LEGISLATIVE COUNCIL

Tuesday, 12 November 2019

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

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

Bills

LEGISLATION (FEES) BILL

Assent

His Excellency the Governor assented to the bill.

SURROGACY BILL

Assent

His Excellency the Governor assented to the bill.

LANDSCAPE SOUTH AUSTRALIA BILL

Conference

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

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

Motion carried.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Report of the Ombudsman on Investigation arising from a Death at the Echunga Police Training Reserve on 4 October 2016 dated October 2019 [Ordered to be published]

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2018-19—
- SafeWork SA Annual Activity Report
- South Australian Employment Tribunal

Regulations under Acts—
- Controlled Substances Act 1984—
  - Controlled Drugs, Precursors and Plants No. 2
- Liquor Licensing Act 1997—
  - Fees No. 3
  - Liquor Review—General
- Spent Convictions Act 2009—Prescribed Exclusions

Rules of Court—
- District Court Act 1991—Civil—Supplementary—Amendment No. 9

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

Reports, 2018-19—
- Department for Trade, Tourism and Investment

National Heavy Vehicle Regulator
Administration of the Development Act 1993
District Council By-laws—
Ceduna—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Dogs and Cats
No. 5—Roads
No. 6—Waste Management
Regulations under Acts—
Motor Vehicles Act 1959—Road Rules
Planning, Development and Infrastructure Act 2016—
Swimming Pool Safety No. 2
Primary Industry Funding Schemes Act 1998—
Cattle Industry Fund—Miscellaneous
Sheep Industry Fund—Miscellaneous
Rail Safety National Law (South Australia) Act 2012—Application of Law
Road Traffic Act 1961—
Ancillary and Miscellaneous Provisions—Road Rules
Light Vehicle Mass and Loading Requirements
Road Rules—Miscellaneous No. 2
Rules Under Acts—
Road Traffic Act 1961—Australian Road Rules

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

Regulations under Acts—
National Parks and Wildlife Act 1972—
Endangered, Vulnerable and Rare Species
Kangaroo Harvesting—Additional Species
State Disability Inclusion Plan 2019-23

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

Regulations under Acts—
Health Practitioner Regulation National Law (South Australia) Act 2010—Remote Area Attendance No. 2

Parliamentary Committees

JOINT COMMITTEE ON THE VALUATION POLICIES AND CHARGES ON RETIREMENT VILLAGES

The Hon. T.J. STEPHENS (14:19): I bring up the report of the committee.

Report received.

Parliamentary Procedure

ANSWERS TABLED

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

Question Time

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:24): My question is to the Treasurer. What personal responsibility does the Treasurer take for driving business confidence in South Australia to its record low, following three consecutive quarters of decline in business confidence?

The Hon. R.I. LUCAS (Treasurer) (14:24): I welcome the promotion of the Hon. Ms Scriven to, evidently, the Leader of the Opposition's position. I am not sure that it is actually within the standing orders to move outside your designated seat in the chamber. As soon as there is a vacancy, they move very quickly in the Labor Party. There is a 24-hour gap and zoom, she's in there.

The PRESIDENT: Keep it on point, the Hon. Mr Lucas.

The Hon. R.I. LUCAS: I am not sure that it's correct from the standing orders.

The PRESIDENT: I will reflect on the standing orders, but thank you for your advice.

The Hon. R.I. LUCAS: In relation to the honourable member's question on the surveys, it depends which particular survey you wish to pick. The member has referred to the survey in the paper this morning. I am advised that NAB released their regular survey today, which indicates that in South Australia business confidence over the last month actually increased by 4 per cent. When you look at the summary of the National Australia Bank, they say:

> What is confidence like across the states? Confidence rose in all states except WA, which fell sharply.
>
> Where are we seeing the best conditions by state? Conditions rose in all states except NSW and QLD…In trend terms, conditions are most favourable in NSW, followed by WA and SA. VIC and QLD are weakest at 0 index points.

The NAB survey, which has come out today, as well, in terms of business confidence, shows a 4 per cent increase in South Australia, a 12 per cent decline in Western Australia, and a 1 per cent increase in New South Wales and Victoria. So business confidence, according to the National Australia Bank, is better than New South Wales and Victoria, much better than Western Australia and twice the Australian figure, which was 2 per cent. In terms of business conditions change, there was an increase of two points in South Australia, whereas in New South Wales and Queensland there was no improvement at all—it was 0 per cent.

It is unsurprising that the opposition would seize on the one survey that suits their argument. It is also unsurprising that the conflicting evidence from the National Australia Bank, which points to increasing business confidence in South Australia, the Leader of the Opposition or the Acting Leader of the Opposition or the de facto leader of the opposition—I am not sure how she so describes herself—the putative leader of the opposition, the claim-jumping, seat-jumping leader of the opposition, would choose the one particular survey that serves their argument. The National Australia Bank paints an entirely different position.

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:27): Supplementary: to what extent has the Liberal government's land tax policy improved or damaged business confidence in this state?

The Hon. R.I. LUCAS (Treasurer) (14:27): The National Australia Bank says business confidence has increased by 4 per cent.

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:28): Supplementary: my question was about the land tax impact. What does the Treasurer say the land tax changes, the proposed changes—have they damaged or have they helped business confidence in this state?

The Hon. R.I. LUCAS (Treasurer) (14:28): With great respect to the member, that wasn't a question. She said, 'Did the land tax changes impact on the decline in business confidence in the state?' I just said the National Australia Bank shows a 4 per cent increase in business confidence in the state.

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:28): Supplementary: the *Hansard* will show that I asked whether the land tax policy of this government improved or damaged business confidence.

The Hon. R.I. Lucas: That was your second question.

The Hon. C.M. SCRIVEN: It was my supplementary question. To what extent have sustained levels of high unemployment in South Australia improved or damaged business confidence?

The Hon. R.I. LUCAS (Treasurer) (14:28): Mr President, this is a relentless onslaught from the—

Members interjecting:

The Hon. R.I. LUCAS: I am reeling. I am reeling, Mr President, at the relentless onslaught. There was actually, in the last monthly figures, a significant reduction in the unemployment rate in South Australia. Why do I remember that? Because the two previous months, when there was an increase, I represented the government. Last month, when there was a reduction, minister Pisoni represented the government. It was only fair: Treasurers are there to absorb the bad news when it occasionally occurs. More importantly, the most recent unemployment figures showed a significant decline in South Australia from the two previous monthly figures.

The PRESIDENT: Further supplementary, the Hon. Ms Scriven.

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:29): To what extent has the 18 per cent decline in exports from the state over the past 12 months improved or damaged business confidence?

The Hon. R.I. LUCAS (Treasurer) (14:29): I'm not sure how many times I need to indicate that business confidence actually increased by 4 per cent according to the National Australia Bank survey.

BUSINESS CONFIDENCE

The Hon. C.M. SCRIVEN (14:30): Further supplementary: the Treasurer is clearly simply avoiding the major issues that he is facing here. There has been a decline in trade, there's been an increase in unemployment and there has been a decrease in business confidence because of these. He will not answer the questions.

LAND TAX

The Hon. E.S. BOURKE (14:30): My question is to the Treasurer. Will the Treasurer advise why he is willing to offer concessions regarding the Liberal government's land tax policy to crossbenchers—

The Hon. R.I. Lucas: Why he is what? I didn't hear you.

The Hon. E.S. BOURKE: Well, you should have been listening.

The Hon. D.W. Ridgway: You should speak louder and sort of articulate.

The Hon. E.S. BOURKE: Oh, good advice. I will start again for your benefit, Treasurer. Will the Treasurer advise why he is willing to offer concessions regarding the Liberal government's land tax policy to the crossbench that he was not willing to offer his Liberal backbencher colleagues?

The Hon. R.I. LUCAS (Treasurer) (14:31): There's no basis in terms of the member's assertion. The government very significantly amended its original land tax package announced in June of this year—it seems like such a long time ago, Mr President. A significant number of those significant amendments were made as a result of representations from my very hardworking, consultative colleagues within the Liberal parliamentary party room, in addition to the government listening to the concerns being expressed by stakeholders both within the party room and without. We are an open, consultative, transparent, inclusive government, and the government has demonstrated its willingness to listen to those concerns and to amend significantly the government's package.

The PRESIDENT: The Hon. Ms Bourke, a supplementary.

LAND TAX

The Hon. E.S. BOURKE (14:31): Will the Treasurer rule out making any further concessions or changes to the Liberal government's land tax policy?

The Hon. R.I. LUCAS (Treasurer) (14:32): We are an open, consultative government, always open to listening to good ideas if they can be shown to be in the best interests of the people of South Australia, if they can be shown to show, in essence, a way ahead to promote economic investment, economic growth and jobs growth in South Australia. We are an open book; we are always prepared to listen and to consult further.

ENTERPRISE BARGAINING

The Hon. I.K. HUNTER (14:32): I seek leave to make a brief explanation before asking a question of the Treasurer regarding enterprise bargaining.

Leave granted.

The Hon. I.K. HUNTER: In an article in InDaily dated 5 November 2019, Nursing and Midwifery Federation state secretary Elizabeth Dabars described the government's decision to refuse to provide back pay once an enterprise agreement has settled as draconian. In the same article, Australian Education Union then branch vice-president, Ms Lara Golding, likened the policy change to wage theft. My question to the Treasurer is: does the Treasurer agree that this decision, this draconian decision likened to wage theft, absolutely provides no incentive to government agencies to finalise enterprise agreements, and does he accept that these draconian, wage theft-like policy provisions will actually hurt the government in trying to finalise agreements with industrial organisations and their workers?

The Hon. R.I. LUCAS (Treasurer) (14:33): No, I don't believe they are draconian or akin to wage theft at all. It is the government's intention, the government through me as minister, to drive enterprise bargaining negotiations. Final decisions are not left to agencies. So it's not really what drives individual agencies in terms of settling enterprise bargaining agreements; it is what drives me and the government in terms of settling enterprise bargaining agreements. I can indicate quite clearly that it's in the government's interest to have a happy, harmonious, productive workforce.

We acknowledge the hard work of our public servants right across the board, whether they be in the teaching workforce, the nursing workforce or indeed in the broader public sector. You will never see from me, or from any member of the government, comprehensive criticism of the whole public sector. We acknowledge the hard work, but nevertheless the government has acknowledged—and the Auditor-General has warned of—the importance of having sensible and reasonable wage settlement guidelines. He didn't use exactly those words, but they were the words that can be inferred from his commentary on state finances, that is, that it is a challenge. The government has set itself a challenge in terms of enterprise bargaining negotiations, and it is important that the government adheres to those particular assumptions.

Those principles do include a provision that says that we are not interested in interim payments, because that gives no incentive to the union bosses to actually get on with the business of settling an agreement. The teachers union asks for a 3.5 per cent interim payment, if that was happily settled then they could just drag out the negotiations for ever and a day. It is in everybody's interest for a sensible, reasonable settlement in terms of wage and salary negotiations.

The government has offered 2.35 per cent to teachers and 3.35 per cent to principals and preschool directors. Inflation has been in and around 1.5 per cent—it has slightly edged upwards in the most recent figures, but nevertheless the government's offer is significantly above the inflation rate in South Australia. It is a sensible and reasonable offer we have made that the taxpayers can afford.

In addition, in relation to teachers, we have offered significant improvements in terms of complexity allowances, which is additional assistance for teachers within the classroom to help them with the challenges that they confront on a daily basis. So, no, we do not accept that it is draconian or akin to wage theft. We are interested in an early settlement, and as minister I place that on the record as the government's position. But it does take two to tango, and the union bosses in relation

to these unions are going to have to come to a realisation that taxpayers can only afford sensible and reasonable wage increases.

ENTERPRISE BARGAINING

The Hon. I.K. HUNTER (14:36): Supplementary arising from the answer: does the Treasurer foresee that this policy encourages agencies to not finalise enterprise agreements? Will agencies in fact book the savings that they save by these agreements not being finalised, or will they return to consolidated revenue?

The Hon. R.I. LUCAS (Treasurer) (14:37): No, I do not accept the original part of the member's question. In relation to the budgeting arrangement, they are all controlled ultimately by me as Treasurer and as Treasury.

ENTERPRISE BARGAINING

The Hon. I.K. HUNTER (14:37): Further supplementary: can the Treasurer assure the chamber that his refusal to provide back pay will not make it more difficult to attract and retain nurses, teachers and police?

The Hon. R.I. LUCAS (Treasurer) (14:37): I am very confident that our hardworking teachers, nurses and police, and other public servants, see the great joys and advantages of living and working with their families here in South Australia. We are certainly seeing no evidence in relation to those employment groups of a mass flight of teachers, nurses and police to the other states of Australia.

ENTERPRISE BARGAINING

The Hon. I.K. HUNTER (14:38): Supplementary: will the Treasurer confirm that, while he will not countenance back pay for nurses, teachers and police, he has in fact offered Liberal staffers back pay after they voted down the government's original agreement twice?

The Hon. R.I. LUCAS (Treasurer) (14:38): That is not an accurate portrayal of the situation. Can I indicate, in relation to the teachers for example, that part of the current offer actually involves a payment that commences on, I think, 1 October 2018, and with a payment in May. However the honourable member would like to characterise 'back pay', the current offer, which was rejected by the Australian Education Union, does involve an element of payment that goes back to October and May. That was the willingness the government had to try to come up with a sensible compromise. Sadly, that has not occurred in terms of the then leadership or the current leadership of the Australian Education Union not being prepared to accept what was a very sensible, we believe, compromise that the government offered to the teachers.

ENTERPRISE BARGAINING

The Hon. I.K. HUNTER (14:39): Final supplementary: with the government's new policy of not providing back pay in terms of enterprise agreements, will the Treasurer now rescind his agreement with Liberal staffers who have received back pay after they twice voted down the government's original enterprise bargaining agreement?

The Hon. R.I. LUCAS (Treasurer) (14:39): The government doesn't have any separate agreement with Liberal staffers. We have an agreement with all staffers—Liberal, Labor and any other flavour.

CHINA INTERNATIONAL IMPORT EXPO

The Hon. T.J. STEPHENS (14:39): My question is to the Minister for Trade, Tourism and Investment. Can the minister update the council on South Australia's participation in the 2019 China International Import Expo?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:40): I thank the honourable member for his question and his ongoing interest in growing our state's economy. China, as we all know, is a very important business partner for South Australia. It is our largest trading partner, our largest source of international students and also our largest source of international visitors—not only by nights stayed but overall spend. Last year, some 66,000 Chinese tourists travelled to South Australia, an increase of 19 per cent on the previous year, injecting some

$378 million into our record $7.6 billion economy. In 2019, South Australia attracted over 14,000 international students from China—an increase of 1.5 per cent.

In terms of trade in the last 12 months to September, South Australia recorded nearly $2.8 billion worth of exports to China—an increase of 9.7 per cent on the previous year. This is why it is critically important that our state government supports the efforts of our businesses and industry in China, and so last week I attended the second China International Import Expo (CIIE) in Shanghai. To give you some context, it's an exhibition covering some 240,000 square metres, with 150,000 registered purchasers coming to the event from all over China, and exhibitors come from all around the world.

I visited each of the South Australian companies' trade booths and was pleased to witness a number of the 34 businesses sign deals with their Chinese partners. The China office also arranged two television interviews, where I was able to talk about South Australia's high-quality produce to an audience of millions of Chinese viewers. This year, 34 South Australian businesses participated at CIIE, up from 23 last year, an increase in participation of some 48 per cent.

Last year was a great success, with an estimated $20 million of export deals reported by South Australian delegates and another $10 million of export leads. Talking to the South Australian delegates, many of them shared with me that this year's CIIE was particularly beneficial, and I will continue to support them to grow our economy, create more jobs and wealth for South Australia.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter, you could have asked a supplementary—

The Hon. I.K. Hunter: I will get there, sir.

The PRESIDENT: —rather than shout. The Hon. Mr Darley.

ALUMINIUM COMPOSITE CLADDING

The Hon. J.A. DARLEY (14:42): My question is to the Minister for Trade, Tourism and Investment, representing the Minister for Transport and Infrastructure. Can the minister advise whether the government will consider making a public register of buildings that have been affected by cladding issues? What are the current obligations of owners who are aware of cladding issues or, for that matter, any other issue that may influence a prospective purchaser considering buying such a property?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:43): I thank the honourable member for his important question and I will take that and refer it to my colleague the Hon. Stephan Knoll in the other place, Minister for Planning, Transport and Infrastructure.

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:43): My question is to the Minister for Health and Wellbeing. What was the reason for the end of the partnership with Care Protect as the provider of the CCTV aged-care trial?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:43): The state government has been undertaking a thorough scoping exercise in relation to the CCTV project, which included residents' legal, IT security and workforce perspectives prior to the implementation of the project. In this process, some operational and technical issues arose that could not be resolved with the original technology partner, Care Protect, and a decision has been made to not continue that partnership.

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:44): Supplementary: what were the details of the operational and technical issues that could not be resolved that you have publicly listed as the reason for Care Protect no longer being the provider of the CCTV trial?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:44): I am not willing to comment further on this matter. There is a procurement process underway, and Care Protect, like any other provider, is free to be involved in that process.

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

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:44): Has Care Protect raised any concerns with the minister regarding his comment to the media about so-called privacy issues?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:44): Care Protect has certainly expressed their desire that their interests be respected in this process. The disengagement has been respectful and I will certainly, in my public statements, seek to respect the agreement to withdraw.

The PRESIDENT: A further supplementary, the Hon. Mr Wortley.

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:45): Does the minister have confidence that his department has handled the CCTV procurement process at all times appropriately? If not, what concerns does he have?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:45): I think I publicly said that I would have liked it to have been more timely.

The PRESIDENT: A further supplementary, the Hon. Mr Wortley.

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:45): Is there currently any independent or integrity investigation underway into the government's CCTV trial program?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:45): The honourable member knows that if there was, I would not be free to refer to it.

The PRESIDENT: Final supplementary, the Hon. Mr Wortley.

AGED-CARE CCTV TRIAL

The Hon. R.P. WORTLEY (14:45): Why were the four country sites chosen for the CCTV trial, as opposed to other more high-risk locations that have fallen foul of state and national audits?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:46): I will ignore the fact that the honourable member has false information, that it's not four sites, it's five sites. The five sites were identified to provide a range of facility sizes, different types of facilities. Another factor was the technical barriers, and another factor was the engagement and support of site management.

MENTAL HEALTH SERVICES

The Hon. J.S.L. DAWKINS (14:46): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding mental health services and suicide prevention.

Leave granted.

The Hon. J.S.L. DAWKINS: Members of the council will know of my long support for suicide prevention for all South Australians and for mental health services that support suicide prevention. Will the minister update the council on the recent launch of the mental health services plan for South Australia?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:47): I would like to thank the honourable member for his question and for his long-term commitment to action in relation to suicide prevention for South Australians. The Marshall Liberal government has a strong commitment to improving support for mental health services in South Australia. It was this government that opened the 10-bed psychiatric intensive care unit at the Royal Adelaide Hospital, and it was this government that opened the 10 forensic mental health beds at Glenside.

Working with the Morrison Liberal government, this government has invested $100 million, both in the past and projected, to support delivery of mental health services in South Australia. Building on this work, we have now delivered a mental health services plan for South Australia, which was launched on 2 November. Also present at the launch were mental health peer educator Helen Nowak, Mental Health Commissioner Chris Burns and the Chief Psychiatrist, John Brayley.

Each year, our emergency departments see over 20,000 presentations, and our hospitals receive over 9,000 acute admissions. Despite this, and the total of 690,000 interactions with our mental health services each year, the mental health services plan will be the first mental health services plan in place for seven years and will provide direction for South Australia's public mental health services for the next five years.

