate with the person about the subject of abortion.

No-one is suggesting that a member of parliament should be entitled to threaten, intimidate or harass another person. That is a strawperson argument, to use the politically correct phrase. My issue is essentially in relation to an ability for a member of parliament, perhaps someone who holds office or not, expressing a view in relation to abortion or abortion services within the prohibited area.

The Hon. T.A. FRANKS: I invite the member to read the bill in its totality rather than in that particular line that he has focused on. In fact, there would be no prohibition for a minister going and declaring that perhaps the government is going to extend abortion services to The Queen Elizabeth Hospital, or ensuring that all hospitals in this state that receive public funding should provide the full reproductive health medical procedures that were similar to a Shorten Labor opposition federal election promise. None of that is prohibited by this bill.

Talking about abortion is not prohibited by this bill. Intimidating, harassing, threatening and creating a nuisance in that way is part of the prohibitive behaviours that will then necessitate the ability for somebody who wishes to make a complaint, who is not a willing participant in that interaction, who is not supportive of being part of that interaction, being able to make a complaint to the police, and then the police will ask that person to move on.

If the person then fails to move on and continues to engage in the prohibited behaviours, that is when this bill comes into play. That is why this bill is so proportionate. It provides avenues for the policing of these situations, where they are inappropriate, but where people are going about their daily business, where people are seeking health care—and of course people will be talking about abortion within these safe access zones, but if they are not doing so in a way that is prohibited behaviour, they will not fall within the remit of this particular piece of legislation.

The Hon. C.M. SCRIVEN: Just to follow up from that, given that the bill as currently drafted says that 'to communicate, or attempt to communicate, with a person about the subject of abortion' is prohibited behaviour, that seems to run contrary to what the honourable member has just said. Whilst it is also within the bill that a police officer may direct a person to leave the health access zone, it certainly does not say that that will be the outcome if someone is communicating about abortion. They are two separate things. So I am seeking further clarity as to how someone communicating about abortion—speaking about abortion, in fact, in perhaps the way the honourable Treasurer has indicated—would not be caught by this bill.

The Hon. T.A. FRANKS: The member asks whether or not speaking about abortion will somehow require police to come along and stop that person and direct them to leave this zone.

The Hon. C.M. Scriven: That's what you said.

The Hon. T.A. FRANKS: I cannot understand the heckling if you are going to mumble. If you want to rise to your feet and add additional commentary, I am happy to sit down and wait till you make that.

The Hon. C.M. SCRIVEN: My understanding was that that was what the honourable member said—that if someone was talking about abortion, the police would ask them to move on. I was making the point that it is an option for the police to ask them to move on, but as I read the bill they would have already committed an offence.

The Hon. T.A. FRANKS: The member misreads the bill.

The Hon. R.I. LUCAS: I do not believe that is the case, because proposed section 48D—Certain behaviour prohibited in health access zones, provides:

> A person who engages in prohibited behaviour in a health access zone is guilty of an offence.
>
> Maximum penalty: Imprisonment for 2 years.

A prohibited behaviour is 'to communicate, or attempt to communicate, with a person about the subject of abortion'. That is what a prohibited behaviour is, amongst other things. Then 48D, under the member's bill, says:

> Certain behaviour...
>
> …A person who engages in prohibited behaviour…is guilty of an offence.
>
> Maximum penalty: Imprisonment for 2 years.

So I do not believe the member understands her bill. The prohibited behaviour is clearly defined. The offence with imprisonment of up to two years is clearly defined. She can refer to 48E, which is a police officer directing people to leave various areas, but the definition of prohibited behaviour and the offence of engaging in prohibited behaviour is clear in the drafting.

The Hon. I. PNEVMATIKOS: If I could just say something in relation to that as well, one of the amendments that I am proposing, which is amendment No. 2, clarifies some of those concerns that you are raising.

The Hon. R.I. LUCAS: In what way?

The Hon. I. PNEVMATIKOS: Well, if you read it, it says—I will read it for you:

> (1) The object of this Part is to ensure the safety, wellbeing, privacy and dignity of people accessing abortion services, as well as health professionals and other people providing abortion services.
>
> (2) To avoid doubt, nothing in this Part prevents a person from—
>
> (a) lawfully engaging in behaviour outside of a health access zone; or
>
> (b) engaging in lawful protest, or otherwise engaging in lawful behaviour within, a health access zone in relation to a matter other than abortion.

