

LEGISLATIVE COUNCIL**Tuesday, 8 September 2020***Members***PRESIDENT, ELECTION**

The CLERK: Honourable members, I have to inform the council that I have received the following letter from the Hon. T.J. Stephens:

Dear Clerk,

I write to you formally advising my resignation from the office of President of the Legislative Council effective 2:00pm on 8 September 2020.

Yours sincerely,

Hon. Terry Stephens MLC

I call the on the Treasurer.

The Hon. R.I. LUCAS (Treasurer) (14:15): Mr Clerk, I move:

That the Hon. J.S. Lee be the President of the Legislative Council.

The CLERK: The Hon. J.S. Lee, do you accept the nomination?

The Hon. J.S. LEE: I accept the nomination.

The CLERK: Are there any other nominations?

The Hon. K.J. MAHER (Leader of the Opposition) (14:15): I move:

That the Hon. J.S.L. Dawkins be the President of the Legislative Council.

The CLERK: The Hon. J.S.L. Dawkins, do you accept the nomination?

The Hon. J.S.L. DAWKINS: I submit myself to the will of the council.

The CLERK: Are there any other nominations? There being no other nomination, however there being two members proposed and seconded for the office of President, ballot slips will be distributed in accordance with standing order 18 and honourable members will please write on the slip the name of the member whom they consider most fit and proper to be the President of the Legislative Council.

The council then proceeded to a ballot.

The CLERK: I ask the Treasurer and the Leader of the Opposition to come to the table to act as scrutineers.

The Hon. J.S. Lee received 11 votes. The Hon. J.S.L. Dawkins received 11 votes. As there is an equality of votes, another ballot is necessary under standing order 20. Election slips will again be distributed.

The council then proceeded to a ballot.

The CLERK: I again invite the Treasurer and the Leader of the Opposition to act as scrutineers.

As there is again an equality of votes, the question must be determined by lot. I will write down the names of the two nominees.

The member whose name I first draw from the ballot box will be deemed to have obtained the greater number of votes and will duly be elected President.

The Clerk then proceeded to draw the lot.

The CLERK: The Hon. J.S.L. Dawkins' name having been withdrawn from the box he is therefore deemed to have obtained the greater number of votes. Accordingly, I declare the

Hon. J.S.L. Dawkins elected as President. The Treasurer and the Leader of the Opposition will escort the President-elect to the chair.

The Hon. J.S.L. Dawkins was escorted to the dais by the Treasurer and the Leader of the Opposition.

The Hon. R.I. LUCAS (Treasurer) (14:32): I move:

That the sitting of the council be suspended until the ringing of the bells.

Motion carried.

Sitting suspended from 14:32 to 14:49.

The President 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

EMERGENCY MANAGEMENT (QUARANTINE FEES AND PENALTY) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

COVID-19 EMERGENCY RESPONSE (FURTHER MEASURES) (NO. 2) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

WAITE TRUST (VESTING OF LAND) BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (ELECTRICITY AND GAS) (ENERGY PRODUCTIVITY) BILL

Assent

His Excellency the Governor assented to the bill.

FAIR TRADING (FUEL PRICING INFORMATION) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

Members

PRESIDENT, ELECTION

The PRESIDENT (14:52): Honourable members, firstly, it is with great humility that I speak to you from this chair. I thank all of those for their support today, but I also thank very much every member of this chamber. I thank the Hon. Jing Lee for the way she has conducted her campaign, if you wish, for this position, and I recognise always the very narrow way in which it has been decided. I look forward to working with you all and will make a further statement later this week about some of the ways in which I would like to assist everybody in this chamber.

I am aware that His Excellency the Governor will be very pleased to have our presence at 4 o'clock, so we will proceed shortly with the business of the day, but I advise members that we will be received over there at 4pm.

Can I also say that, having been elected President of the Legislative Council, I have been made aware of matters and correspondence between the Independent Commissioner Against Corruption and officers of the Legislative Council and staff of certain members of parliament. The

correspondence and matters raised are of some complexity. When I have had an opportunity to consider the matter more comprehensively, I will report back to the chamber. I call on the Treasurer.