This plan, prepared by the Chief Psychiatrist and the SA Mental Health Commissioner, with comprehensive input from people with lived experience of mental illness and their families and supporters, will set a direction for our services, reshaping services in some areas and building on areas of success. It is particularly important that we take the time to listen to people with lived experience while working with clinicians.

Not only is this engagement with stakeholders a key commitment of the Marshall Liberal government but it ensures that these principles are at the centre of the services. Whether it is the Towards Zero initiative, aiming to reduce deaths in specialty services, or youth mental health, with services such as Headspace, this engagement will ensure better understanding and a better fit of our mental health services.

It is also through this engagement that we heard that the current system is often difficult to navigate and has shaped a particular focus of the plan towards integration of services with community alternatives and hospital-based services. As this plan demonstrates, the Marshall Liberal government is getting on with the job of providing the care and mental health support South Australians need. We know that mental health services present significant challenges that won't be resolved overnight, but this plan is an important step forward in mental health services.

MATES IN CONSTRUCTION

The Hon. C.M. SCRIVEN (14:49): Supplementary: will the minister advise whether this plan or any plans of the government include having delivered funding for MATES in Construction after the cruel cut by the Construction Industry Training Board?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:50): As the honourable member knows from the debate that this chamber had on the last occasion, that is a matter that should be addressed to the Minister for Innovation and Skills.

FLINDERS MEDICAL CENTRE

The Hon. F. PANGALLO (14:50): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing about food at the Flinders Medical Centre.

Leave granted.

The Hon. F. PANGALLO: A Facebook post by a Jill Ellbourne on 9 November called into question the quality of food at the Flinders Medical Centre. It was accompanied by a rather sorrowful-looking photograph of the meal that had been dished up. Ms Ellbourne wrote that the food was so dry that nobody in the ward could eat it, and they were going hungry at dinnertime. She went on to say that staff were telling families to bring their own food, although staff were not allowed to reheat it.

My question to the minister is: has he had complaints about the quality of food at the Flinders Medical Centre, are staff telling patients that they need to bring in their own food because of concerns about the quality of the food and is it correct that staff are not allowed to reheat any food brought in by any family members?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:51): I thank the honourable member for his question. I am aware that, on Thursday 31 October, a breakdown occurred at the

Flinders Medical Centre in relation to their main dishwasher. That reduced the Flinders Medical Centre's dish washing capacity and, as a result, contingency plans were implemented.

The contingency plans involved crockery being replaced with biodegradable corn-based containers, which unfortunately, I am advised, have reduced thermal properties. My understanding is that the impact was most keenly felt in the medical and surgical areas. Parts had to be secured to repair the dishwasher. I am advised that the dishwasher returned to full operation on Thursday 7 November.

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

FLINDERS MEDICAL CENTRE

The Hon. F. PANGALLO (14:52): What has the dishwasher got to do with the quality of the food?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:52): My understanding of the explanation I received was that the food being placed on biodegradable corn-based containers meant that they weren't able to maintain the heat that would be expected. I presume that also impacted the presentation and also may well relate to the suggestion that the food was not able to be reheated.

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

FLINDERS MEDICAL CENTRE

The Hon. F. PANGALLO (14:53): Does the minister consider that that's acceptable, serving up cold food to patients?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:53): I certainly don't believe it's acceptable that patients be served cold food. That's why efforts were made to repair the dishwasher as quickly as possible, so we could return to a full crockery service.

FLINDERS MEDICAL CENTRE

The Hon. T.T. NGO (14:53): A supplementary: will the minister be withdrawing any payments to the contractor, ISS, given the poor quality of the food?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:53): I certainly won't because I don't manage the contract, but I will ask SALHN whether they have any plans to do so.

HOSPITALS, HOTEL SERVICES

The Hon. C.M. SCRIVEN (14:53): A further supplementary: is this minister still committed to the reduction in funding for hotel services, which includes the catering and cleaning at the Adelaide metropolitan public hospitals, of $1 million this year and $4½ million each year thereafter?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:54): I'm not aware of what the honourable member refers to. I presume that what she is trying to highlight is that the former Labor government used hotel services in a significant number of our hospitals. Now they want to turn around and suggest that using contractors for hotel services is somehow privatisation of the public health service. She has certainly stepped into the breach of the Hon. Kyam Maher in the sense that she is continuing to distort their record compared with ours.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (14:54): My question is to the Minister for Health and Wellbeing. Is there any risk that another bidder for the CCTV aged-care trial contract has had access to the intellectual property that belongs to Care Protect?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:55): The CCTV procurement process will be delivered in accordance with all of the procurement and probity requirements that SA Health operates under.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (14:55): A supplementary, possibly a clarification. I think it's a fairly direct question; I will ask it again maybe. Will they have access to the intellectual property that belongs to Care Protect as part of the bidding process for the CCTV aged-care trial? Is there any risk of it?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:55): As I said, SA Health will operate in accordance with procurement requirements. Procurement requirements would preclude intellectual property of one entity being provided to another.

AGED-CARE CCTV TRIAL

The Hon. F. PANGALLO (14:56): A supplementary: does the government have full confidence in the members of the steering committee looking into the CCTV, including consumer stakeholder and government representatives, to undertake the job? Have you and your department requested all of them to provide their register of interests and/or declare any possible conflicts of interest?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:56): Again, the steering committee will be operating under the probity requirements, the public sector Code of Ethics and the like. Obviously, there are different requirements on non-public servants but the steering committee and the whole process will be conducted in accordance with the relevant guidelines.

The PRESIDENT: The Hon. Ms Bonaros, a supplementary.

AGED-CARE CCTV TRIAL

The Hon. C. BONAROS (14:56): Have any concerns been raised about the procurement process to date in terms of conflicts of interest?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:57): The tender documents went out on Tuesday 5 November. I will certainly query my department and my office whether any issues have been raised in terms of the procurement process thus far.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (14:57): A follow-up, if I can take the minister back, again, to the intellectual property aspect: can he guarantee that no-one has already had access to the intellectual property that belongs to Care Protect as part of the CCTV aged-care trial contract bidding process?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:57): I am not aware of any entity beyond SA Health having access. Obviously, SA Health has been engaged with Care Protect for some months. They would have access to that intellectual property.

AGED-CARE CCTV TRIAL

The Hon. C. BONAROS (14:58): Has the minister been made personally aware of any potential conflicts of interest involving public servants?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:58): Yes, I have and I have looked into those. I have not been able to identify a conflict of interest but, of course, any member of the public is free to pursue those issues with the relevant authorities.

AGED-CARE CCTV TRIAL

The Hon. F. PANGALLO (14:58): Does the South Australian government or SA Health have security concerns about using Chinese-manufactured surveillance equipment, specifically Hikvision cameras, in the pilot program? If so, why? If not, why?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:58): As I said earlier, I am not going to go into the details of the procurement process. It's important that that process be allowed to take its course.

AGED-CARE CCTV TRIAL

The Hon. F. PANGALLO (14:59): My question really wasn't about that. It was actually whether the South Australian government and SA Health have security concerns about using Chinese-made cameras, specifically known as Hikvision cameras?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:59): One of the factors in the early stages of the process was the use of what audiovisual equipment was appropriate, and they were amongst the operational and technical issues that were discussed with Care Protect.

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

AGED-CARE CCTV TRIAL

The Hon. F. PANGALLO (14:59): You still haven't answered the question, minister. Do you have security concerns about using Chinese-manufactured surveillance equipment?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:59): I'm happy to take the details of the member's question on notice, but as I said the technical and operational issues were significant, and they weren't able to be resolved.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (15:00): Supplementary: the tender process has now been released for the CCTV monitoring, and it has a slower response time than what Care Protect had committed to provide. Without going into any of the details of tender processes, can the minister please explain why we want a slower response time than what Care Protect was committed to providing?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:00): I have no intention of providing an, if you like, industry briefing to this council and risk corrupting a procurement process. The people of South Australia expect this government to take action to improve quality and safety for older South Australians. That is what we are doing in partnership with the Morrison Liberal government in a half-a-million-dollar pilot project, the first time it has been done in the Southern Hemisphere. We are committed to delivering that outcome.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (15:01): Perhaps a supplementary, a really simple one this time: when will the five CCTV sites be operational, minister?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:01): I am advised that the pilot will be underway in early 2020.

AGED-CARE CCTV TRIAL

The Hon. I.K. HUNTER (15:01): Supplementary: how does the procurement or tender process address the issues that caused the minister to cancel the contract with Care Protect in the first place?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:01): The honourable member is not going to draw me in to debating the tender documents, debating the procurement process. I am not going to risk corrupting that process.

The PRESIDENT: One last supplementary, the Hon. Mr Hanson.

AGED-CARE CCTV TRIAL

The Hon. J.E. HANSON (15:01): What will be the total cost of the CCTV project? Will it exceed the $500,000 provided by the commonwealth?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:02): That clearly depends on the result of the tender and the outcome of the project as a whole.

STATE DISABILITY INCLUSION PLAN

The Hon. J.S. LEE (15:02): I seek leave to make a brief explanation before asking a question of the Minister for Human Services about South Australia's first disability inclusion plan.

Leave granted.

The Hon. J.S. LEE: As part of the Marshall Liberal government's first 100 days in office the Disability Inclusion Act 2018 became the first piece of legislation passed in parliament and commenced on 1 July 2018. The legislation signalled the government's commitment to create a more inclusive South Australia. The act provides a legal framework to support equal access and participation for people with disability in the community, including in recreation, education, health, employment and transport. A key requirement of the act was the development of South Australia's first state disability inclusion plan. My question is: can the minister please update the chamber on the launch of Inclusive SA?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:03): I thank the honourable member for her question. Indeed, it was a great privilege; the Premier launched the disability action plan entitled Inclusive SA, which is South Australia's first disability inclusion plan, for 2019-2023, on 1 November at the newly built accessible function centre of U City, which has been built by Uniting Communities. It was also attended on behalf of the opposition by the member for Playford, representing the member for Hurtle Vale.

There was a very large number of stakeholders who attended the launch, including people with lived experience, a large number of service providers from South Australia, and the Equal Opportunity Commissioner. We were pleased that local government was very well represented as well, particularly Campbelltown, West Torrens, and the City of Adelaide, as well as, I think from memory, Salisbury and Playford. They are all councils with a strong record in terms of inclusion in their respective districts.

The plan has highlighted a number of areas where particularly people with disability feel that it is important to improve a range of services that are provided by state and local governments. The particular areas for focus included: firstly, inclusive communities for all; secondly, leadership and collaboration; thirdly, accessible communities; and fourthly, learning and employment. It's very much a first step in terms of providing better services for people with disabilities. The NDIS, of course, is now the funder and provider of regulation for disability services going forward, so the state government is very much focused on the inclusion agenda.

There are some interesting elements that have been included in the plan, and I am particularly pleased that universal design is something that has been identified. Universal design is something that I know is very close to the heart of advocates, including people such as Kelly Vincent who ensured that that was included within the planning laws prior to her no longer being a member in this place. Recreation and Sport have also been very enthusiastic participants in this space, and Transport has had an ongoing interest in this, most recently with the southern tram stop in South Australia.

It outlines a roadmap forward in terms of all state government agencies and local government to ensure that places are not just physically more accessible but also for people who have sensory challenges and a range of other disabilities, that we will all be working towards ensuring that people can have full access to everything else that we take for granted.

RULING, MEMBERS' VOTES DISALLOWANCE

The Hon. T.A. FRANKS (15:07): Under standing order 107, I seek leave to make a brief explanation before addressing my question to you, Mr President, seeking a ruling on the matter of possible disallowance of members' votes under standing orders 225, 362 and 379 for undeclared pecuniary or personal interests, and the eligibility to sit on a committee where a declared or undeclared pecuniary interest exists.

Leave granted.

The Hon. T.A. FRANKS: Mr President, I draw your attention to standing order 225 which states:

No Member shall be entitled to a vote upon any question in which the Member has a direct pecuniary interest not held in common with the rest of the subjects of the Crown, and the vote of any Member so interested may, on Motion, be disallowed by the Council; but this Order shall not apply to Motions or Public Bills which involve questions of State policy.

Further, standing order 362 states:

Any Question of Personal Interest as affecting a Member's vote, arising in the Committee, shall be determined by the Committee.

Finally, standing order 379 states:

No Member shall sit on a Committee who has a direct pecuniary interest in the inquiry before such Committee, not held in common with the rest of the subjects of the Crown and any question of interest arising in Committee may be determined by the Committee.

I know that shortly the council will debate a bill regarding restructuring of the state's land tax arrangements and that, according to the Members' Register of Interests, certain members of this council may well have a pecuniary interest in the outcome of that bill and that they may well not hold this in common with other members, other subjects of the Crown.

Should the council establish a select committee to inquire into this bill, I note also that standing order 379 states that no member with a direct pecuniary interest in the bill shall sit on such a committee and that there is no corresponding reference to a state policy overruling this. I am mindful that these matters have been well canvassed in other commonwealth Westminster system parliaments, most notably in the Australian federal parliament where these matters, while under their standing orders could see those members' votes disallowed, in fact require that the members declare their pecuniary or personal interests when engaging in the debate.

I ask the President to rule as to which way this council will manage a member with an undeclared pecuniary interest, or a declared pecuniary interest, from taking part in this debate and any potential committee, and will the President counsel the council to declare pecuniary or personal interests in the land tax or any other bill?

The PRESIDENT (15:09): Thank you for your question. Given the complexity of some of the issues on which you have sought a ruling, I will take that on notice and endeavour to give you a response tomorrow, which will allow me to hit the books.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:10): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding aged-care audits.

Leave granted.

The Hon. I. PNEVMATIKOS: In June, the government received audit reports of state-run aged-care facilities; however, only released these reports this month under the cover of the interim report from the aged-care royal commission. The reports detail significant abuse and neglect of aged-care residents, including physical restraints kept on at Lameroo for seven hours at a time, staff being rough with residents at Kingston SE, undue force used on a resident at Minlaton that was not reported to the police, and residents left in squalor at Pinnaroo. The list goes on.

My question to the minister is: why did the minister sit on these reports for 133 days, and what actions have been taken, including reporting allegations to police and disciplining staff over the damning audit findings?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:11): The department received the report in June. I received it somewhat later. The department, particularly the country local health networks, each developed a detailed implementation plan. The final report was released at the same time as the local health network implementation plans were released. The government's view is it is important for the community to know not only what the issues are but what the government is going to do about them.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:11): Supplementary: just in terms of the allegations of abuse, such as those at Kingston and Minlaton, have those allegations been provided to the police?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:12): I am advised that any risk identified through the audits were immediately communicated to management of the site and though to the Country Health SA Chief Operating Officer and were addressed immediately by Country Health SA.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:12): Further supplementary: have you provided all audit reports to the aged-care royal commission and, if so, when did that happen?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:12): I am not aware of that having happened. I will take that on notice.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:12): Further supplementary: why are substantial parts of the site audits redacted, including whole sections in sites such as Orroroo, Penola, Pinnaroo and Streaky Bay?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:12): Fundamentally, the redactions were done to protect the privacy of residents and there was removal of business names where there is no contract in place.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:13): Further supplementary: does the minister agree with the Premier, who told FIVEaa's David Penberthy last week that the redactions to the audit reports seemed 'a bit over the top'?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:13): The Premier and I have had discussions. Redactions were made to the individual site reports in line with the Freedom of Information Act and, I am advised, by an accredited FOI officer. Redactions are used in documents to maintain the privacy of individuals when dealing with personal and sensitive information.

AGED-CARE FACILITIES AUDIT

The Hon. C.M. SCRIVEN (15:13): Supplementary arising from the original answer, where the minister said that the department received the report in June and he received it somewhat later. When did he receive it? When was this 'somewhat later'?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:14): I am happy to take that question on notice.

AGED-CARE FACILITIES AUDIT

The Hon. I. PNEVMATIKOS (15:14): Has the Premier since discussed these redactions with the minister, and will the government now release a less redacted version of the audits?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:14): I have already indicated that I have discussed it with the Premier.

Members interjecting:

The PRESIDENT: Minister, you have answered. Questions while seated don't get the call. I allow supplementaries. You were shouting actually quite reasonable supplementaries from a seated position. Just a tip from the President. The Hon. Mr Hood.

TOURISM AWARDS

The Hon. D.G.E. HOOD (15:14): My question is to the Minister for Trade, Tourism and Investment. Will the minister update the council about the recent South Australian Tourism Awards?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): I thank the honourable member for his question and his ongoing interest in the wonderful industry known as the South Australian tourism industry. As we know, it is incredibly important to South Australia's economy. It has risen to an all-time high of $7.6 billion—an all-time high. It's important to recognise the people across the industry in South Australia that make our tourism sector what it is. That's what the South Australian Tourism Awards are all about. It's a chance to get together to recognise success, celebrate achievements and build awareness of new players in the market. It was also a chance for me to personally thank everyone that works in the industry for everything they do to showcase our amazing state.

More than 700 people were in attendance on Friday night at an event that only gets bigger every year. I was given the opportunity to present four awards, including the Premier's Award for Service Excellence. This is the most prestigious award of the night and recognises outstanding achievement in all-round service presentation. That award went to the Seppeltsfield winery in the Barossa, a consistently standout performer that truly sets the standard for wineries and tourism businesses alike.

Further, I presented the award for Excellence in Food Tourism, which went to the Willunga Farmers Market, and the award for Self-Contained Accommodation, which went to Flinders Bush Retreats. Additionally, I was honoured to present the award for best Business Event Venue, which went to the Adelaide Hills Convention Centre. The Convention Centre was also inducted into the Hall of Fame, meaning they have won a gold award on at least three occasions. Six businesses in total were inducted into the Hall of Fame on Friday night, a fantastic achievement indeed. Another great aspect—

The Hon. C.M. SCRIVEN: Point of order: all of this is on the public record in a number of places, including InDaily from last Friday.

The PRESIDENT: The Hon. Mr Ridgway, exercise caution in your response to the question.

The Hon. D.W. RIDGWAY: Yes. I'm just celebrating the great achievement of South Australian tourism operators and—

The PRESIDENT: I know what you are doing. That's not what the point of order was. The point of order was that you can't use information that's publicly available. I'm not aware of whether it's publicly available or not. I'm asking you to exercise caution. The response back to me should not be what you are trying to do. I know what you are trying to do.

The Hon. D.W. RIDGWAY: Thank you, Mr President. I thank you for your advice.

The PRESIDENT: Don't talk over me again either, the Hon. Mr Ridgway. Now continue with your answer.

The Hon. D.W. RIDGWAY: Another great aspect of the event is that it brings people from all parts of the state together. There are so many unique tourism experiences that are recognised, everything from the South Australia Wooden Boat Festival, the BIG4 Hahndorf Resort and the Beach Huts at Middleton.

It offers the opportunity to recognise the tourism workers that don't usually have the spotlight on them but who work so hard to offer amazing experiences and give visitors lifelong memories in South Australia. Additionally, it was wonderful to see individuals recognised in the awards, with Sinead Vandenbroek taking out the South Australian Tourism Student of the Year award and Rajdeep Singh winning the South Australian Taxi Driver of the Year. Our state has an abundance of world-class tourism offerings as well as world-class people that run them, and it is fantastic to have the chance to recognise their contributions.

I congratulate the Tourism Industry Council South Australia for once again organising a successful event. I wish the very best of luck to the winners that go on to represent South Australia at the Qantas Australian Tourism Awards in Canberra in 2020.

CHEMOTHERAPY TREATMENT

The Hon. C. BONAROS (15:18): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about SA Health's chemotherapy program.

Leave granted.

The Hon. C. BONAROS: On 31 October, *The Advertiser* reported that SA Health's disastrous chemotherapy bungle continues, with a computer program designed to prevent a repeat of underdosing being dumped. As we know, that bungle involved 10 seriously ill cancer patients being underdosed during their chemotherapy treatment between 2014 and 2015, with four, sadly, dying. In what can only be described as a major setback, SA Health has revealed that it had been forced to retender for a backup computer system after a risk assessment found the requirements in the first tender were not up to scratch.