At the end of the day the only people who should be at an abortion clinic are those who work there and those who are accessing those services. If politicians go along for a launch, for a ribbon-cutting ceremony, to forward more funds and grants, that is not within the scope of this bill. It does not affect those activities. Just by way of clarification.

The Hon. C.M. SCRIVEN: I seek further clarification. Is speaking about abortion communicating about abortion?

The Hon. I. PNEVMATIKOS: It is when you protest, harangue and intimidate people, yes.

The Hon. C.M. SCRIVEN: That was not my question. My question was: is speaking about abortion communicating about abortion? I would have thought the answer is fairly obviously yes, but I would like clarification since that seems to be in dispute.

The Hon. T.A. FRANKS: Yes.

The Hon. C.M. SCRIVEN: Yes. So if speaking about abortion is communicating about abortion, it is a prohibited behaviour. Therefore, the examples that the Hon. Mr Lucas raises appear to be offences under this act.

The Hon. T.A. FRANKS: The mere act of having a conversation about abortion does not provide the penalties within this act. The Hon. Ms Scriven would understand also that communicating about abortion could, and of course must, be part of the processes of the health care provided to ensure that the provision of abortion is made. Those activities do not fall under the remit of this legislation.

The Hon. C.M. SCRIVEN: Why?

The Hon. T.A. FRANKS: This pre-empts that the member seeks to move an amendment to exclude the line about communication about abortion. The thing is that no other health services attract the sort of protest and the sort of behaviour that happens outside abortion health clinics. That is why we have some provisions here that the police can use, when appropriate, when called upon, to stop intimidation, harassment, threatening, obstructing, recording and, in some cases, communicating where it is done in order to impinge upon a person's right to health care.

The Hon. C.M. SCRIVEN: I fully understand that is the stated intent of the bill. What we need to know is: what does the bill actually do? So far, there is nothing to suggest that communicating, speaking, about abortion within the 150-metre zone will not in and of itself make an offence. That is what I think we need to be clear on, not what the stated intent is but what the bill actually says.

The Hon. T.A. FRANKS: I draw the member's attention to the entirety of the bill and section 48E(2):

> (2) A police officer may, if the police officer reasonably suspects that a person or persons are engaging, or are about to engage, in prohibited behaviour in a health access zone, direct any or all persons within the health access zone to immediately leave the health access zone (whether or not the person or persons to whom the direction is given are engaging, or are about to engage, in prohibited behaviour).

It goes on to state:

> (3) However, a direction under subsection (2) will be taken not to apply to—
>
> (a) a person employed, or otherwise providing services, at protected premises to which the health access zone relates; or
>
> (b) a person who has had, or is to have, an abortion, or be provided other services, at protected premises to which the health access zone relates; or
>
> (c) a person genuinely accompanying a person referred to in a preceding paragraph; or
>
> (d) any other person of a kind declared by the regulations to be included in the ambit of this subsection.

I note that the honourable member wishes to delete that reference for the ability of the minister to create regulations as well. She actually seeks to strip the bill and make it far more prohibitive with her tabled amendments.

The Hon. C.M. SCRIVEN: The section that the honourable member has just read out does not affect section 48D(1):

> (1) A person who engages in prohibited behaviour—

which, we have established, includes speaking about abortion—

> in a health access zone is guilty of an offence.

The parts the honourable member read out, in terms of who the exclusions were, apply only to a direction given by a police officer. So they are two separate issues. The issue is if you speak about abortion within the zone you are committing an offence—beginning and end.

The Hon. T.A. FRANKS: The honourable member does not support this bill and does not seem to understand consent. Nobody is going to be calling the police to use the provisions and protections of this bill unless somebody is communicating with them about abortion against their will, without their consent.

Progress reported; committee to sit again.

SURROGACY BILL

Final Stages

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

LAND TAX (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

At 17:53 the council adjourned until Tuesday 12 November 2019 at 14:15.