The Hon. R.I. LUCAS (Treasurer) (14:54): Mr President, I rise on behalf of government members to offer my congratulations to you on your election to the office, but before addressing some remarks to that, can I thank the outgoing President, the Hon. Terry Stephens, a person who I count upon as a friend, as well as a colleague within my party. He has been, will be and will forever remain a friend and a colleague—only a colleague, from my viewpoint, for another couple of years, because I will be sailing off into the political sunset at that particular time. But I do want to acknowledge the Hon. Mr Stephens' service, and in particular his term as President of the Legislative Council.

I also thank the other contestant for the position, the Hon. Jing Lee, again a friend and colleague. Now is not the time to address some of the issues that have transpired over recent days, there will be other opportunities for that, but I thank the Hon. Jing Lee for making herself available as a nomination for this position.

Mr President, in congratulating you as the President of the Legislative Council on behalf of government members, I am sure you understand and you know that my view has always been that whomsoever holds the position of President deserves the respect of all members of the chamber. The office is an important office. In all my time, and I know from the viewpoint of my colleagues in all their time, whoever holds the position of President, whatever differences there might have been—and there have been some with previous Presidents—whatever those differences might be, the office of President nevertheless is a most important one. All of us in this chamber—government, opposition and crossbench—in my view should treat the office with respect, and whoever holds the position of President deserves that respect.

Mr President, on behalf of government members, in congratulating you on your election today, I indicate that I as the Leader of the Government will continue to work cooperatively with you and your officers in all that you seek to achieve in your term as President. We wish you well in the challenges that you have ahead.

The Hon. K.J. MAHER (Leader of the Opposition) (14:56): I, too, join with the Leader of the Government, the Treasurer, in congratulating you on your election and noting the good work that your predecessor had done. I think he presided over this chamber very fairly. I note that you are in an unusual position where there are a number of ex-Presidents in this chamber who no doubt will be watching very closely. They will be there to provide you with any views about your performance that are needed, I suspect.

Congratulations on your ascension to President. I know that, in your own words, you have been here a very long time and have impeccable training for this job in terms of time spent in the chair over the last almost couple of decades. The opposition, along with the government, stands ready to support you in your presidency and looks forward to your always fair rulings over this chamber.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. R.I. LUCAS (Treasurer) (14:57): I move:

That standing orders be so far suspended as to enable me to move a motion without notice forthwith.

The PRESIDENT: I have counted the council and, as there is an absolute majority of the whole number of members of the council present, I accept the motion.

Motion carried.

Motions

MEMBERS, ACCOMMODATION ALLOWANCES

The Hon. R.I. LUCAS (Treasurer) (14:58): I move:

That this council—

1. Notes that on 5 August 2020 the former Independent Commissioner Against Corruption, the Hon. Bruce Lander QC, issued notices to three members of the parliament in respect of an investigation of the conduct of those members raising a potential issue of corruption in respect of claims made by those members for the payment of the country members' accommodation allowance (CMAA), and the subject more particularly of the former commissioner's public statement dated 21 August 2020, which may be the subject of parliamentary privilege;
2. Notes that on 4 September 2020 the new commissioner, the Hon. Ann Vanstone QC, withdrew those notices;
3. Further, acknowledges that parliamentary privilege will not preclude a criminal prosecution against a member of parliament in relation to the CMAA;
4. Acknowledges that CMAA forms of claim submitted by members during the period March 2010 to 30 June 2020 have been tabled in both houses and referred to the Auditor-General for the purpose of commissioning an audit considering matters including means by which to make claiming and reporting more transparent; and
5. Further, notes that all current members have publicly indicated that they will cooperate with the ICAC investigation, and in respect of the three members the subject of the commissioner's public statement published on 7 September 2020, those members have not and will not be claiming parliamentary privilege in respect of the requests now made of them by the commissioner.

In speaking to the motion, I note that the issue of the country members' accommodation allowance has attracted much publicity over recent weeks and months. The issues in more recent times in relation to issues of potential parliamentary privilege have been raised in terms of public debate.

For the benefit of members, and I know that an alternative motion had been flagged by the Leader of the Opposition and had been circulated to all members of parliament as I understand it, this alternative motion being moved by the government indicates the view of government members in relation to this important series of issues. Given that it has only been circulated at relatively late notice, I will take some time to go through some of the details insofar as it relates to the specific clauses of the motion.