In 2010, the state government allocated $4.9 million for a new state electronic cancer information and prescribing system. However, tenders for a dedicated chemo dosage system were suspended a year later because of the decision to purchase EPAS. So nearly 10 years on there is still no dedicated chemotherapy dosage system. My questions to the minister are:

1. When did you first became aware of the decision to retender?

2. Do you think it is appropriate that SA is the only state in the country, and possibly the Western world, that doesn't have a bona fide chemo program?

3. Are you concerned about the revelations, especially in light of the previous scathing findings of the Coroner, which attributed four deaths to the chemo bungle?

4. What, if any, of those recommendations from the Coroner have been implemented to date?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:20): I thank the honourable member for her question. In terms of the aborted tender process in relation to the single enterprise chemotherapy prescribing system, I am very disappointed that that tender process was not robust and had to be aborted. It has delayed a long overdue IT enhancement. The honourable member is correct to highlight the issue in relation to the chemotherapy underdosing that occurred in the metropolitan area, but also the prescribing system is really important to support the ongoing enhancement of country chemotherapy services.

If a prescribing system was in place, country patients would be able to have a higher level of complexity of chemotherapy delivered in a country context. To say that I am disappointed is an understatement. I accept that the process has been corrupted and that a new process needs to be undertaken, and I am looking forward to that outcome as soon as possible.

CHEMOTHERAPY TREATMENT

The Hon. C. BONAROS (15:21): Supplementary: can the minister advise what happened to the $4.9 million that was allocated for a new statewide electronic cancer information prescribing system?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:21): I will certainly take that on notice, but my understanding is that money allocated will be available for the procurement as it progresses—this is a procurement process to buy.

The PRESIDENT: The Hon. Ms Bonaros, a further supplementary.

CHEMOTHERAPY TREATMENT ERROR

The Hon. C. BONAROS (15:21): Can the minister also advise if there are any public servants in SA Health that the executive team is still considering taking action against over their roles in the chemo bungle, and whether indeed they are still employed by SA Health?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:22): I'm happy to take the honourable member's question on notice.

COMMONWEALTH BANK OF AUSTRALIA

The Hon. T.T. NGO (15:22): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding meetings.

Leave granted.

The Hon. T.T. NGO: On 28 October 2019, the minister tabled a response to a question he was asked about his Sydney meeting with the Commonwealth Bank. The minister's answer stated, 'I met with Ms Julie Hunter, General Manager, Government and ADIs, and Mr Alexander Polson, Manager, Royal Commission, at the Commonwealth Bank Group head office.' I am advised that Mr Polson is a former staffer of senior Liberal frontbencher, Mr Simon Birmingham. My question to the minister is: given that his department did not prepare any briefing material for the meeting, will he advise what was the purpose of the business meeting with the Commonwealth Bank?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:23): I thank the honourable member for his question. It's a shame he perhaps wasn't listening some weeks ago when I gave the answer in relation to what the nature of that meeting was. Ms Julie Hunter had reached out to me to say that she would like to catch up to discuss opportunities for the Commonwealth Bank here in South Australia. A lunch meeting was organised. I was in Sydney and I was happy to have that meeting. I gave that answer some weeks ago.

COMMONWEALTH BANK OF AUSTRALIA

The Hon. R.P. WORTLEY (15:24): Supplementary: since you were there to talk about opportunities with the Commonwealth Bank in South Australia, why didn't you have any notes or briefing from your department?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:24): I like to think that I go and have these meetings and discuss the opportunities and then, if some opportunities arise, we can get the department to look at them. Ms Hunter, a former South Australian who had lived in Adelaide for a long time and is passionate about South Australia, said, 'I want to have a chat to you about the opportunities; we might be able to help to grow the South Australian economy.' It's the sort of thing that good, hardworking ministers do: they look for every opportunity to grow the South Australian economy.

Bills

LAND TAX (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:25): 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 into *Hansard* without my reading them.

Leave granted.

Today, I am pleased to introduce the *Land Tax (Miscellaneous) Amendment Bill 2019*, a Bill to amend the *Land Tax Act 1936*, which is part of a reform package that will reduce the net amount of land tax payable by around $90 million over three years.

As part of the Marshall Liberal government's election platform, a commitment was made to lower costs for South Australians. The government has already abolished payroll tax for all small businesses and we have delivered reductions in Emergency Services Levy bills. Further, the government remains committed to capping council rates; reducing electricity prices; cutting water bills; and, of course, reducing revenue collected from land tax.

For far too long, South Australia has been in the unenviable position of having the nation's highest top marginal tax rate, which has acted as a disincentive to investment and has inhibited strong economic growth.

Some investors have for years preferred to invest in other states because of the uncompetitive nature of our 3.7 per cent top tax rate. The government's land tax reform package will release this hand-brake on investment attraction, boost business and consumer confidence, create jobs and put more money back into the pockets of hardworking South Australians.

The Marshall Liberal Government's commitment is to reduce total land tax revenue collected and to implement a fairer, more competitive land tax system.

The vast majority of 'mum and dad' investors, and company groups, who currently pay land tax will be financially better off as a result of the Marshall Liberal Government's reforms.

It has not, in the past, been usual practice for a government to undertake public consultation prior to the introduction of a tax Bill. However, the government, recognising the importance of these reforms, has conducted a

wide-ranging and extensive public consultation since the initial announcement of the land tax reforms in the June budget.

The government has listened to the views expressed by many community members and has made significant amendments to its proposed reform package. The strong message from many stakeholders was if the government was intent on amending aggregation rules then it needed to make significant reductions in tax rates.

The elements of the package

The revised land tax reform package comprises the following elements, the first of which has already been legislated and the others which are included in this Bill. They are:

- Increasing the tax free threshold from $391,000 in 2019-20 to $450,000 from 1 July 2020 which will provide relief to all taxpayers. In fact, an estimated 9,300 taxpayers will no longer pay any tax as a result of this change.
- An immediate reduction from 1 July 2020 in the top tax rate from 3.7 per cent to 2.4 per cent. The proposed new rate of 2.4 per cent is in line with the average rate for all mainland states;
- Setting the maximum threshold at which the top tax rate of 2.4 per cent will apply in 2020-21 to the value of $1.35 million and then increasing it by a further $250,000 in 2022-23, so that the top threshold will then be $1.6 million.
- Introducing a new lower tax rate of 2.0% to apply from 2020-21 for site values between about $1.1 million and $1.35 million and then in 2022-23 from about $1.1 million to $1.6 million.
- Changes to aggregation rules similar to New South Wales and Victoria to ensure that we have a fairer system. This will stop the possibility of some investors who have structured themselves into complex legal arrangements not paying a single dollar in land tax. Throughout the debate, the opponents of the reforms have comprehensively failed to defend the inequity of the current law which allows that to happen.
- And finally, the Bill also introduces a requirement that an independent review be undertaken by 31 December 2023 on the operation and impact of the land tax reform package. The review will cover changes contained within this Bill, in addition to those in the *Statutes Amendment and Repeal (Budget Measures) Act 2018.*

Rationale for aggregation

It is important to note that the government is not introducing aggregation.

Aggregation has existed in South Australian land tax law for as long as land tax has been collected.

The simple principle behind the proposed amended aggregation rules is that two investors who each own $1 million in property should be taxed equally even if one investor has one property and the other has four properties.

While the total net land tax payable was always intended to be reduced, it was originally estimated that the aggregation measures would generate an additional $40 million per year. However, one of the purposes of the extended consultation was to allow greater investigation and clarity on this estimate.

Access to more detailed information, such as cross-referencing with ASIC databases and TRUMPs driver's licence data has enabled a more accurate estimate of revenue to be collected.

Treasury has now estimated that at a top tax rate of 2.4 per cent, aggregation changes will raise an extra $86 million per annum.

Independent accounting firm PricewaterhouseCoopers (PwC) has reviewed and supported as reasonable Treasury's methodology for constructing this estimate. When reviewing the methodology used by Treasury, PwC did not identify any alternative ways to use the existing data sets to improve the reasonableness of the estimate.

It would clearly be inappropriate and unlawful for the Government to disclose the confidential details of individual taxpayers who would be affected by the changes, however, the Government has made PwC's report on the review of the methodology available to the public.

The tax cuts are now estimated to be worth:

- $111 million in 2020-21;
- $115 million in 2021-22; and
- $121 million in 2022-23.

Over three years, that equates to a net reduction in revenue of around $90 million, made up of:

- $25 million of relief to taxpayers in 2020-21;

- $29 million in 2021-22; and
- $35 million in 2022-23.

The revised reform package will mean that the overwhelming majority of individuals and company groups will pay less land tax under the reforms.

Estimates show that around 92% of all individuals will pay less tax under the reforms and around 75 per cent of company groups will pay less land tax under the reforms.

The revised package was welcomed by many investors and other members of the community, some who had initially been opposed to the reforms.

There are about 52,500 ownerships that currently pay land tax in South Australia. Of these there are some 22,300 ownerships comprising individuals, companies and trusts that own multiple properties and are already paying tax on aggregated site values.

In fact, there are 16,600 individual ownerships or 'mum and dad' investors who own multiple properties either by themselves or jointly with other individuals who clearly receive sufficient return from rental income to justify continued investment in multiple properties.

This 'blows out of the water' claims by opponents of the land tax reform that almost everyone has used trusts and companies to minimise the amount of land tax they pay.

A case in point is Paradise teacher Lynnette Deguglielmo, and her husband Dominic, who own several investment properties and currently pay land tax on an aggregated basis.

They have worked hard all their lives and have used property as their form of superannuation for their retirement and what they have said is that under the current law that they have felt penalised because they've had to pay such excessive land tax.

They have said 'good on you' to the government for looking to do something for the ordinary mum and dad investor so that they don't have to rely on the pension to support themselves in retirement. They have said they will save thousands of dollars on their land tax bill because of the increased tax-free threshold and the massive reduction in tax rates.

This is a clear demonstration that it is not just very wealthy individuals with significant property holdings who will benefit from the reforms.

SA Centre for Economic Studies Executive Director Michael O'Neil has also said that there will be 'no impetus now for landlords to increase rental charges' under the reforms.

Consultation

Consultation on the proposal occurred over fifteen weeks, with a further consultation on the draft Bill over an additional four weeks which yielded 193 submissions from stakeholders and members of the community.

Since then, more and more interested groups and members of the community are coming to terms with the fact that if the Bill does not pass, the chance for this transformative reform will be lost and we will be stuck with the highest tax rates of land tax in the nation for decades to come.

SACOSS, the Australia Institute, the Shopping Centre Council of Australia, the Property Council, Emmett Property, Lendlease, ICAM and Buildtec Group are amongst the interest groups and companies advocating and supporting the Bill. In addition, an increasing number of 'mum and dad' investors have also indicated their support for the Bill.

Grandfathering

Some submissions received during the consultation raised the prospect of grandfathering the changes to aggregation rules. That is not part of this Bill. Grandfathering, with respect, would create a scheme that would fundamentally fail to achieve the two main objectives of the reforms. Those are, to reduce total land tax revenue collected and to implement a fairer, more competitive land tax system.

There are several reasons why grandfathering will not work:

- Firstly, grandfathering means that those who will be worse off under the new changes will opt not to move into the new system of aggregation. That would have significant revenue impacts and would potentially mean that the reforms raise no revenue at all and, in turn, that would prevent the government implementing the cut to the top tax rate to 2.4%.
- Secondly, as SACOSS and others have reiterated in their submissions, the starting point for the aggregation reforms is that the current system is inequitable. In that context, grandfathering the changes would be highly unfair to taxpayers who are already paying tax on an aggregated basis by denying them much-needed relief.

- For example, if Company A owns $1.4 million in landholdings all contained in a single ownership and does not have an interest in any other companies, Company A will have paid $16,870 in land tax in 2019-20. Whereas, if Company B wholly owns four other companies that each own a single property with a site value of $350,000 (a combined site value of $1.4 million), Company B and its subsidiaries would not be liable for any land tax at all in 2019-20. Grandfathering would only serve to preserve these inequities. Under the reforms, in 2020-21 Companies A and B will face the exact same land tax liability—estimated to be $13,424.50 each.

- Thirdly, grandfathering would create a two-tiered system which would be virtually impossible to administer and even more difficult to understand for taxpayers. It raises many complex questions about what would happen, for example, in the event of the death of a joint owner of property, would the other owners of the property then move from the old system to the new system? How would it work where someone adds a new company to their share portfolio? How would it work where the directors of a company are changed? And so on.

- Fourthly, if grandfathering is implemented, a very likely unintended consequence will be a dramatic slowdown in the property market. This is because persons who already own land will be highly incentivised to hold onto their existing property and also to completely cease making any new investments in property. This would reduce market activity substantially and impact negatively on the State's economy generally.

Technical amendments

The government is grateful for the submissions of the Law Council of Australia, the Tax Institute, the Law Society of South Australia, Perks and Associates and others, which sought to address technical issues in the consultation draft of the Bill that, in some cases, have resulted in minor amendments to make sure that the terms of the Bill are consistent with the government's stated policy intention.

These amendments include ensuring that companies will not be subject to both grouping as related corporations as well as the trust surcharge and that self-managed super funds, or SMSFs, will be unaffected by the changes to aggregation rules.

Myths associated with the changes

Throughout the consultation, the government also received contact from taxpayers alarmed by misinformation that their land tax bills would increase by five thousand percent or more. However, when assessed against the proposed measures, many of these were found to be cases where their tax liability would actually reduce. In cases where the tax liability did increase, the increase was nowhere near what they had initially thought it would be.

It became apparent throughout the consultation that there are several myths surrounding the changes to the aggregation rules. I will address some of those myths now.

- A person's principal place of residence will not be subject to land tax, nor will it be aggregated together with other land owned by that person.

- SMSFs will be unaffected by the changes to aggregation laws and will also be exempt from paying the trust surcharge under the Bill.

- Persons who own only one investment property and do not have any other interests in property will not be affected at all by land tax aggregation under the Bill. In fact, these persons will benefit from a higher tax-free threshold and potentially also the lower top tax rate, depending on the site value of the land.

- Domestic partners or family members who each have land in their own individual names will not be aggregated under the Bill. For example, a husband and wife who each own a property in their own name will not be aggregated.

- All trusts will not be automatically aggregated under the Bill. Trustees of discretionary trusts, for example, will have a choice of nominating a designated beneficiary for land tax purposes or paying a surcharge of 0.5% (capped at a maximum of about $6,500 in 2020-21). If they opt to pay the surcharge, they will not be subject to aggregation. Beneficiaries of discretionary trusts who have not been nominated as a designated beneficiary will not be liable for land tax or have their interests aggregated with other land they may own.

- All of a person's land will not necessarily be aggregated together and assessed as one landholding under the Bill. There will still be the ability for persons to disaggregate their landholdings, to the extent that they are held in different types of structures. That is, a person who owns land in their own name as a natural person, land in a company that they own and land in a family trust where the trustee has opted to pay the trust surcharge, will not be aggregated together into one, single group for land tax purposes.

Key aspects of the Bill

I now turn to explain the key details of five major features of the Bill, namely:

- the revised land tax scales;
- the changes to aggregation rules;
- the grouping of related companies;
- the trust surcharge; and
- the exemptions to land tax.

The revised land tax scales

Between the 2019-20 and 2020-21 financial years, the new proposed tax scales will see the tax-free threshold lifted from $391,000 to $450,000.

In addition, it is estimated that the 0.5 per cent threshold will be lifted from $716,000 to around $755,000; the 1.65% threshold lifted from $1,042,000 to around $1,098,000; and the introduction of a new 2 per cent threshold for land valued between $1,098,000 and a new top threshold of $1,350,000. The top land tax rate is reduced from $3.7 per cent to 2.4 per cent for total site values over the new top threshold of $1,350,000—in line with the average of the mainland states.

The actual thresholds in 2020-21, apart from the $450,000 tax-free threshold and the top threshold of $1,350,000, will depend on the final indexation factor determined by existing legislative provisions.

The top threshold will remain unchanged in 2021-22, and will then increase from $1,350,000 to $1,600,000 in 2022-23. The top threshold will then be indexed annually thereafter, consistent with the other thresholds.

There is a 0.5 per cent surcharge for trusts, which I will return to later. Whilst our top threshold remains lower than other states, this is, in part, a reflection of the fact that our average site values are also lower—in other words, land is more affordable in South Australia than in other states.

Changes to aggregation rules

There will be a simplified version of the New South Wales and Victorian approach to aggregation. Landholders' interests will be aggregated across joint and individual ownerships. Joint ownerships will receive a land tax bill as at present, but if the joint owners own other properties in their own right, they will receive a separate bill for their total landholdings, including their share of the joint ownership.

To avoid double taxation, a deduction will be made on an individual's liability equivalent to their share of the land tax assessed on any jointly owned land (proportional to the ownership share). This is simpler than the approach taken in Victoria and New South Wales and can result in a bigger deduction for taxpayers.

The deduction will be taken off their entire liability, even if it includes land tax payable on properties other than the joint ownership. Where the deduction for jointly owned land is greater than the individual land tax liability, the individual liability is zero.

By way of comparison, in New South Wales and Victoria, there is a deduction on an individual's land tax bill equivalent to the lesser of the individual's share of the land tax assessed on the jointly owned land, and the amount of tax which the jointly owned land represents in the individual's land tax assessment.

Grouping of related companies will occur broadly in line with the current arrangements in New South Wales and Victoria, and is a similar concept to existing grouping provisions for payroll tax in South Australia. Where corporations are deemed to be 'related', they will be jointly assessed for land tax on the land as if it were owned by a single corporation.

Two or more companies will be grouped where there is established control. This can be through the ability to control or cast more than 50 per cent of the votes at a general meeting, where the owner has 50 per cent of the issued share capital or where the owner has control of the board of directors.

Control may be exercised by a corporation over other corporations; by the same person or persons over two or more corporations; or jointly by a company together with its shareholders.

Where one corporation is related to another corporation and the second corporation is related to a third corporation, the first and third corporations will also be taken to be related. If one corporation owns over 50 per cent of shares in two different corporations, all three corporations will be related.

We have listened to feedback on the draft Bill from those in the property development industry, including the UDIA and others, about the potential impact of the company grouping provisions on property developers who establish unit trust arrangements for development purposes, and, in response, we have included an ability for related companies to apply for de-grouping in defined circumstances.

The Commissioner for State Taxation will be able to de-group related companies at her discretion under certain conditions. The primary intention of this provision is to provide relief where land is being held for the purpose of being developed as a residential development of more than 10 allotments. The development must also commence within two years of the application, unless the Commissioner considers an alternative period is required.

The de-grouping will be for an initial period of up to 5 years reflecting the expected development period with any extension subject to a new application to the Commissioner. Further conditions on the exercise of the Commissioner's discretion may also be prescribed by regulations.

Trust surcharge

This Bill also introduces a number of new provisions for land held in trust. The design of trusts means that it can be difficult to determine the true beneficiary of land held in trust. As such, a trust surcharge of up to 0.5%, capped at the maximum tax rate, will apply for land held in trust with a site value of greater than $25,000. If applied, it will be levied on the full site value of the land, with no surcharge-free threshold.

There is also a transitional measure for discretionary trusts to provide notice of a single beneficiary and avoid the surcharge. This measure is voluntary and will be available for any land held in discretionary trusts up to the date of introduction of the Bill into Parliament. Trustees will have until 30 June 2020 to provide notice.

This is broadly consistent with the law in Victoria. The surcharge is levied against the full value of the land to avoid a situation where trusts can still be used to avoid any land tax being paid where multiple parcels of land that are below the tax-free threshold of $450,000 are split into multiple trusts.

The reason that the surcharge applies for properties valued over $25,000 rather than $0 is to avoid catching very low-value landholdings and to minimise administrative burden for taxpayers.

The surcharge will be capped at a fixed amount, such that the land held in trust will not pay a marginal tax rate greater than the top rate. This fixed amount is estimated to be around $6,500 for 2020-21, but will ultimately depend on any adjustments to the tax scales for that year. This means that land held in multiple trusts will not be aggregated if each trustee opts to pay the trust surcharge.

Certain trusts will be exempt from the surcharge, such as self-managed superannuation funds, charitable trusts, concessional trusts, deceased estates, child maintenance land and a number of other trusts which would otherwise be exempt from land tax.

There are provisions for fixed and unit trusts to voluntarily provide a notice of beneficial interests, such that they will not be liable for the surcharge. This is an optional provision, and where a notice of beneficial interest is in place, a beneficiary's interest in the trust land will be aggregated with any other interests in land that they hold as an individual. In other words, where the true owners of land are notified, they will be treated like any other land held individually.

This Bill also includes new notification provisions which require trustees to notify the Commissioner of the existence of trust land within one month after the commencement of the Bill—being the end of July 2020 where the Commissioner has not previously been advised of the existence of the trust.

Exemptions to land tax

All existing exemptions from land tax will be maintained, including the exemptions for a principal place of residence and for primary production land.

The principal place of residence exemption will be expanded somewhat under the reforms. Where a notification of beneficial interests is in force, land will be exempt from land tax in the case of fixed and unit trusts if all beneficiaries or unitholders use it is as their principal place of residence (and other existing requirements are met).

In the case of discretionary trusts, the exemption will apply if their nominated beneficiary uses it as their principal place of residence.

Conclusion

Finally, the government believes that it is imperative that this Bill is passed swiftly to end any ongoing uncertainty for businesses and property investors associated with the pending changes.

This Bill provides a once in a lifetime opportunity for comprehensive land tax reform which will drive down the top rate of land tax from 3.7% to 2.4% and drive economic investment and jobs growth in the South Australian economy.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Some of the transitional provisions will commence on assent to allow certain notifications to be given in the lead-up to commencement of the amendments to the *Land Tax Act 1936*. The amendments to the *Land Tax Act 1936* will however commence on 30 June 2020, immediately after the commencement of amendments to the Land Tax Act that were contained in the *Statutes Amendment and Repeal (Budget Measures) Act 2018*.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Land Tax Act 1936*

4—Insertion of heading

The *Land Tax Act 1936* is currently not divided into Parts. This clause is the first of a number of amendments contained in the measure that insert headings to divide the Act into Parts and Divisions to better assist the reader in finding content in the Act.

5—Amendment of section 2—Interpretation

This clause inserts a number of new definitions for the purposes of the measure.

6—Insertion of headings

7—Insertion of heading

These clauses insert new headings.

8—Insertion of section 5AA

This clause inserts a new section allowing the Commissioner to disregard minor interests in considering the application of the residential land exemptions in section 5.

9—Substitution of section 6

This clause is part of the restructuring of the Act. The current section 6 (which is being relocated to later in the Act to fit the new structure created by the insertion of headings—see new Division 2 inserted by clause 13) is repealed and replaced with what is currently section 11.

10—Insertion of heading

11—Insertion of headings

These clauses insert new headings.

12—Amendment of section 8A—Calculation of land tax

This clause amends section 8A to provide for the application of new rates of land tax specified in the Schedule that is proposed to be inserted by clause 18 of the measure. Section 8A(1) deals with the general land tax rates and (1a) deals with land tax rates for trustees (where the land has a taxable value of more than $25,000), subject to various exclusions in (1b) and (1c). The new rates will apply from the 2020-21 financial year onwards.

The provision also deletes the current threshold E and changes threshold D (and provides for its future adjustment).

13—Substitution of sections 9 to 13A

This clause contains some measures that are part of the restructuring of the Act as well as substantive changes relating to land tax where there is more than 1 owner of land, land held on trust and grouping of related corporations.

Current sections 9 and 10 are proposed to be repealed because they essentially contain definitional material which is now to be relocated into section 2 of the Act with the other definitions. Similarly, current section 11 is relocated for structural reasons to become section 6.

The current provisions on multiple ownership are repealed and replaced with a new provision as follows:

9—Land tax where more than one owner of land

This clause makes provision in relation to land tax where two or more persons are the owners of land (whether in the same or in different capacities). Under this provision joint owners are assessed in two stages. Firstly, the joint owners are assessed together (and all the joint owners are liable for the land tax together). Secondly, each joint owner is assessed individually on all the lands they own in any capacity that are liable to land tax. To avoid double taxation, an owner may receive a deduction in their individual assessment in accordance with the formula in proposed subsection (8).

New Divisions are also inserted as follows:

Division 2—Land divided by a community or strata plan

10—Assessment of tax against land divided by a community or strata plan

This proposed provision is a relocation of the current section 6.

Division 3—Land held on trust

11—Separate assessment of trust land

This section provides for trust land to be assessed for land tax as if it were the only land owned by the trustee.

12—Land tax for fixed trust if beneficial interests notified to Commissioner

This section allows the trustee of a fixed trust to lodge a notice of the beneficial interests in the land, in which case a beneficiary of the trust is deemed to be the owner of a proportion of the trust land (equivalent to the beneficiary's beneficial interest), and is liable for land tax on that land accordingly. The trustee is still liable for land tax on the whole of the land as if the land were the only land owned by the trustee but this is calculated at the rates applicable to non-trust land. Subsection (5)(b) allows for the application of the principal place of residence exemptions to the land (and if the beneficiaries are exempt from land lax under that paragraph, the trustee will also be exempt because the effect of the residential land exemptions is to render the land exempt from land tax). Subsection (6) provides for deduction from the land tax payable by a beneficiary of an amount (if any) necessary to avoid double taxation

13—Land tax for unit trust scheme if unitholdings notified to Commissioner

This section allows the trustee of a unit trust scheme to lodge a notice of the unitholdings in the scheme, in which case a unitholder in the scheme is deemed to be the owner of a proportion of the scheme land (equivalent to the unitholder's unitholding), and is liable for land tax on that land accordingly. The trustee is still liable for land tax on the whole of the land as if the land were the only land owned by the trustee but this is calculated at the rates applicable to non-trust land. Subsection (5)(b) allows for the application of the principal place of residence exemptions to the land (and if the unitholders are exempt from land lax under that paragraph, the trustee will also be exempt because the effect of the residential land exemptions is to render the land exempt from land tax). Subsection (6) provides for deduction from the land tax payable by a unitholder of an amount (if any) necessary to avoid double taxation.

13A—Land tax for discretionary trust if beneficiary notified to Commissioner

This section allows the trustee of a discretionary trust to lodge a notice specifying 1 beneficiary of the trust who is to be taken to be the designated beneficiary for the purposes of the section, in which case the designated beneficiary is deemed to be the owner of pre-existing trust land (i.e. land that was subject to the trust at midnight on the day on which the measure was introduced in the House of Assembly), and is liable for land tax on that land accordingly. The trustee is still liable for land tax, which will be calculated:

(a) at the non-trust land rates for pre-existing trust land;

(b) at the trust land rates for subsequent trust land (i.e. land that becomes subject to a trust after midnight on the day on which the measure was introduced in the House of Assembly); and

(c) in accordance with a formula set out in subsection (9) where land subject to the trust consists of both pre-existing trust land and subsequent trust land.

Subsection (9)(b) allows for the application of the principal place of residence exemptions to the land (and if the designated beneficiary is exempt from land lax under that paragraph, the trustee will also be exempt because the effect of the residential land exemptions is to render the land exempt from land tax).

13B—Land tax for beneficiary/trustees

This section makes provision in respect of someone who is both a nominated beneficiary under section 12 or 13 and a trustee and provides for deduction from the land tax payable by the beneficiary/trustee of an amount (if any) necessary to avoid double taxation.

13C—Land tax for excluded trusts and public unit trust schemes

This section provides for the payment of land tax at the general rates on various categories of trusts that are exempt from the trustee rates applicable under section 8A(1a).

Division 4—Miscellaneous trust land provisions

13D—Requirements for trustees to notify Commissioner

This section sets out various notification requirements for trustees. A failure to notify, as required by the section, that results in a reduced tax assessment (or no tax assessment) will constitute a tax default by the person for the purposes of the *Taxation Administration Act 1996* in accordance with section 19 of the *Land Tax Act 1936* (as amended by the measure).

Division 5—Land held on implied, constructive or resulting trust

13E—Land held on implied, constructive or resulting trust

The other provisions relating to trusts do not apply in relation to an implied, constructive or resulting trust but this proposed provision provides that the owner of land as trustee of an implied, constructive or resulting trust is liable for land tax on the land at the general (non-trust land) rates.

13F—Trustee's right to reimbursement under implied, constructive or resulting trust

A trustee of an implied, constructive or resulting trust is entitled to recoup the amount of any land tax paid by the trustee from trust property.

Division 6—Grouping of related corporations

13G—What are related corporations?

This section defines what constitutes a 'related corporation'.

13H—What is a controlling interest in a corporation?

This section defines when a person has, or persons have together, a controlling interest in a corporation.

13I—Further provisions for determining whether corporations are related corporations

This section sets out a list of further matters that go to the question of whether corporations are related corporations.

13J—Grouping of related corporations

Related corporations that own land are jointly assessed for land tax as if the land were owned by a single corporation and are jointly and severally liable for the tax so assessed. The section also sets out particular circumstances in which a corporation may apply to the Commissioner for an exemption from this grouping.

14—Insertion of heading

15—Insertion of heading

These clauses insert new headings.

16—Amendment of section 19—Time for payment of tax

This clause makes consequential amendments to section 19.

17—Insertion of heading

This clause inserts a new heading.

18—Insertion of Schedule 1

This clause inserts a new Schedule setting out land tax rates for the 2020-21 financial year and subsequent financial years.

19—Review

This clause provides for a review of the effect of the measure, as well as the amendments to the *Land Tax Act 1936* contained in the *Statutes Amendment and Repeal (Budget Measures) Act 2018*. The review is to be completed by the end of 2023.

Schedule 1—Transitional provisions etc

The Schedule contains transitional provisions.

The Hon. C.M. SCRIVEN (15:26): I rise to speak against this bill. This is an $86 million new land tax grab. The figures change frequently. We hear different things from the Treasurer at different times. First it was one amount, then that was revised, and then it was a second amount. I think many South Australians have lost track of how many versions of this land tax proposal there have been. Regardless, it is a tax grab and it should be seen for what it is—a tax grab.

It is bad for South Australian jobs, it will drive up rents, it is bad for the construction industry, it is bad for the housing industry and for South Australia's economy, it will impact small investors and there are a number of risks that it will affect people in regional areas in ways that have not even, as yet, been contemplated or addressed.

Labor has held a series of open forums. Most people who have been following this debate should be aware of the sort of response that we have had at those open forums. People have been

absolutely outraged by the changes that are being introduced by this Liberal government—absolutely outraged. Many of those people are those who would traditionally be Liberal supporters, and not just Liberal supporters but also other people who have worked very hard and who have built up, perhaps, a small property portfolio in lieu of superannuation.

Many people, like my late father, who were never offered the opportunity of superannuation, were instead able to invest, perhaps, in one property and then, over time, in a second one, and the rents from those properties provide them with their income in retirement. The ways that these South Australians have established trusts and other financial structures have been legal and legitimate. Although the Hon. Rob Lucas has categorised it otherwise, that is the case. They were legal and they were legitimate.

Then, without warning, in this year's budget the Marshall Liberal government announced that they would penalise people who had set up legitimate investment mechanisms in the past. I think what most people are most angry about in regard to this entire debate is the retrospective nature of the bill—people who have made investment decisions, received advice and structured their affairs accordingly, only to then be told that, with the stroke of a pen almost, they will lose their livelihoods or they will be severely impacted by these changes.

Prior to the last election Steven Marshall was very clear. He said a Liberal government would not impose sudden and discriminatory tax changes. Going back further to 2014, Steven Marshall said, 'We will take the axe to land tax in South Australia.' Instead, this Liberal government is taking the axe to small investors and those who have established themselves in a small income—a reasonable, modest income—because they do not have superannuation and in many cases are not eligible for the aged pension. It really does sit with the no privatisation broken promise, the lower costs for South Australians broken promise and the better services broken promise.

Many people who attended Labor's forums said that they will have no choice but to pass on increases in land tax to their tenants. Many people in rental accommodation are on low incomes and they are the ones who will bear the brunt of this tax grab from the Marshall Liberal government. It will be tens of thousands of ordinary South Australians who will foot the bill for this tax grab.

The flow-on effects—increased rents, etc.—will have a negative impact on what is already quite a difficult business environment. We saw today that business confidence in South Australia is at an all-time record low. Business confidence in this state at the moment is worse than it has ever been before. That can only be slated home to this government, and the uncertainty around land tax and the uncertainty about this huge tax grab from the Marshall Liberal government must surely be one of the reasons for that record low confidence in the state.

Businesses that are leasing their properties will similarly be impacted. The landlords will have no opportunity to recoup their losses other than to pass it on to their tenants, including their business tenants. Whilst landlords may not be able to directly pass it on, they can certainly be factored into rent reviews or lease renewals, and ultimately someone must pay the cost of this tax increase.

Many small business owners at the forums spoke about other flow-on effects and said that already they have ceased hiring staff, that already they are freezing future investment, that already they are halting expansions; all of this because of this broken promise from the Marshall Liberal government, which is increasing and creating a greater taxation burden for the people of this state.

Recently, the Department of Treasury and Finance was asked what modelling had been done on the impacts of the land tax changes on regional areas. The answer—none; there was no modelling on the impact of the land tax changes in regional areas. I was so surprised that I asked the question again, and the answer again was no, none; no modelling whatsoever. This is from a government that claims that regions matter. This is from a government that said before the election that they want to make sure they support small businesses, that they want to support small businesses in regional areas. Instead, what do we have? Small towns being put at risk because of this Liberal government's changes.

I draw the chamber's attention to a number of towns, many of which have one supermarket only, towns that now have the risk of their supermarket closing because of these land tax imposts. In Robe and Kingston in the South-East, there is only one supermarket in town. I am sure members

can appreciate that if the only supermarket in town closes, the chance of that town surviving, much less thriving, is severely reduced.

Even those towns that have more than one supermarket will have competition affected. If people think that this is not an outcome of these proposed changes, let me quote Mr Alistair Schuller, who is the managing director of Eudunda Farmers. Eudunda Farmers owns 24 stores across regional South Australia. Eudunda Farmers is looking at an increase of 500 per cent in their land tax bill—500 per cent. Can a business reasonably be expected to absorb that sort of increase? As Mr Schuller said:

> This could be the difference between keeping stores open or closing our doors in some towns.
>
> If we are forced to close, it is local people who will lose out. If we are forced to sell our stores, who will buy them?

Eudunda Farmers has had stores in country towns since 1896. Their first was in—believe it or not—Eudunda. They have provided an excellent service throughout regional areas, including in many towns, as I say, that have only one supermarket. Those services, those retail outlets, are at risk because of this Marshall Liberal government's land tax grab. As Mr Schuller said, where is the concern for country residents, and where is the concern for country jobs in these measures?

I must say, I need to particularly refer to Millicent. It is true that Millicent has three supermarkets. I have addressed this chamber before on the threats to at least one of those supermarkets under the proposed changes to shop trading hours that were fortunately defeated in this chamber earlier. One might be tempted to think that the Treasurer has something against Millicent, that he is out to get it, because it is, again, one of the stores in Millicent that will be threatened with closure if these land tax changes progress.

The towns we are looking at that could be affected significantly—a supermarket is a pretty core kind of service in any town—are Angaston, Barmera, Bordertown, Clare, Crystal Brook, Eudunda, Gladstone, Jamestown, Kingscote, Kingston South-East, Lameroo, Loxton, Mannum, Meningie, Millicent, Naracoorte, Penola, Peterborough, Pinnaroo, Port Augusta, Robe, Tailem Bend, Tanunda and Waikerie. Any of these towns could have a significant service withdrawn from it because of the potential 500 per cent increase to land tax that would affect the owners of stores in these towns.

Even before the introduction of Steven Marshall's land tax hit, we had seen a severe deterioration in the economy. Unemployment is up. State final demand has gone backwards for two consecutive quarters. South Australia has recorded a huge fall in retail trade. We heard today that there may yet be more changes to the land tax proposals. One must ask: how was this policy, in any way, shape or form, brought to this place amid such chaos? How can any government that says it has the right to govern bring something to this place that requires so many changes, that has so much opposition from within so many sectors of the community?

The opposition is from small business, from mum-and-dad investors, from retailers and from people who are supporting themselves through income from a couple of properties because they do not have superannuation. Is there any part of the community that will not be affected negatively? Tenants, particularly those on low incomes, will also be affected. All of these are facing negative impacts because of this government's changes, which have changed so many times and, it would appear, may yet change again. Business SA has today attributed the huge drop in business confidence to the chaos around land tax. It says that land tax uncertainty is responsible in a significant way for the huge drop in business confidence.

A number of organisations have come out against these land tax changes. Labor has listened to those organisations but, more importantly, Labor has listened to those people who have contacted us directly, come to forums and said, 'This is not about a theoretical change that will deliver wonderful things. This is what it will mean to me. This is how it will affect me. This is how it will affect my business. This is how it will affect my family.' That is unacceptable. The changes have been chaotic. The whole approach by this government has been chaotic. As a result, Labor will not be supporting this bill.

The Hon. T.T. NGO (15:39): I rise to speak in opposition to the government's Land Tax (Miscellaneous) Amendment Bill. Before the state election, Premier Marshall informed South

Australians that he would be cutting land tax. Less than 18 months later, he broke this promise and announced a series of reforms to land tax aggregation.

The outlined reforms are not land tax cuts; they are land tax increases. The new land tax aggregation measure is being used to try to fill the Marshall Liberal government's budget black hole. This is on top of the already $500 million of fee increases and charges over the next four years, outlined in the state budget, which will be paid by everyday South Australians.

This tax increase will hurt local jobs, small businesses and small investors, and it will drive up commercial and residential rents. The fact that this tax will negatively impact jobs is one of the primary reasons for opposing this bill. South Australia's unemployment rate has increased from 5.6 per cent to 6.3 per cent since the election, making it the second highest in Australia—and we were last for a few months prior to that. South Australia needs to be creating more jobs and opportunities for South Australians, not taking them away. In *The Advertiser* today it was reported that:

> Business confidence in South Australia has hit a record low in the three months to the end of September, declining for the third quarter in a row according to a new survey by Business SA William Buck Survey of Business Expectations. The fall in confidence to 71.6 points is the lowest on record.

Mr Martin Haese, Chief Executive of Business SA and former Lord Mayor, stated in the article:

> …confluence of issues including high unemployment, interest rate cuts, land tax uncertainty, geopolitical tensions and ongoing high utility costs.

Clearly, the government should be doing a lot more to help business grow and create jobs. This tax increase will mean that businesses will have less money, the housing construction industry will suffer job losses, and investors will be less likely to build new houses. Fewer houses being built means fewer places for people to rent and, therefore, rent will be higher in the medium term.

Another troubling factor is how these land tax increases were rushed into the budget without any consultation or modelling showing the impacts these taxes will have on jobs and the broader economy. Furthermore, Premier Marshall has already produced five different versions of his policy, with the last one happening just hours before it was set to be debated in parliament.

The Hon. C.M. Scriven: There might be more.

The Hon. T.T. NGO: And there might be more, as the Hon. Clare Scriven said. As I understand it, it was to try to appease some members of the Liberal backbench who the government feared might cross the floor.

InDaily online newspaper yesterday reported that the Treasurer is negotiating another version of the bill. These sudden and unexpected changes from Premier Marshall have created unnecessary stress for South Australians, especially the mum-and-dad investors, the people who have worked hard and invested in properties as a form of superannuation because back then there was no compulsory superannuation. It is unfair that the majority is being taxed more to pay for the tax cuts for the top end minority.

Premier Marshall assures us that this is fair because he consulted on it. But I ask: who has he consulted? Has Premier Marshall consulted the hardworking South Australians who find that this new policy actually increases their land tax bill? Has the Premier asked South Australians how land tax should be reformed to make it fairer for every South Australian?

Instead, the Marshall Liberal government focused on consulting the Property Council, which, after four months of campaigning against the changes, especially aggregation, suddenly became advocates, after a minor additional change to the top rates and thresholds. There is still no credible answer as to why the Property Council changed their position on aggregation.

Premier Marshall, after consulting with the Property Council, added an additional benefit of a new rate of 2 per cent to apply to a narrow band of properties valued between $1.1 million and $1.35 million. This is on top of increasing the maximum threshold at which the top tax rate of 2.4 per cent will apply by $250,000 in 2020 and a further $250,000 in 2022 so that the top threshold will then be $1.6 million. These land tax proposals are only looking after the small percentage of

people at the top end of town, who are getting a huge reduction, while people at the lower end, where most people are, are being forced to pay more.

It is unfair that smaller property owners with a few residential properties which are less than the $1.1 million will be forced to pay more, while bigger companies will pay less. The average mum-and-dad investors, who are the biggest losers, are people with multiple low-value properties (less than $450,000) held in trusts and people with multiple direct properties which are not currently aggregated. The biggest winners are those with properties greater than $1.6 million held in unaggregated trust structures and those with unaggregated properties exceeding $1.3 million in other structures.

The Marshall Liberal government has failed South Australians, small businesses and small investors, who are now being asked to dig deeper and pitch in more. It is not just a little more; in some cases, as we heard from other members from the other house, it is a whole lot more. There is no fairness in this policy. It has been rushed and changed to suit the top end. After 18 months, I would have expected a better and a more thought-out effort. I would have expected the Treasurer to deliver legitimate and well considered tax changes that would be fair and consistent across the board.

I am disappointed that this has not occurred here with this land tax bill, which significantly disadvantages a good number of hardworking South Australians and, for some, eats away at their retirement nest egg. I ask the Premier and the Treasurer to go back to the drawing board and come up with a fairer tax system for everyone, not just the people at the top end of town. Please have another look at this bill and maybe in another 18 months deliver land tax version 6.0, after it has been fully consulted, release the modelling and focus on a plan that takes account of the circumstances of all South Australians and does not leave anyone much worse off.

The Hon. R.P. WORTLEY (15:48): I rise to speak on the Land Tax (Miscellaneous) Amendment Bill, a bill which, quite frankly, does not meet the fairness test, a bill which seeks to legislate unfair tax hikes which will impact the local job market, hurt small businesses and push up rents.

In determining our position on this legislation, Labor held a series of public forums across Adelaide, consulting widely with stakeholders and hence have now formulated our considered position. Labor opposes this bill for three key reasons; namely, that this bill will have a negative impact on the local job market, will have an adverse effect on small business and smaller investors, and will cause the increase of commercial and residential rents.

Our forums on land tax were well attended, with hundreds of people turning out at each event to voice their frustration and their anger. We heard from families, self-funded retirees, post-war migrants and the adult children of post-war migrants whose parents had worked hard to provide a good standard of living for their families, whose livelihoods are now threatened owing to this proposed retrospective tax. Many people who attended clearly articulated in precise detail how their families and their hope for future generations would be impacted by this bill.

The point was made many times that neither the Premier nor the Treasurer told the electorate that this was what they were planning to do before the 2018 state election. Many people also described what the impact of this bill would have on not only their own livelihoods and that of their families but on the wider community. One man said, 'If my land tax increases by $5,000 or $6,000, I will be looking to recover that from my tenants.' Another gentleman said, 'No-one is going to invest here in South Australia and no-one is going to have jobs in South Australia.' That is only a sample of the comments from those who attended the forums.

Later, I will be reading out material from a significant number of people who expressed their frustration, anger and dismay at this tax that I found on the government's website. I will come back to rent in a moment but on the point of jobs and security I will read a quote from the Housing Industry Association:

> Developers will move elsewhere, denying South Australians massive investment dollars, with the resultant impact on jobs, apprentices and the flow-on in economic activities through to retail, hospitality and many other sectors.

Labor has consulted widely on this bill, speaking with small businesses, investors and industry groups that are well known and well respected. I reference a quote from the Motor Trade Association:

> Several sectors of the automotive industry are very land-intensive and many small and medium businesses who own their own premises and employ between 10 and 50 staff, have indicated that they may have to lay off staff due to the proposed changes.

Builders, tradies, realtors and others will rightly be worried about securing their next job if this bill passes: fewer projects mean fewer jobs. South Australia has an unemployment rate of 6 per cent, the second highest in the nation. We must reasonably ask ourselves about the wisdom of passing legislation that will create further uncertainty in the labour market. Labor believes that this bill will not increase the number of jobs available; indeed, it stands to reason that this bill will create further job uncertainty and, hence, one of the key reasons why Labor opposes the bill.

Based on broad consultation, the message time and time again is that if a landlord's tax bill increases then so, too, will the rent they charge. This means that lower income earners living in rental properties may be hit hard, potentially driving people out of the private rental market and into an already stretched public housing system. I also make the point that the Marshall Liberal government is seeking to increase land tax in a year when people's council rates are increasing, as well as sewerage rates and other fees and charges. Additional taxes and fees and charges are coming in from multiple directions, a consideration that a landlord must take into account when weighing up whether to increase tenants' rents.

This bill will also have an unfair and adverse impact on small businesses and small investors. Many small businesses have told Labor that this proposed bill will have a devastating impact on their bottom line and their ability to provide job security for their workers, let alone create new jobs in the future. The Australian Institute of Conveyancers SA Division has commented about the impact of the bill and stated:

> Many conveyancers are small business owners and lessees of commercial property. Our concern is that this measure will restrict the property market and that small businesses will end up bearing the cost of this measure.

The taxation committee of the Business Law Section of the Law Council of Australia stated:

> …that Land Tax (Miscellaneous) Amendment Bill 2019 Consultation Draft…takes us from a relatively simple and relatively light administrative regime to a practically complex and relative burdensome regime. One may question whether the cost of fairness aspects justifies it? The Land Tax Bill also appears to favour—

those with significant portfolios. It goes on:

> Trusts are not the entity of choice of large corporate enterprises. Trusts are generally the entity of choice to small and medium enterprises. So, the trust surcharge penalises that group.

The bill will impact South Australians who have played by the rules and made long-term investments. These are the people who Steven Marshall promised would be the beneficiaries of lower costs before the last election. Now, with no warning, the same South Australians are served with a tax hike. Smaller investors are set to bear the brunt of this impact.

The Premier and Treasurer, along with their spin doctors, have attempted to present this bill as a tax cut, yet the $60 million in tax cuts has, in fact, been handed to the minority of landholders at the top end of the scale. Indeed, most of the top-end-of-the-scale landowners are interstate investors who will receive a tax cut that, in effect, is being paid for by many hundreds of families and mum-and-dad investors who attended our forums.

How is this fair or equitable? The Liberal Party seems to be relying on their much admired theory of trickle-down economics, the theory that if you provide those at the top with tax cuts then they will take care of the economy. It is the belief that the top end of the scale will create jobs by investing in labour and capital. Trickle-down economics does not work. It has not worked for the past 10 years and the proof is in the pudding when you look at the nationwide wage stagnation.

The bill has been overwhelmingly rejected by South Australian small investors, self-funded retirees and small businesses. The package has either not been endorsed or received criticism from key groups, such as Business SA, the Master Builders Association, the Urban Development Institute of Australia and the Motor Trade Association. It has only recently been endorsed by the Property Council, obviously after a private lunch or coffee with the Treasurer. We can only imagine the sort of enticements that were made for their support.

Before reading out those comments from desperate, fearful and angry investors about the impact it will have on them, I will finish today with a couple of quotes from individual mum-and-dad investors who have taken the time to provide feedback on this so-called land tax reform. In the words of Ms Ana Nicou:

I am one half of a mum and dad investor with three children ranging from ages 11 to 15 years. We have a mortgage…several in fact. In the whole scheme of things, we are merely two small fish in a big ocean of property owners and investors. But we have worked so damned hard to get where we are and want to know our concerns actually mean something to someone.

Both my husband and I come from families of migrants. We watched our parents slave in factories to put food on the table and to provide a secure home over our head. We were taught as youngsters to dare to dream and aspire to be self sufficient in our adult lives…that Australia is the land of plenty if you are prepared to work hard and make sacrifices then your wildest dreams can come true. Today, I am questioning whether this dream has been forsaken.

This from Paula and Michael Rusanoff:

It's incomprehensible to us that this is even a consideration given that mum and dad investors have followed the rules and guidelines stipulated by the government and are now going to have the rug pulled out from underneath them.

The bill does not propose tax reform and it certainly does not propose a tax cut for those who need it most. The bill proposes a punishing tax hike for landowners, mum-and-dad investors and small businesses. If the bill passes, it will, by extension, hurt the local labour market, fail to create new jobs and push up rents.

I went to the government website and went through the land tax segment. I found many, many comments from people who, out of desperation, have left these comments on the government website. I have taken only a few of them to read today, just to give an indication to those on the government bench of exactly how this land tax is going to affect normal mum-and-dad investors. It states:

Hi there,

I am concerned about the changes to land tax. My partner and I are young working professionals aiming to prepare ourselves for retirement early so we do not require a pension, and have therefore invested in property. The proposed land tax changes present huge concerns for us as all our disposable income goes towards funding our investments or saving for the next one.

Further, close family friends of ours are approaching retirement age. After 35+ years of working for themselves and no superannuation, their retirement plan is to live off their investment properties. Aggregation changes and the land tax changes impact their future so much so that they are considering a bulk sell-off of their properties, applying for a government pension, and living off that. This is a drastic plan but it is their only option.

This concerns me very much so, and so many people are experiencing the same potential fate.

Kind regards,

Sonja.

Another writes:

To whom it may concern,

I have never felt so threatened and angry at any political government.

This is political class warfare at its worst.

I am a 53 year old electrician with a young family and have worked tirelessly only investing in SA property as a form of future financial stability for me and my family.

I now find myself paralysed in fear not knowing how to deal with this financial turmoil that this new policy will create.

I urge the government to have understanding the angst that this policy will create for many South Australians.

Steven Marshall you promised to work for all south Australians, and so we handed you our blessing to serve us in this great state.

So please have some compassion by grandfathering the policy to allow those negatively affected to transition to this new legislation.

Kind regards, Roberto...

Another writes:

Dear Mr Marshall and Mr Lucas,

I think by now you have heard the stories of many 'mum and dad' investors so I will only try to reiterate those points that very adversely affect me.

Although I own three or so properties by the time we pay all the outgoings and serve the loan there's barely anything left. This is especially so in my case who has been retrenched.

Please put yourselves in our position, yes there's some capital growth there but even that it can only take us so far.

Why dump the burden of the money you want to rise on just 9 per cent of the investors (not all in the top end of town) and not more uniformly on all investors.

This proposed reform could wipe has much as 40 per cent of my fairly average income of about 45-50K a year.

Best Regards,

Chris…

Another states:

Premier of South Australia,

…My husband and I have built four homes in Grange and inherited another.

We are currently paying $26,000 in land tax.

By our calculations our land tax bill will increase to $160,000. Between the mortgage, council rates, emergency services levy, insurances, agent fees and maintenance costs we are only just keeping our heads above water now let alone trying to find an additional $130,000.

The current rental income is already insignificant to the outlay in costs to manage and run these properties but we make sacrifices hoping that one day this will be our self managed superannuation. Our dream will never be affordable now. We give the government $26,000 a year already of which we get nothing in return. I understand the need for council rates and emergency services levy but not land tax. The proposed aggregation scheme is nothing short of robbery.

The next one states:

I am writing to express my dismay, concern and opposition to the Liberal Party's proposed land tax changes.

I would firstly emphasise that the Liberal Party went to the election and in retrospect obtained votes by deception promising lower land tax in SA. Major increases are now proposed for thousands who voted for the Government. The party now seems to have moved left of even the Labor party attacking company and trust structures that have served us well for many decades.

Another writes:

To whom it may concern,

I would like to express my frustration and deep concern about the proposed changes to land tax. I am a full time nurse, I have worked hard and saved money wherever possible with the aim of purchasing property so I can become a self funded retiree at the end of my career.

Over time I saved enough to secure several loans and purchased some run down properties, two of my own and two in joint with a friend. I worked on these properties at every available moment that I had in between working shift work. I loaned as much as possible and poured all the finance that I could into the properties. My budgeting has been strict and precise, however I did not plan for my land tax to increase by over 600 per cent!

This increase is not affordable to me and if the proposed change is put in place I will definitely have to increase the rents to hold the properties. However this is not a long term solution as it will not come close to covering the cost so sadly it is likely that I will be giving the tenants notice and placing the property on the market.

South Australia has not seen an increase in property. South Australia has definitely not seen a boom in property. The building industry in South Australia is flat. Forcing investors to sell at this time is a great threat to the state's already struggling economy. Regrettably I will have to cut my losses and there will be losses and then like many others I will take my money interstate.

Belinda.

Another writes:

To whom it may concern,

I am starting to look at properties interstate. I will sell my property in Adelaide and look to invest in Melbourne asap. If the aggregation of properties previously separated by their entities goes ahead I will have no choice as the land tax bill will be crippling to me!

This can not go ahead if South Australia wants to encourage investors to South Australia.

Simon writes:

Hello,

This land tax aggregation will have a devastating effect on house prices in Adelaide. All investors who provide low income housing will be selling or massively increasing their rent.

Another writes:

To whom it may concern,

I am not a rich person. My wife and I have worked very hard to get where we are.

We have invested in property to try and make sure we do not rely on the government for a pension and burden the already impossible task of providing social security for all older people.

We will find it impossible to pay a tax bill if the properties are aggregated and will have to sell.

This is very backward thinking when it comes to trying to encourage investment in South Australia.

I can see that aggregation will have a devastating effect on people investing in property in South Australia.

I can't understand the government's position as these changes will increase the burden on the government to provide public housing. And when all investors leave the state and property prices fall what will be the incentive for anyone to come to South Australia to invest?

We have a property in a trust to protect us from litigation if this was ever to happen. By putting a 'natural person's name' to a property it will be impossible for us to protect our assets! NO INVESTORS will invest without asset protection in this state.

There is no way that aggregation of all assets held in different entities is a good idea. It is a terrible idea in fact. If SA is trying to encourage new investments in the state this will have the opposite effect.

This is only a small sample of the many, many hundreds of people who have expressed their absolute fear and contempt for this policy. All Labor members spend time out in the electorates. I know that I, with my colleague Justin Hanson, have been spending quite a bit of time in the north-eastern suburbs. We talk to a lot of people and I can tell you that the message is loud and clear to us from every person we speak to. They all went to the last election voting for the promise of no cuts to services, no increased taxes and no privatisation agenda. They have seen every one of those promises broken.

They are very, very angry, and there are seats out there, like Newland, Adelaide, Elder and Hartley, that will feel the anger and wrath of people at the next election, and quite rightly so, because this government has lost the trust of the people of this state. This government was full of promises before the last election. What do we have now? We have the second highest unemployment rate in the country, we have business confidence at an all-time low and we have people who are desperately in need of financial security, and they have all been let down by this Liberal government.

In conclusion, this Labor opposition will not be supporting the bill. We are there to look after those small investors and the people who have saved all their life and worked all their life to give themselves a self-funded retirement, who now feel they have been totally cheated—I see the Treasurer has fallen asleep over there. They have felt cheated by this government; and I am sure there are a lot of backbenchers who are very, very nervous about this tax. They might all sit there with a smile on their face and look very happy, but the warning is there I can tell you now. We know it is there, and they will be very nervous leading up to the next election.

The PRESIDENT: The Hon. Mr Wortley, you should not reflect on another member's position. I asked the Hon. Mr Ridgway to apologise to you, so could you apologise to the Treasurer?

The Hon. R.P. WORTLEY: I apologise.

The Hon. M.C. PARNELL (16:10): In a fair and compassionate society like Australia, everyone should contribute to ensure that we have the public services and amenities that we all need and use. However, inequality in wages and wealth mean that some are able to contribute more than others. So when those people in our society who have more wealth and more assets deliberately avoid contributing their share, it costs us all.

We all have less—less investment in our health services, less money for education, less for the environment, less for essential infrastructure, less for public transport, less for everything. The Greens believe that everyone should contribute their fair share, so allowing some people to avoid paying their fair share just is not acceptable to us. The Greens support a progressive tax system, and we support closing legal loopholes that allow people to avoid or reduce paying their fair contribution. Properly applied, land tax is widely recognised as one of the fairer taxes because the more property you own the more you contribute in tax. Also, land tax is difficult to avoid. You cannot pick up your investment property in Adelaide and move it to the Cayman Islands.

However, some landowners have been avoiding paying their share of land tax by using multiple legal entities, such as private companies and trusts, to split the legal ownership of property to get around rules that require tax to be paid on the total value of an owner's property holdings. So the Greens will support closing these legal loopholes. Other states have done this already, and it is time for South Australia to do the same. We will be supporting the aggregation provisions of this bill, but I think we do need to talk about tax minimisation because the debate around the legitimate bounds of taxation planning, the legalities of tax minimisation and the illegality of tax avoidance and tax rorting has been with us for as long as human societies have levied taxes.

In relation to land tax and the impact of the aggregation, there is no suggestion of illegality but there is no doubt that the bulk of those affected people have made a deliberate choice to structure their affairs in order to pay less tax. Certainly, there are plenty of people who claim that their control of multiple legal entities is purely a fluke of historical circumstance and not a deliberate ploy to pay less tax. That may be the case in relation to a few people, but it is certainly not in relation to most. So we need to get real about this.

Australia's population is about 25 million people. There are 2.5 million companies in Australia. There is one company for every 10 adults and children in this nation. In South Australia, there are 120,000 companies, and guess what? Most of them are not making widgets, most of them are not providing services. The vast bulk of these companies are simply vehicles for holding property. Sure, a few make things and some provide services, but most of the 120,000 companies are simply created to hold property. Many property companies are also trustees of discretionary or unit trusts, which in turn own properties. Why? The answer is pretty simple. Go online and have a look at the industry that has been established over many, many decades for the creation of shelf companies.

Registration of an Australian company currently costs around $650 to $750 if you use a shelf company provider or a company formation agent. In fact, I found them for closer to $500. There are some cut-price businesses out there on the market. You can buy shelf companies very cheaply. If you go to an accountant, they might charge you a bit more—maybe $1,200, maybe $1,500—to set up a shelf company. The Australian government charges $495 to register a proprietary company, and each year you will have to pay $254 in an annual fee, again to ASIC.

Let's translate those costs that investors have chosen to spend with the savings that they have achieved in the South Australian land tax system. If you own two properties, each worth $300,000, and you own them in your own name, then your land tax on the combined value of $600,000 is $1,155. That is the tax that you pay. But if you own one of them in your own name and one of them in the name of a private company, then you pay no land tax at all.

So if your main objective is to pay less tax, it makes sense to buy a shelf company. Even taking into account the establishment costs, you will recover double what you spent in your first year, and you will save $900 in land tax every year, even taking into account the $254 fee payable to ASIC. If you buy another $300,000 property, using another shelf company, you avoid paying about $4,000 a year in land tax. That is why people do it. It is not surprising that that is what people do. It is what their tax accountants advise them to do.

I have told this story to a few people. If ever I am asked why I do not practise law anymore, having given up the practice of law in the private sector in 1988, the answer is that my employer had great plans for me: I was moved into the tax minimisation section of the law firm. My job was to create discretionary trusts for our wealthy clients, with the sole objective of helping them to pay less tax. That is what the bosses at my legal firm in country Victoria wanted me to do.

The Hon. J.S.L. Dawkins: In Warrnambool?

The Hon. M.C. PARNELL: An honourable member interjects, but I am not going to respond because I do not want to identify the firm. They were good employers otherwise, but the area of work they wanted me to go into was not something that I wanted on my gravestone, hopefully in a long time hence: 'Here lies Mark Parnell. He created great tax minimisation schemes for our wealthy clients.' That was not going to be my legacy to this world. I thought I could do better than that. I decided that practising law was good and I had enjoyed it for many years, but I was not going to be taken down that path, so I decided to go in a different direction.

The other members who have spoken in this debate have referred to various letters that have been written, online forums, letters that have been written to them directly. I will refer to a few things as well, but I want to point out that these aggregation measures also have some very credible champions in the community.

I think we will start with SACOSS. This is the South Australian Council of Social Service, the umbrella body for the charitable sector, the people in our society at the coalface of looking after those most in need. That is what SACOSS is; that is who they represent. They represent the religious charities, Anglicare for example, and they represent a whole range of service providers whose job is to help those who need help the most. Sometimes people call it, I think unkindly, a poverty lobby. The people whom they most help are often living in poverty. SACOSS CEO, Ross Womersley, said:

> The proposed changes to the legislation to stop tax avoidance are good, sensible policy—both for fairness and to limit existing incentives that encourage investors to 'crowd out' low income and first-home buyers in the housing market.

That is the view of those at the coalface. I know some members, like the Hon. Russell Wortley, will talk about people who are saying, 'Well, if you make me pay more tax, I might have to sell my property.' Well, if you do sell your property, it will be sold to someone else who will rent it out or, even better, someone who will live in it themselves.

People are bemoaning the fact that, whilst completely unsubstantiated, property prices will crash. This is the great dilemma that we have in society. If you talk to someone under 30 about property prices crashing, they love the idea. They cannot see themselves ever getting into the property market because the prices are so high. If you talk to those who already own property, it is regarded as a national disaster when property prices go down. We have to get real about this. SACOSS is behind this measure. Again, Womersley says:

> Changes to the land tax aggregation will be good for the housing industry, good for the economy and good for South Australia—we just need the political good will.

There was also a very pertinent opinion piece that was published in InDaily back in July, a little while ago, by Noah Schultz-Byard, who is The Australia Institute's person in South Australia. I will read a couple of paragraphs of his opinion piece because I think he summarises it quite well:

> While some government backbenchers and potentially influential crossbenchers are apparently concerned by the PR push from the property lobby, Australia Institute research has shown that regular South Australians are less inclined to support tax cuts and special favours for investors.
>
> When asked recently what they thought was the best way for the State Government to make up a $517 million loss in GST revenue, two out of three voters backed increasing taxes on wealthier South Australians and property investors.
>
> Similarly, in research undertaken in early 2019, nearly two-thirds of South Australian voters (63 per cent) said they believed that keeping funding for public services, like health and education, is a more effective way to create jobs and encourage investment in our state than a tax cut for property investors…
>
> If these changes are not passed by the Parliament, it will be an unfortunate win for vested interest and pressure-group politics that will have a lasting effect on this government's ability to enact meaningful reform in the future.

I might come back to that point later on because I think that is important. That brings me to the politics of this and the position of the Labor Party. I understand the political advantage in the Labor Party making hay while the Liberals are being attacked by the propertied classes and the lobbyists. I can understand why they want to throw some petrol on those flames, sit back and enjoy their opponents' discomfort. I understand that that is what the Labor Party does in opposition.

What I do not understand at all is that, having had their fun, having enjoyed the Liberal Party's internal disputes and the disputes they have with people who are otherwise their supporters, they did not then eventually say, 'Okay, we've had our fun. Why don't we now do the right thing and support measures that prevent people from avoiding paying their fair share of tax?'

In fact, to anyone who has asked me over the last several months, I have said, 'The Labor Party is having a bit of fun with this. They are enjoying the politics. But in the end, if they stand for anything, if their social policies are at all to be believed, then of course they will get behind putting in an aggregation provision, the same as the other states have done—we haven't, but the other states have. They will get behind it.' Then, we find that the hypocrisy of the Labor Party knows no bounds.

Listening to the Hon. Clare Scriven, the Hon. Tung Ngo and the Hon. Russell Wortley, I think they all used a particular word taken from 'Tory Talking Points 101', and that word is 'burden'. The Hon. Clare Scriven kept talking about 'a greater tax burden'. That is straight out of the Conservative playbook.

Any guide as to how to be a good Conservative advocate states, and I am making this quote up as if it were a quote but it is actually from me—I have not actually read 'Tory Talking Points 101', but I expect this is what it says—'Always refer to tax as a burden. Burdens are bad. Burdens are things we want to get off our backs. Relieving the burden will set us free. It will provide us with opportunity and incentive. Tax is bad: less tax is good. Whatever you do, don't talk about fairness or wealth redistribution. Don't talk about the services that are provided by the public sector. Don't talk about schools, hospitals or police and, whatever you do, don't talk about community, don't talk about society or our common wealth. Talk to individual aspiration and how governments should get out of the way.' That is 'Tory Talking Points 101' and that is all we have heard today from the Labor Party.

Their true believers, if there are any left, must be furious with what the Labor Party is doing here. I am not surprised, because the Labor Party's moral bankruptcy never surprises me. Their abandonment of their base has been a constant work in progress over many decades. Who could forget that magic moment when the Australian Electoral Commission finally reported that the trade unions had been overtaken as the biggest donors to the Labor Party? Who were they overtaken by? Property developers. What a magic moment that was in Australian politics, when the property developers outspent the unions in support of the Labor Party. Remarkable!

In New South Wales, we saw the corruption that resulted from that shift in political allegiance. Members of the Labor Party can get up in here and they can bemoan their political opponents who apparently subscribe to the trickle-down effect and how the best way to improve our economy and improve the lot of people who need help is to just help the wealthy and that wealth will trickle down. So they rail against it, but then you listen to their speeches and that is all they talk about. All they talked about was providing relief from the burden for millionaires so that they might keep rents reasonable for those who are in the private rental market. It is just remarkable.

The other thing that has been disappointing has been the level of misinformation. I cannot direct all of this to the Labor Party. I think there are people in the Property Council and elsewhere who are equally to blame. I will criticise the government on this: how well has this been explained? There was one email that I got just today. They always start with, 'I have always been a Greens supporter.' You know there is something coming when the email starts with, 'I have always voted Green,' and then they tell you what you need to do to help them keep that behaviour going.

This person said they had heard that Mark would be voting in favour of this aggregation measure. This person who contacted me was not happy and said that it was going to impact on the underdog. He then set out his own personal circumstances. He owns one property, jointly with his wife, and they live in it. He is worried that these shocking land tax changes are going to absolutely impact negatively on him and his wife.

Where has that misinformation come from? It is widespread. I think it is a problem for us all, but it is particularly the Treasurer's problem, that people do not understand that not only does land tax aggregation not impact most people who either own no property or only own one property, it still does not impact on people who even own two properties—one they live in and one they might rent—and for most people who might own a house they live in and own two investment properties, if they own them in their own names aggregation does not kick in. It only kicks in in relation to people who are multiple investment property owners who have chosen to divide their investments in different legal entities for the purpose of avoiding tax. That is why they did it. They are the people who are affected.

Yet, here we have this story from the Labor Party that somehow everyone's rent is going to go up, all capital will flee South Australia, properties will remain boarded up, vacant and covered with cobwebs, because the wealthy are not to pay their fair share of tax. But what perhaps most disappoints me, other than the immediate impact of what is happening today, is the missed opportunity. When I say 'missed opportunity' I think that this country is appalling at debating tax reform. I think that this debate in South Australia has set back any prospect of meaningful, progressive tax reform for probably 10 to 20 years.

We know that every tax inquiry undertaken in Australia, whether it was Ken Henry or anyone else, even the Labor Party in South Australia, when they have undertaken comprehensive reviews of taxation policy, they nearly always come up with this idea, 'Hang on. Why do we not get rid of stamp duty? That is a really ineffective transactional tax. We could get rid of that. If we replaced it with a broad-based land tax, that would be a fairer system, much less prone to rorting, and it would be better for society all around.' I have suggested that at various times. I have suggested it to the Treasurer; he smiled politely and suggested that it might not happen.

But if we are real, and if we are serious, and if we look at all of the serious economic reviews of Australian taxation, they nearly all recommend that. Mind you, it is not something we can go alone on. We cannot go alone; you could not just overnight get rid of stamp duty and replace it with land tax because you would have a serious cash flow problem. A policy like that would only work at a national level; the feds would need to bankroll it, because you would be losing a steady stream of stamp duty and it would not be replaced in the short term without it being bankrolled by the feds.

But what a missed opportunity! What government, Liberal, Labor, or Greens, in the future is going to be able to come out and touch the taxation system after the horrors of this debate over the last several months? It is really disappointing.

The Greens' policy is that we would like to go much further. Aggregation is a simple no-regrets option that, as I have said, other people have done. We would have gone further. We would like to join with other parties in meaningful tax reform that does look at things like stamp duty and a broader based land tax, of course at a much, much lower rate because it would be on a broader base. But I think that is now off the agenda for a while.

So I am disappointed with the direction this bill appears to be heading in. The Greens will certainly be supporting the second reading of this bill. We also have amendments; I do not know if they have been filed yet. They are the same amendments that the member for Florey, Frances Bedford MP, in another place, tabled. These are amendments that were crafted by SACOSS—again, by those people at the coalface of helping the most disadvantaged in society. They are amendments that go towards increasing public housing, increasing social housing and sharing the benefits of this additional taxation that will come from removing the rorting and removing the unfairness in the system. With those words, the Greens will be supporting the second reading of this bill.

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

FLINDERS UNIVERSITY (REMUNERATION OF COUNCIL MEMBERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2019.)

The Hon. C.M. SCRIVEN (16:32): South Australia has three strong public universities, which have been of enormous benefit to the state. I, in fact, have been a student of each one of them at various times. They have the obvious positive impact on people's employment opportunities but also their understanding of the world around them, the economy of the state and our standing in Australia and around the world. By their very nature universities are complex organisations operating within a very complex external environment.

Universities are regularly faced with issues, with problems and with decisions which will have a key impact on their core activities of teaching and research. These issues and problems are considered in its committees and most decisions are made either by or with the advice of the committees, and each can have a major impact on the future directions and success of the institution.

Committee members who take the time to understand the issues and who are prepared to make considered contributions to debate can have a significant impact on the decision-making process. It is an important role and it should be treated with a degree of seriousness. If we are asking someone to undertake a serious piece of work in support of an institution, then we should recognise that it may come at a cost that should be able to be remunerated.

Labor therefore supports the amendment to the Flinders University Act 1966, which was made at the request of Flinders University, to enable the council of the university to remunerate its members. 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 disapply section 18C of the act so that council members will not be in breach of their duty in respect of 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. For all these reasons the opposition will be supporting this bill.

The Hon. T.A. FRANKS (16:34): I rise today on behalf of the Greens to staunchly oppose this bill. This legislation is yet another shift from a university, in this case Flinders University, away from being a not-for-profit education provider to being a fully-fledged corporate entity with a board of directors, directors' fees and corporate allowances, but with very little external oversight. It was bad enough when recently this parliament supported the removal of positions of students and staff, diminishing their number on this university's council. We cannot continue this bizarre march towards corporatisation in our universities.

The Greens have spoken to stakeholders. We were alarmed but not surprised to discover that the university and the government had not consulted staff or students, and that the National Tertiary Education Union was unaware of the introduction of this bill and certainly not consulted, and definitely not supportive. Why was their input not sought? This is particularly troubling as these amendments to the legislation were apparently requested by Flinders University itself, clearly showing that the internal democracy of that organisation is not something to be trusted. In correspondence I have from the NTEU it states:

> It once again shows that management does not believe key stakeholders matter in such decisions, which also then draws attention to the motivations behind the bill. Universities exist for the public benefit and Council members should serve on Council for no other reason than to serve the public good. Period.

Another question to consider when it comes to this particular bill is: why do only some members of the council need to be paid? Why do they need to be paid at all and, for that matter, if we are paying some, then why not all? These are questions that I think go to the very motivations behind these changes.

This bill splits representation into paid and unpaid councillors in that democratic institution creating a two-tiered and loaded system. Actually, it is even worse than that, because under this legislation the council may fix different amounts of remuneration for different members according to the office held by the members or, and I quote, 'other factors.' What are those other factors? I would like the government to explain. Certainly the university has not explained it to their students or staff. Will it be, for example, how agreeable a council member is for Flinders University management purposes? If they vote the right way, will they be looking at a pay rise? If they vote the wrong way, will they have their allowance stripped? How unobstructive they are on council should never determine the amount they are remunerated.

Will the decisions perhaps be made on seniority, their pliability or whether or not they turn up to meetings? We have no detail whatsoever in this bill as to how those decisions will be made, but we have the track record of this university in recent times: their recent changes to the structure of the university council to rob staff and students of their democratic voice and the way the administration has handled the changes recently at Flinders University gives cold comfort to all students and staff within that institution.

I also ask how these changes disapply section 18C of the act so that council members will not be in breach of their duty when it comes to conflicts of interest in relation to the making of determinations regarding remuneration. Those on council will now be able to set their own and others' remuneration and will be put in a position where they decide that as a council. I do not even want to start considering the potential games that could be played with this piece of legislation, let alone using potential lowered/raised, non-existent, or promised remuneration as leverage for supporting or blocking proposals put up by management.

It does beg the question: how will this affect the decision-making of the university council at Flinders University? This bill is modelled on similar legislation that exists for the University of South Australia, which also allows for the remuneration of council members. We have heard that since the introduction of the remuneration, dissenting voices on council have strangely diminished. People do not want to lose their remuneration, so perhaps it is best to just play along, right? This could lead to some really awful consequences for both students and staff at our universities and for our universities themselves.

The purpose of a university council is to provide democratic oversight and accountability over the university's management, not to quietly sign off and agree to everything that university management puts forward. Further, if councillors do need to be attracted to serve on that university council with promises of payment, then I think we should rightly question their motivations for being on that council in the first place.

The Greens believe that universities should be funded through a fair taxation base, free to access and based not on what your bank balance looks like but your brains and your capacity to contribute. For the public good, universities are public democratic institutions and this is yet one more unacceptable step towards their corporatisation. We do not support that and we oppose this bill.

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

LAND ACQUISITION (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2019.)

The Hon. C.M. SCRIVEN (16:41): I rise as the lead speaker on behalf of the opposition in regard to this bill. The Land Acquisition Act 1969 establishes a process for the acquisition of land by acquiring authorities. Land is generally acquired to accommodate for various road and infrastructure projects; for example, the Torrens to Torrens upgrade and the Northern Connector. Both are recent, significant infrastructure projects that have required the acquisition of land by government.

As we have heard, the land acquisition process is overseen by the Department of Planning, Transport and Infrastructure (DPTI). DPTI liaise with landowners to follow the process under the act to acquire the land and negotiate compensation for the landowner and other claimants holding interests in the land. DPTI undertake this work as part of their delivery of infrastructure projects, with the Crown Solicitor's Office preparing legal documents and representing the government, with the act itself being committed to the Attorney-General.

This bill has been drafted in order to implement recommendations made by the 2017 parliamentary select committee, which examined the compulsory acquisition processes for properties acquired for the Torrens to Torrens project. The Hon. Mr Darley from this place, I understand, was the chairperson of that committee and was heavily involved and invested in that committee. The committee identified a number of areas where improvements could be made to the

act to improve the process and the outcomes for DPTI, but also for landowners and for other parties with interest in the land.

The bill also introduces amendments proposed by DPTI and by the Crown Solicitor's Office to remedy some issues that frequently arise during land acquisitions and to clarify uncertainties in the law relating to underground acquisitions. I will return to that aspect shortly.

Some of the recommendations that the select committee made for legislative change included a solatium payment of up to 10 per cent of market value of the land to owner-occupiers if it is their primary residence to compensate for having to find, purchase and move into a new home. Currently, of course, non-financial loss is not compensable.

I would imagine that all of us could understand how there really should be something in terms of compensation, because it involves not just the inconvenience of moving into a new home but also the emotional impact of having to do so, particularly if it is a home that has been held in one's family for a long time or with which one has an emotional commitment, as many of us do, not simply looking at our home as four walls and a place to live.

The inclusion of a solatium payment will increase the amount of compensation landowners could be entitled to. It is expected that this payment will also lead to a quicker resolution of claims and reduce the legal fees for both parties, something which one would hope would be beneficial to all. Other recommendations included requiring both the landowner and DPTI to act in good faith throughout the acquisition process and allowing an allowance of $10,000 payable in advance for professional costs relating to the acquisition, which could include things such as legal fees or valuation costs, to assist landowners; 'in advance' is an important part of that.

It also requires a compulsory settlement conference before compensation proceedings can be commenced. The cost of that settlement conference would be borne by DPTI and paid by DPTI, which again is an important progression to ensure that those who are subject to this process can get the best outcomes. It is expected that this would lead to faster resolution of compensation claims and also reduce the legal fees involved for all.

Other amendments recommended by DPTI and the Crown Solicitor's Office included legislating an existing DPTI policy—so it is policy at the moment, but this is in the legislation—so that stamp duty, lands titles office fees and transfer fees associated with buying a new residential property will be paid by DPTI. Stamp duty will also be payable to owners of investment properties if certain conditions are met.

Next is the introduction of a valuer's conference to allow the valuers for the landowner and DPTI to discuss factual issues in their valuations early in the compensation negotiations, again streamlining the process. There is an amendment to require that compensation that is paid into the Supreme Court must be withdrawn within 24 months, allowing an offer of compensation to be varied up or down. If DPTI wishes to vary an offer downwards, however, they will need a court order.

There are also changes to the way DPTI determines rent to be paid by claimants if they remain on the land after the expiration of the three-month grace period. The rent, however, must not exceed acceptable market rent for the property. It is expected that this would decrease the disputes over rent amounts, again a worthy outcome that I imagine we could all support. There is a range of other amendments to improve the compensation negotiation process between the parties and to reduce administrative costs and legal costs.

We then move to underground acquisitions, where the act will be amended to provide that compensation will not be payable for underground acquisitions because, we are told, landowners will not lose the use or enjoyment of their land. This is an issue which the opposition believes needs to have further clarification. It is not clear how 'underground' will be defined. It is not clear what the process will be if landowners do in fact lose some of the use or enjoyment of their land. For example, if 'underground' is considered a certain depth below one's property, where are we measuring from? Are we measuring from the foundations of the building? Are we measuring from the cellar? Are we measuring from the bottom of the roots of the trees in the backyard? There needs to be further clarity around what that actually means.

I understand that our colleagues in the other place requested a large number of pieces of information in order to clarify a number of aspects with regard to this bill but unfortunately have not received the information or have not received adequate information, which is why the opposition still holds some concerns with regard to this aspect of the bill. We are told that this bill will bring South Australia into line with the position in New South Wales and Western Australia; however, Victoria is still looking into it.

The underground acquisitions are of concern. The opposition in general supports this bill, but because we believe a number of issues have not been adequately clarified or adequately addressed, we are certainly looking at some other potential changes and further discussion if those clarifications are not made.

I will at this stage flag some possible amendments, and some amendments have already been moved by other members in this place which the Labor opposition is keen to examine further and then consider. We look forward to further debate on this bill.

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

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2019.)

The Hon. J.A. DARLEY (16:50): I rise to speak on the second reading of the Retail and Commercial Leases (Miscellaneous) Amendment Bill. I understand that this act was first introduced in 1995 to provide protections for small businesses. The parliament at the time thought that small businesses need specific provisions to assist them and passed a bill to regulate retail and commercial leases, with a focus on small business. I understand that this bill will be the first time the act has been changed significantly since it was introduced almost 25 years ago. The changes came about as a result of a review of the legislation by retired District Court judge, Alan Moss, who consulted broadly about the act before making a number of recommendations.

The bill makes a number of changes to provide better protections and modernise the regulation of retail and commercial leases. It makes it clear that certain information must be provided to the new lessee including a copy of the prospective lease and a disclosure statement. Whilst the act currently requires for these documents to be provided, the bill increases and introduces the penalties respectively. These are sensible amendments and I support these changes.

The matter that I have had most contact about is with regard to the threshold outlined in the act. The act only applies to those leases where the rent is under the threshold. I understand that the thought is that those with a lease over the prescribed threshold rent are big and ugly enough to fend for themselves without the protections of the act.

I understand that, initially, the act was drafted in a way in which it was always expected that leases would fall in and out of the act, as it was always anticipated that the threshold would change. However, in reality up until a few years ago the threshold had not changed at all since the act was first introduced in 1995. When the threshold was suddenly changed from $250,000 to $400,000, it caused problems for tenants, landlords and agents alike, who were suddenly faced with shifting responsibilities and outgoings as longstanding leases that were not covered by the act were suddenly covered and vice versa.

The government proposed to tackle this by outlining in the bill that, if the lease is registered, whatever the threshold is at the time of signing the lease then this is what the threshold will remain for the life of the lease, regardless of any external changes to the threshold. If a lease is not registered, then the lease is subject to coming in and out of the act, depending on changes to the threshold and the rent.

I do not support leases coming in and out of the act. As I said before, I have been contacted by many constituents who have been confused and aggrieved by this mechanism, and believe it would be much better if there was certainty rather than a moving target. As such, I will be filing

amendments to make it clear that, if you are in at the time of signing the lease then you are in; if you are out then you are out.

The bill also provides that the threshold should be reviewed by the Valuer-General on a five-yearly basis. Given my experience as a former valuer-general, I was very curious about this provision, and have been advised by the minister that the Valuer-General anticipates that they will be able to undertake this task by liaising with industry to determine whether rents have gone up or down and then adjusting the threshold accordingly.

I believe that this is a long-winded and resource-intensive method to have the thresholds reviewed and adjusted, especially as I understand that rents usually increase by the consumer price index, or thereabouts, annually anyway, other than when rents are revised at market levels. As such, I have drafted amendments to take this burden away from the Valuer-General and instead have the threshold adjusted by CPI annually. If the CPI goes down, then the threshold will stay the same as the previous year, rather than going down.

Finally, I flag that I will be filing amendments to allow land tax to be passed on at a single-holding rate to those with leases under the threshold for new leases from the commencement of that provision. Currently, the act states that, if the rent is under the threshold, then land tax can be taken into consideration in determining the rent but it cannot be explicitly passed on to the tenant. This is what happens for leases where the rent is over the threshold.

I believe it is ambiguous that land tax can be taken into account when determining the rent and that it would be much more transparent to allow landlords to pass on land tax on a single-holding basis. That is to say that the tenant would only be required to pay land tax calculated on the site value of the land that their lease relates to, rather than having to pay a portion of the landlord's land tax, which may be much higher due to the landlord's other land holdings.

I will speak more to my amendments during the committee stage. However, I wanted to put on the record that I support the bill and the second reading.

The Hon. C.M. SCRIVEN (16:56): I rise to speak as the lead speaker for the opposition on this bill. The opposition does broadly support the bill; however, we think there are some changes flagged by the government which are, quite frankly, anti small business. In 2013, the former Labor government, and then opposition, committed to undertake a review of the Retail and Commercial Leases Act 1995.

A formal independent review process was initiated by the Small Business Commissioner, with public consultation carried out by way of an issues paper published by the commissioner. I understand there were 37 submissions received from a broad range of organisations. Retired District Court judge, Mr Alan Moss, considered these responses in preparation for his review, known as the Moss review, which was tabled in parliament on 24 May 2016.

The feedback and comments provided in the extensive consultation conducted during this process and the recommendations of the Moss review formed part of the Retail and Commercial Leases (Miscellaneous) Amendment Bill 2017, which was passed in the House of Assembly. However, it lapsed here in the Legislative Council. The Attorney-General in the other place has claimed that the government has accepted the amendments put forward in the lapsed bill as the basis for this current bill.

In regard to some of those changes, the first being the increase in rental threshold, the opposition is supportive of inserting the increase in threshold to $400,000 into the act after it was increased from $250,000 to $400,000 by the Retail and Commercial Leases Variation Regulations 2010, which came into force on 4 April 2011. There has been some legislative uncertainty, I understand, regarding the application of the act since the increase in threshold between 4 April 2011 and the dates on which the proposed amendments will commence.

However, I note with particular disappointment the amendment of the lapsed bill in respect of increasing bonds from four weeks' rent to three months' rent. In some cases, this is the difference between a $33,000 bond and close to a $100,000 bond. I understand there may be amendments looking at that, but what we really need to remember is the importance of small business to our economy. Increasing the bond that a small business has to pay not only hurts their ability to grow by

hitting their equity but also would make many potential small businesses reconsider whether they can in fact establish such a business. I understand that this was a recommendation of the Moss review. However, governments must make their own decisions.

A review may suggest something or Treasury may suggest something to implement a policy regarding, one might say, land tax aggregation for example, but the government must do the work independently of what is suggested to determine what is the right thing to do. I suggest that that is also applicable to this bill. The Moss review claimed that one-month rental bonds are resulting in landlords acting too quickly to terminate the lease of a slow paying tenant. It is certainly admirable that we attempt to address that issue, and I have heard of cases of tenants being terminated very quickly without the opportunity—at least not a suitable opportunity—to be able to negotiate if they are indeed paying their rent on time.

Whilst that may appear in some cases, we need to ask whether this is the appropriate fix. Is this the appropriate fix, to increase the impost on small businesses by dramatically increasing the bond they have to pay to three months' rent? We will certainly look carefully at any amendments that address that.

That impost is exactly why the former Labor government did not incorporate increasing the bond into the lapsed bill, because it would create that huge impost on small businesses. We need to ensure that we are protecting small businesses over landlords. We do not want to be increasing the costs of doing business in South Australia. In fact, those on the Liberal backbench no doubt think that is what they signed up for when they signed up to the Liberal Party. The bill also seeks to make it express for a new section 4(3) that a registered lease which, at the time of registration, falls outside of the rental threshold shall remain outside of the act regardless of any increase to the threshold which would bring the lease within the scope of the act.

Justice Stanley, in Diakou Nominees Pty Ltd v Gouger Street Pty Ltd and Ors in 2017, found that parliament intended that once the annual rent did not increase the prescribed sum, the act should apply. The practical effect of this meant that a lease could move in and out of the act, depending on whether the threshold was raised. However, this amendment appears to attempt to clarify the intention of parliament to allow a party to stay out of the act regardless of whether they exceed the prescribed sum. The government claims that this is necessary to cater for long-term leases, such as hotels and motels.

The bill also seeks to exempt companies listed on the overseas stock exchange from being covered by the act, so it provides that the terms 'public company' and' subsidiary' in the act will have the same meaning as defined in the Corporations Act 2001 (that is the commonwealth act) and will have the effect that the act will not apply to companies or subsidiaries of companies listed on a stock exchange outside of Australia.

There was much debate on the former bill as to whether overseas companies and their subsidiaries should be exempted from the protections of the act. The Attorney-General in the other place has assured that house that the amendment would operate so that the act may or may not apply to the lease, depending on whether the lessee at any given time is or is not a foreign company within the meaning of the act. However, if at any time during the term of the lease the lessee ceased to be a foreign company, the lessee would then be afforded the protections of the act. I note a number of amendments and look forward to further debate during the committee stage.

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

LABOUR HIRE LICENSING (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 26 September 2019.)

The Hon. I.K. HUNTER (17:03): I rise today to speak against the government's appalling and disgraceful plans to remove important protections for vulnerable South Australian workers engaged through labour hire firms in a range of industries. After a failed attempt to repeal the Labour Hire Licensing Act 2017, the Marshall government is at it again.

The original act was introduced by the former Labor government in response to blatant worker exploitation by some unscrupulous labour hire firms. The amendments before us today are yet another attempt to remove fundamental elements of the act that are essential to protecting workers and businesses from dodgy labour hire operators.

To understand why the licensing scheme was established in South Australia, we need to go back to when the Labour Hire Licensing Act was introduced. In 2015, an ABC *Four Corners* report aired allegations of exploitation and underpayment of workers employed around the country. This included two companies in South Australia.

Premier Weatherill then asked the parliamentary Economic and Finance Committee to investigate the labour hire industry to see what could be done. The inquiry heard about underpayment of wages, harassment and the poor treatment of workers, and a report was then handed down by the committee in October 2016. To provide a quick recap of the process, 13 submissions were received by the committee from government departments, industry and trade unions.

As part of the consultative work that the committee undertook, members travelled to the Riverland region and visited several companies that employ labour hire workers. The committee heard firsthand about issues involving labour hire firms and illegal phoenix activity. This is a practice of shutting down a company and opening another company, running away from obligations to creditors, including other businesses, workers and the Australian Taxation Office. I think that practice, by any other name, can only be called theft.

Inquiries were also held by the federal, Queensland and Victorian governments. All came to the same conclusion that we need a licensing scheme. I am pleased to say that, as a result, labour hire licensing schemes operate in Queensland and Victoria. We understand that the federal government also wants a scheme but is yet to provide a timetable of when we are likely to see that legislation put forward. In the absence of a federal scheme, we need to ensure that the current laws are given a chance to work.

This brings us to the current legislation and the amendments. Part 2, clause 4(2) states that this is to apply within high-risk sectors. First of all, we need to address the concept of high risk. Why does the government believe that the act requires such a narrow scope of what it deems as high risk? This will essentially create two classes of workers: those who receive protection from exploitative behaviour and those who do not.

Let's remember that this act was not in force for some time and was intentionally ignored by Consumer and Business Services, with the blessing of the Attorney-General, until a repeal bill was brought forward and then rejected by this place. In fact, enforcement of the penalties can potentially begin this month should the government desire it. We are not talking about a new bill: this original bill passed both houses in 2017 and is only just up and running at this late stage, this month. This is because of all the uncertainty that the government created and injected in this place by trying to bring in another piece of legislation, which then, as I said, failed.

The legislation as it currently stands has not yet had a real chance to work in the field. If the legislation had been enforced and a labour hire system established, we would have valuable data of its operation that would allow us to see how the system is working. I would like to commend the house and particularly the crossbench for rejecting the repeal bill last time with the intention of allowing this important legislation to work, to observe it in practice. I again ask the crossbench to consider their reasons for rejecting the previous bill and to reject the current one before us. I ask them to stick with the plan and allow the scheme to work as it was originally intended before we start fiddling with its operations.

I remember that, during the repeal bill's speeches, those opposite were saying that industry, specifically the South Australian Wine Industry Association and others, was for the repeal bill. I can now advise the house and those opposite that I am advised that those organisations are not in favour of the current changes to this bill. The South Australian Wine Industry Association (SAWIA) and other organisations have called the office of the shadow attorney-general saying that they are not in favour of these amendments.

I assume that the government will listen to the representations from these organisations now—they had not earlier. In fact, many of these organisations have very politely asked the opposition to make sure that the current legislation is left in place to be able to work. They rightfully point out that hospitality and construction are omitted from the legislation under these proposed amendments, just to mention a few areas.

As I said earlier, it therefore sets up two classes of workers. One wonders how that can be particularly easy to administer. Who, then, wants these changes that the government is proposing once again? I am not sure whether we can pinpoint anybody. These amendments smack of an ideology-driven obsession to get into the workplaces and remove protections from workers, particularly those protections that workers have fought hard for for many years.

If we were covering other policy areas in the same way as is proposed in this legislation, we would divide people or organisations into high-risk and low-risk categories. For example, let's have a look at driver's licences. Perhaps we could propose that low-risk drivers, those who have not had an accident in 10 years, should not have to worry about registering as drivers. Whereas, those who have had accidents, high-risk drivers, must do so.

That is essentially what the government is trying to do with this workplace legislation we have before us: to create a different way of approaching different types or classes of people in the workforce. Not only is it administratively very difficult to imagine how that will work, it will also bring to the front some antipathy from those people who are impacted by the legislation in a negative way, particularly employers, and those who are given a free pass.

These changes do not just hurt workers, they hurt the businesses that work in industries where cowboys are prevalent, where they are dragging down wages, conditions and, in particular, the safety of workplaces. Standards across whole industries could drop if these amendments are adopted. Correspondence the opposition has received from some industry groups, workers and unions makes it very clear that they want to leave the current legislation in place. They want the fiddling with this legislation to stop to allow it to get on and do what it was meant to do.

I would like to see the government explain why a worker in a warehouse, working on a forklift for a labour hire company, does not require protection from a dodgy labour hire firm. A law that covers all at-risk labour hire workers makes more sense to me. Leaving it to the commissioner to make sensible decisions to exempt some professions or businesses, as the bill currently stands and was designed to do, I think is the best way forward.

Removing red tape can hardly be a response to why these extreme changes are required. The government's terminology here is if workers are considered at low risk or medium risk of exploitation. Surely, we have a duty to make sure all workers who are at risk of exploitation are protected—that is, all workers—and not divide them up into separate categories. As legislators, we are asking for trouble. I would put it to the chamber that if one worker packing a box is covered but when that box is handed to a labour hire worker working for a transport company that person therefore is not, you are really raising some issues of demarcation which I do not believe will assist business in any way and will only drive up costs for that business.

If you want to lessen red tape, cover all workers in the same way who require protection along that chain of production. The existing bill already has scope for exemptions, which have already been used by the commissioner, I am advised. We need the commissioner to sit down with the government and the South Australian labour hire task force and SA Unions to work through a sensible package of exemptions for their particular industries.

SA Unions needs to be involved because, if you want to have a genuine consultation process, they are a key stakeholder in this area. Parliament, I would suggest, does not need to micromanage an act that has not yet been allowed to operate. We just need to tell the government to get on with it and let it do the work that it was designed to do.

The Victorian version of the licensing scheme, I am advised, currently includes secondees for exemptions, providing workers within a group, a small body corporate providing a director, students under the education and training act, and vocational placements as prescribed under the Fair Work Act 2009. That seems to me like a sensible way through the process where the stakeholders have agreed mutually on appropriate exemptions from the legislation. But the Victorian

legislation covers all classes of workers in industries. It is clear. It is concise. It is easy to administer for the Public Service. Using the Marshall government's terminology, low, medium and high-risk employees are covered by the Victorian legislation with sensible exemptions, as I have just outlined.

The amendments that we are considering before us not only narrow the prescribed industries considerably; for example, part 2, clause 5—Amendment of section 6—Interpretation, but further refine meat processing work as one of eight subsections from 'killing of animals' to 'packing meat'. It cherrypicks jobs within those industries, or attempts to do so, being a higher risk or lower risk, but why? What is the government trying to solve with this cherrypicking of classes of workers in a particular industry?

It will actually gut the work the bill was meant to do. It creates two classes of workers in the same workplace and, in fact, on the same production line. There will have to be separate ways of dealing with these workers by the business involved because of their different categorisations as either low risk or high risk. That is not a sensible way for a business to operate. They want a set of rules that applies right across their workplace for all workers that can be administered very easily.

The proposed amendments mention the packing of meat. They do not mention the unpacking of meat. And there are many other examples of where we can draw the distinction that in fact creating this artificial demarcation in the workplace is actually going to be detrimental to businesses in South Australia. Will it cover the person who sweeps the floor? Does it cover the person who changes the meat blades on machines or sharpens the knives? We do not know.

The government wants to talk about—politically—the reduction of red tape, so why, then, would they make it so much more difficult for businesses in South Australia to actually get on with the job of hiring people, employing them and training them in their workplace? They wish to treat them all in the same manner, but this legislation will require them to treat different classes of workers differently.

The shadow attorney-general, the Hon. Kyam Maher, I am advised, met with Commissioner Soulio, and on his behalf I would like to thank the commissioner for his time. He said that if the amendments are passed, I am advised, 40 per cent of those who have applied for licences would no longer require them. I am also advised the Attorney-General's office has later revised that figure up to 50 per cent. We do not have any figures to substantiate that increase and why the Attorney-General has come to that view. We do not know how many workers would be without protections from dodgy operators within that 50 per cent figure, but one can only surmise it would be a significant number.

Going through those numbers, there have been 353 labour hire licences issued, I understand, and 238 were being processed at the time that the shadow attorney-general, the Hon. Kyam Maher, met with the commissioner. If the government is sincere in its concerns about business red tape reduction, then they really should be concerned about removing the uncertainty for business that they have gone about creating over the past 12 months. Another change to an existing law that has not yet been allowed to operate fully is just going to make the situation for business worse.

I also understand there have been several representations made from concerned business sectors, that their industries have seemingly been targeted while others have been left without licensing. This is exactly why the law was produced in its original form, so that it does not discriminate or make an arbitrary decision about which industries and which jobs within those industries are covered.

Just think of the scenario that we can conjure up: these amendments are accepted by the parliament and then, for example, the federal government finally gets around to its own legislation, with yet more changes for businesses to try to implement in their workplace. We have been advised by the Attorney General's office and from indications in the media that a federal licensing system will come at some point—I will believe it when I see it—but there has been no time frame that has been mooted as far as I understand.

So there is more uncertainty for businesses in SA if they are now to face changes in this current legislation and a policy vacuum from this government where cowboy labour hire firms are

allowed to get away with the rorts they do and their dodgy operations and not protecting workers in the workplace even in higher numbers than before, as the Attorney-General in the other place seems to be suggesting.

I say to the council that we are better off giving the system we have before us the chance to work, a chance to do the work that this chamber decided it should do the last time we decided to reject the repeal legislation. If the federal government does get around to making its own changes, perhaps we can then revisit the legislation in the light of those proposals. My suggestion to the chamber is that we reject once again this government's ill thought through plans and that we reject this piece of legislation, just like we rejected the repeal bill a couple of years ago.

The Hon. J.A. DARLEY (17:18): I rise to contribute to the second reading of the Labour Hire Licensing (Miscellaneous) Amendment Bill. This bill is a result of the government consulting and listening to feedback given in response to their previous bill, the Labour Hire Licensing Repeal Bill.

In my second reading contribution on that bill, I suggested there may have been an appetite from this parliament to support amendments to the act in response to problems that have been identified rather than to repeal the act entirely. I commend the government on listening to this feedback and for introducing the bill we are currently considering.

I understand the bill lists a number of industries to which the act will apply rather than having the broadbrush approach under the current act. This list of industries was compiled after consideration of reports from the Migrant Workers' Taskforce, the Fair Work Ombudsman and Victoria's inquiry into labour hire and insecure work. I acknowledge that this is not perfect and there are still sectors representing both those who use labour hire workers and those representing the workers themselves who are unhappy with the outcome. However, I believe that the government has struck a reasonable balance with this bill.

The bill also makes a number of other amendments, such as removing the penalty of a gaol sentence, requiring labour hire providers to disclose certain information to workers and streamlining the administrative red tape by aligning reporting periods. I support the second reading of the bill.

The PRESIDENT: Clerk, I note the state of the chamber; please ring the bells.

A quorum having been formed:

The Hon. T.A. FRANKS (17:21): I rise on behalf of the Greens to indicate that, while we will support the second reading of this bill, we look forward to the debate. We understand that this bill has reached much further and cast its net much further than was originally intended and that there have been unforeseen consequences. We are sympathetic to those arguments and have had representations from people in many industries that we would have thought would never be captured by this piece of legislation.

We look forward to an informative debate and indicate that we will be supporting the SA-Best amendment regarding more flexibility and determining additional industries, should that be required. It would have been moved by the Greens if SA-Best had not beat us to the punch. With those few words, while we actually reserve our right to vote against this bill at the third reading if we are not satisfied that a case has been made, at this stage we support the second reading.

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

LOTTERIES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 31 October 2019.)

The Hon. C.M. SCRIVEN (17:22): I rise to speak on the Lotteries Bill 2019 and indicate that I will be the lead speaker for the opposition. I indicate from the outset that the opposition is supportive of the Lotteries Bill 2019. It seeks to repeal the Lottery and Gaming Act 1936 and replace it with a new act with a framework to distinguish between unlawful and lawful gaming, and for the licensing of certain lottery products; for example, instant scratch tickets, bingo, fundraiser lotteries, house and land lotteries, etc.

It also looks to simplify and modernise the licensing of lottery products and also trade promotions, which can be defined as lotteries promoting the sale of goods or services. Fundraiser lotteries are an important way for sporting clubs and community clubs to raise funds for their organisations, and I hope these amendments result in modernisation of the regulation of lotteries and that they, therefore, assist community clubs and sporting clubs in their fundraising efforts.

Other changes contained in the bill should also improve the regulation of lotteries in South Australia, including:

- 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 renewal of licences;
- allowing the commissioner to add, to vary or to revoke licence conditions;
- requiring licensees to notify the commissioner of changes to their particulars;
- introducing expiation fees for a breach of lotteries regulation; and
- renaming the Lottery and Gaming Act 1936 as the Gaming Offences Act 1936.

I also understand that the enforcement of lotteries regulations by Consumer and Business Services inspectors will form part of the associated Gambling Administration Bill 2019. As the government has stated, this bill will be the first step in modernising lotteries regulation in South Australia, which will provide a mechanism to permit and licence certain classes of lotteries and prescribe relevant conditions of rules for conducting lotteries. We therefore will be supporting the bill.

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

EVIDENCE (REPORTING ON SEXUAL OFFENCES) AMENDMENT BILL

Introduction and First Reading

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

Second Reading

The Hon. R.I. LUCAS (Treasurer) (17:26): 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, I rise to introduce the Evidence (Reporting on Sexual Offences) Amendment Bill 2019.

The Bill gives final effect to a 2011 review by the Honourable Brian Martin AO QC, by substantially lifting existing restrictions against reporting on sexual offences. These limitations do not apply to other types of offences.

The former Government declined to accept the recommendations of the reviewer in full, instead leaving the option open for the community to be in the dark about serious sex offenders.

In 2012, it was left to the then Shadow Attorney-General—the Honourable Stephen Wade MLC—to try to progress the recommendations of the review and encourage transparency in these proceedings. With the former Government being allergic to transparency, we now see amendments before the House today to achieve the recommendations of the Review and provide comfort to the community in allowing publication of identification for sexual offenders and their crimes.

At the moment, section 71A of the *Evidence Act 1929* prohibits the publication of information about alleged sexual offences unless and until there has been a finding of guilt in the Magistrates Court, or the charges have been committed for trial to a superior court. The effect of this restriction is two-fold. First, it prohibits reports regarding such proceedings (for example, publishing details of evidence given in the proceedings, or any statement which might reveal the identity of a person who has been, or is about to be charged with a sexual offence). It is this aspect of the prohibition which is significantly changed under the Bill.

Second, section 71A also currently prohibits the publication of any statement or representation by which the identity of a victim of a sexual offence is revealed or might reasonably be inferred. Under the current provisions, this

prohibition exists regardless of the status of the proceedings against the accused (though an adult victim can exercise their choice for their identity to be revealed). This protection is maintained under the Bill.

In the case of a person who is yet to be charged, the Evidence Act preserves the integrity of an on-going police investigation and any potential criminal proceedings that might follow that investigation. For instance, publicity about possible charges before proceedings have commenced might compromise the veracity of witness accounts where there are multiple alleged victims who may contact each other about the allegations before providing statements to police. This could compromise the investigation or risk an attack on the complainants' credibility. The Bill has been designed to ensure that this important protection still exists, by ensuring that there can be no reports of an impending arrest before it has occurred (and indeed, until after the first court appearance).

However, there have been a number of high-profile prosecutions which have demonstrated the inherent difficulties with restrictions of this type if they persist for the duration of committal proceedings. Increased digital access to information published outside this State has made the restrictions less effective in ensuring the anonymity of those charged with sexual offences. Significant charges arising in South Australia may be reported on in a number of other jurisdictions, with the details being shared on social media and other digital platforms, while news services in this State would be restricted for however long committal proceedings might take.

For some time, survivors of sexual abuse and victim advocate groups have been championing for victims' right to be heard at any stage of proceedings, should they wish to speak publicly about what they allege the defendant did. It is the choice of individual adult victims whether they identify themselves in doing so. Clause 4(2) of the Bill permits them to have that voice, by lifting the prohibition on identifying a defendant charged with a sexual offence after the first court hearing in relation to that charge.

The principles of open justice require that court proceedings should be conducted publicly and in open view. This is important for public confidence in the administration of justice, as it demonstrates the integrity and independence of criminal proceedings by ensuring that they can be scrutinised and analysed.

These principles must be balanced, however, against the need to ensure that publication of the details of alleged sexual offences does not inadvertently identify an alleged victim of those offences, or jeopardise on-going investigations. That is why clause 4(2) of the Bill has amended the prohibition rather than removing it outright.

By prohibiting publication of a defendant's identity until after the first court appearance (which is the 'relevant time' according to clause 4(4) of the Bill), the court can exercise any necessary oversight about whether identifying the accused might also risk identifying an alleged victim. Without the protection continuing up until this time, merely publishing the Court case list with the defendant's name and the charge might be enough for the identity of an alleged victim to reasonably be inferred, in breach of section 71A(4) of the Act. Once publication of that sort occurs, the information is in the public domain. In the digital era, it is almost impossible for that sort of damage to be undone. Accordingly, the Bill allows for any such issues to be explored at the first court hearing, before publication of details of the charges can occur.

Preventing publication of these details until after the first appearance in court will also enable an application to be made for a suppression order under section 69A of the Act. This will ensure that parties can be heard about whether identifying a defendant may, for example, cause prejudice to the proper administration of justice by impeding an ongoing investigation into similar complaints against the same defendant. The Court can then exercise proper oversight in relation to proceedings before it.

The Government has carefully considered the implications for both victims and accused throughout this process.

As I have highlighted, there have been several court cases over recent years which exposed the public's right to know an alleged offender's identity, highlighting the necessity for our laws to be both contemporary and in line with community expectations in this important area.

For those accused, as Mr Martin stated in his report, leaving cases of serious sexual offending in the dark has the tendency to promote rumour and innuendo, which in turn can create an atmosphere prejudicial to the accused person whose identity is suppressed.

For victims, whom we must protect and assist at all costs, survivors of sexual abuse and victim advocate groups have been advocating for some time for victims' right to be heard at any stage of proceedings, which is undoubtedly aided by this Bill. Further, this Bill enables the flow of information, particularly around child sex offences, with that early publication of identity promoting the possibility of witnesses coming forward.

Importantly, I must reiterate, the changes proposed here do not impact on the protections already offered under the Act, which protect the identity of the victim of a sexual offence and anything that might reasonably identify them to the public.

Put simply, openness and transparency should be the default position of our justice system and I am pleased to progress the recommendations of the report, which was left incomplete by the former Government.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Evidence Act 1929*

4—Amendment of section 71A—Restriction on reporting on sexual offences

This clause amends section 71A of the Act as follows:

- subclause (1) deletes section 71A(1) which currently operates to prohibit the publication of certain evidence and reports relating to proceedings against a person charged with a sexual offence unless the accused person consents to the publication;
- subclause (2) amends section 71A(2) to retain the existing restriction on publication under that subsection in respect of an accused person but only until the *relevant time*, being the time at which the accused person's first appearance in a court in relation to the charge is concluded. The definition of *relevant time* is proposed to be inserted by amendment to section 71A(5). Section 71A(2), as amended would then restrict the publication of any statement or representation that would reveal the identity of a person who has been, or is about to be, charged with a sexual offence or from which the identity of such a person might reasonably be inferred, until the conclusion of the accused person's first court appearance;
- subclause (3) deletes sections 71A(3) to (3e) (inclusive). These provisions currently give a court the ability to make a publication order varying or removing the prohibition under sections 71A(1) and (2) where it may assist in the investigation of an offence or is otherwise in the public interest;
- subclause (4) substitutes a definition of *relevant time* in the place of the current definition of *relevant date* in section 71A(5).

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

SUPREME COURT (COURT OF APPEAL) AMENDMENT BILL

Introduction and First Reading

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

At 17:28 the council adjourned until Wednesday 13 November 2019 at 14:15.

Answers to Questions

LAND TAX

In reply to **the Hon. C. BONAROS** (10 September 2019).

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

In general, the amount of land tax payable across jurisdictions is based on a marginal tax rate structure, with increasing rates of tax applied to the value of land above set thresholds.

Under the proposed reforms, the top land tax rate of 2.4 per cent in South Australia will apply to the taxable site value of landholdings above a threshold of $1.35 million in 2020-21 and 2021-22, increasing to $1.6 million in 2022-23. Beyond 2022-23, the final threshold will depend on the relevant threshold indexation factor as determined by the Valuer-General, consistent with the requirements under the Land Tax Act 1936.

Table 1 below estimates land tax payable across jurisdictions for a range of site values where the land is not liable for the higher trust surcharge land tax rates. For South Australia, the comparison assumes the Land Tax (Miscellaneous) Amendment Bill 2019 as introduced into the Legislative Council is approved by parliament.

Accordingly, this is inclusive of the government's amendments, which introduced a new threshold with a marginal rate of 2 per cent and increased the site value for which the maximum rate of 2.4 per cent will apply.

Land Tax Payable—Non-Trust (1)									
	NSW	VIC	QLD		WA	SA	SA	TAS	ACT (3)
Site Value $			Individuals	Companies /Trusts	excl. MRIT (2)	(20-21)	(22-23)		Res
50,000	-	-	-	-	-	-	-	188	1,513
100,000	-	-	-	-	-	-	-	463	1,763
200,000	-	-	-	-	-	-	-	1,013	2,313
500,000	-	775	-	4,000	500	250	115	4,088	5,193
700,000	228	1,475	1,500	7,400	1,000	1,250	1,115	7,088	7,353
1,000,000	5,028	2,975	4,500	12,500	1,750	5,568	4,904	11,588	10,593
1,350,000	10,628	5,775	10,275	18,450	4,900	12,225	11,326	16,838	14,373
1,600,000	14,628	7,775	14,400	22,700	7,150	18,225	16,326	20,588	17,073

1. The above table compares the land tax payable under the estimated 2020-21 and 2022-23 rate structure (including indexation of relevant thresholds) in SA for land not liable for the higher trust surcharge land tax rates, compared to the 2019-20 land tax scales in other jurisdictions.

2. Excludes the Metropolitan Region Improvement Tax (MRIT), which is levied on the unimproved value of land situated in the metropolitan region at the rate of 0.14c per $1 for land valued over $300,000.

3. Land tax is not payable on commercial properties in the ACT.

Under the proposed reforms, the estimated amount of land tax payable in South Australia will be lower compared to similar land holdings valued up to around $775,000 in Victoria. In addition, the estimated amount of land tax payable on land holdings valued up to $1.3 million in South Australia will be lower than the amount payable in Tasmania, the Australian Capital Territory and for land held in companies in Queensland.

The amount of land tax payable in South Australia will be higher than that on land holdings in New South Wales and land holdings above around $775,000 in Victoria.

Table 2 below estimates land tax payable across jurisdictions where the land is held in trust and subject to a higher rate of land tax (where applicable).

Land Tax Payable – Trust (1)									
	NSW	VIC	QLD		WA (4)	SA	SA	TAS (4)	ACT (3)(4)
Site Value $			Individuals	Companies /Trusts	excl. MRIT (2)	(20-21)	(22-23)		Res
50,000	800	176	n/a	-	-	250	250	188	1,513
100,000	1,600	363	n/a	-	-	500	500	463	1,763
200,000	3,200	738	n/a	-	-	1,000	1,000	1,013	2,313
500,000	8,000	2,364	n/a	4,000	500	2,750	2,615	4,088	5,193
700,000	11,200	3,813	n/a	7,400	1,000	4,750	4,615	7,088	7,353
1,000,000	16,000	6,438	n/a	12,500	1,750	10,568	9,904	11,588	10,593
1,350,000	21,600	10,551	n/a	18,450	4,900	18,723	17,891	16,838	14,373

Land Tax Payable – Trust (1)									
	NSW	VIC	QLD		WA (4)	SA	SA	TAS (4)	ACT (3)(4)
Site Value $			Individuals	Companies /Trusts	excl. MRIT (2)	(20-21)	(22-23)		Res
1,600,000	25,600	13,488	n/a	22,700	7,150	24,723	23,891	20,588	17,073

1. The above table compares the land tax payable under the estimated 2020-21 and 2022-23 rate structure (including indexation of relevant thresholds) in SA for land liable for the higher trust surcharge land tax rates, compared to the 2019-20 land tax scales in other jurisdictions.

2. Excludes the Metropolitan Region Improvement Tax (MRIT), which is levied on the unimproved value of land situated in the metropolitan region at the rate of 0.14c per $1 for land valued over $300,000.

3. Land tax is not payable on commercial properties in the ACT.

4. Land tax payable unchanged for land held in trust.

For land held in trust and liable for higher rates of land tax, the estimated amount of land tax payable on land holdings valued up to $1.3 million in South Australia under the proposed reforms is lower than the amount payable in New South Wales. The estimated amount of land tax payable on land holdings valued up to $1.3 million in South Australia is higher than the amount payable on similar land holdings in Victoria. The comparison with other jurisdictions varies depending on the value of the land holding as indicated in table 2.

The comparisons in the tables do not account for differences in the value of land across jurisdictions. Land of similar size and location in NSW and Victoria would generally be higher valued compared to South Australia.

HOMELESSNESS

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (24 September 2019).

The Hon. J.M.A. LENSINK (Minister for Human Services): The Department of Human Services (DHS) and the South Australian Housing Authority (SAHA) have advised:

1. Anyone seeking employment, performing services as a contractor, or volunteering with DHS or SAHA who are required to undertake child-related work must, by law, have a valid working with children check (WWCC).

All staff new to DHS must hold a national police check (conducted within six months of their application) prior to being employed, in addition to any further screening required for the role.

2. All WWCCs are monitored. Should the status of an employee's WWCC change, be revoked or expire, the employee will be actively managed by the department until such time the clearance is renewed. This may include undertaking restricted and appropriate duties or being directed out of the workplace.

Should an employee's WWCC become prohibited and it is an inherent requirement of their role, the department would seek industrial advice in relation to the future of their employment.

SINGLE-USE PLASTICS

In reply to **the Hon. J.A. DARLEY** (16 October 2019).

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

The government's approach to single-use plastic products was announced in July 2019, including the development of legislation to establish a framework to phase out certain single-use plastic and other plastic items.

The initial products to be phased out are single-use plastic straws, cutlery and drink stirrers, as well as takeaway expanded polystyrene food service items and 'oxo-degradable' plastics.

Thicker plastic shopping bags, takeaway coffee cups and other takeaway food service items have been identified for consideration for phase out at a later date and will be considered by the task force comprising representatives of business, industry, local government and interest groups.

SILICOSIS

In reply to **the Hon. T.A. FRANKS** (16 October 2019).

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

1. In early 2019, this government, through SafeWork SA, ReturnToWorkSA, the Mining and Quarrying Occupational Health and Safety Committee (MAQOHSC), and SA Health commenced a silicosis prevention campaign.

This coordinated, whole-of-government campaign included:

- SafeWork SA inspector audits of workplaces involved in the manufacture and installation of engineered stone benchtops and construction sites that are high risk for respirable crystalline silica (RCS) exposure to ensure compliance with the work health and safety legislation;

- SafeWork SA hosted targeted education forums and information dissemination to promote safe systems of work in the engineered stone industry;
- SafeWork SA has updated its website to include the newly released Safe Work Australia guide Working with silica and silica containing products. This national guide provides information about controlling the risks of exposure to silica dust when working with silica and products containing silica, such as artificial or engineered (e.g. manufactured) stone products;
- Funding was enabled to allow the independent MAQOHSC, who manage the state's silicosis prevention funds, to conduct targeted health assessments of at-risk workers in South Australia for silicosis. It was anticipated that historical exposures in some of these workers may result in disease identification in South Australia, as had been the case in other states.
- In anticipation for a potential influx of silicosis claims following the health assessments, ReturnToWork SA established a specialised claims management team so that workers who are diagnosed receive specialised support in understanding the claims process in recognition of the serious nature of the illness.
- ReturnToWorkSA trained staff on the medical management/testing protocols of silicosis with support from Adelaide University and Royal Adelaide Hospital specialists.
- ReturnToWorkSA provided information to front-line staff in preparation for receiving calls from concerned workers and employers.
- ReturnToWorkSA also engaged Corporate Health Group and ACCESS Programs to provide free and confidential employee assistance program counselling service.

In addition, this government, through SafeWork SA, has been working with other states and territories through various workgroups and projects to examine ways to improve worker health monitoring and safe work practices to reduce the risks of exposure.

I can also advise that I have indicated my support for the Safe Work Australia's recommended reduction in the workplace exposure standard (WES) for RCS to a time weighted average (TWA) of 0.05mg/m^3 – half the current limit.

2. At this stage, no ban on manufactured stone is being considered in South Australia. Under the Work Health and Safety Regulations 2012 (the WHS Regulations) there is a general duty to control all workplace hazards. In more specific duties, WHS Regulation 49 details that a person conducting a business or undertaking (PCBU) at a workplace must ensure that no person is exposed to a substance or mixture in airborne concentration that exceeds the exposure standard for the substance or mixture.

3. At this stage, no agenda has been established for the WHS ministers' meeting.

FLINDERS CHASE NATIONAL PARK

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

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

No payments have been made to the Australian Walking Company under the Future Jobs Fund Grant Deed, which provides for a grant of up to $832,889 (plus GST) for the purposes of the company's proposed guided walking tour and accommodation offering along the Kangaroo Island Wilderness Trail.

POKER MACHINE PAYOUTS

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

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

1. Consumer and Business Services has considered the circumstances surrounding this incident. Current legislation does not mandate that a gaming machine licensee must check with patrons whether they want their winnings paid by cheque. It is, however, a mandatory requirement of the Gambling Codes of Practice Notice 2013, that a gaming machine licensee, if requested, must provide a cheque to the patron in respect of an undisputed prize or winnings of $1,000 or more—

(a) as soon as practicable; and

(b) in any event, within 30 minutes after the patron makes the request and completes any formalities required by law.

2. The Attorney-General has undertaken a review of all gambling related legislative instruments in the state with a view to achieving greater consistency in regulatory requirements and processes applicable to the industry. This has led to the introduction of three bills into the parliament, which contain proposals to better protect the community from gambling related harm, while also supporting the balanced development and maintenance of an economically viable and socially responsible gambling industry.

Following the passage of these reforms, the Liquor and Gambling Commissioner will initiate a review of the current codes of practice, providing the opportunity to further consider how gaming machine licensees pay winnings and to explore other forms of payment options.

3. Consumer and business services is not aware of any similar robberies that have occurred where people have received large poker machine payouts.