I should say at the outset that in the last 24 hours the Remuneration Tribunal has issued a new determination, which will operate from 7 September onwards, so prospectively insofar as it relates to the country members' accommodation allowance. It, in and of itself, does not alter the law as it stood for the period between 2010 and November 2018, when there was one form of the determination by the tribunal as it relates to this allowance, and then the second period, from November 2018 through to 7 September, when a second form of a determination by the tribunal also applied.

Nevertheless, this new determination will apply from 7 September, prospectively, until at some stage the Remuneration Tribunal chooses to amend it in the future. I do not propose to go through the new determination—that is the subject of some public debate—but nevertheless that is the legal position: as we debate this motion today, there is a new determination.

Under paragraph 1 of the motion it is suggested that we note that on 5 August the former commissioner did issue notices to three members of parliament in respect of an investigation of the conduct of those members. I have observed the operations of the ICAC for some time and in what I might comment was an unusual movement away from his usual practice the commissioner then engaged subsequently in a series of expansive media interviews on this particular issue.

Of course, those of us who followed this body from its inception have noted that in the very early years it was noted for its secrecy and the unwillingness of the commissioner to make public comment at all, or very rarely if that was the case. But as I said, in what I observe as a change of approach in his remaining days and weeks of being commissioner, the commissioner was very expansive in relation to these particular issues.

Having issued these notifications to three members of parliament, and as I said that was on 5 August, in a series of subsequent media statements he issued a public statement on 21 August which ventilated the issue significantly and publicly for the first time. He then gave a series of media interviews after that, including some on 1 September. I want to refer to one in particular where radio commentator from FIVEaa, David Penberthy, put the following question to the commissioner:

Just to be clear again, is it your view now that these are potentially matters, not of misconduct but of corruption?

The commissioner's answer was, and I quote him directly:

Yes. The investigation is in relation to corruption in relation to three members of parliament. I have separately asked a number of members of parliament for information relating to their claims but they are not being investigated at this stage.

The commissioner, through media commentary such as that particular one, then elevated the focus in relation to the investigations into this particular allowance. That is, through those notifications he had issued and public statements he had made in relation to those notifications and then subsequently those media interviews, he elevated the public discourse in relation to this issue.

The media commentary, I am sure you will know, from that day onwards was that the commissioner had confirmed that he was investigating corruption allegations in relation to three members of parliament. Subsequently, and I will not trace the history, those three members of parliament were identified publicly.

Dot point 2 notes that on 4 September, in the first few days after her appointment, the new commissioner, the Hon. Ann Vanstone, withdrew those particular notices—a significant event. It has not been interpreted, in my view, accurately by many in the media in terms of its significance. But as to those notices upon which the former commissioner made those statements in interviews to David Penberthy and others, the new commissioner withdrew those notifications in the first few days after her appointment.

Dot point 3, from the government's viewpoint and on the basis of the legal advice that we have had and also from legal precedent, not only in Australia but particularly in the United Kingdom and elsewhere, acknowledges that parliamentary privilege will not preclude a criminal prosecution against a member of parliament in relation to these allowances. The legal advice is it can be interpreted more broadly than that.

The legal precedents indicate that criminal prosecution can proceed against members of parliament and that parliamentary privilege in a whole variety of potential criminal offences against a member of parliament cannot be prevented through the mere fact of claiming parliamentary privilege. A member might claim it but the precedents indicate that they have been singularly unsuccessful if they have endeavoured to do that.

So dot point 3 is an acknowledgement, from the viewpoint of government members—and this is a position that the Premier has stated for a couple of weeks now. In his view, but in the government's view as well, parliamentary privilege should not be used as a shield—I think that was the phrase he might have used—to prevent criminal prosecutions against members of parliament.

If members of parliament have committed criminal offences, then the view of most people in the court of public opinion—and certainly the government's view would be the same—is that a criminal prosecution against a member should not be able to be prevented by the claim of parliamentary privilege. We are seeking the support of opposition members and crossbenchers to what we think is a simple statement of principle. That is, do we as a chamber believe that to be a fact? That is, a criminal prosecution should be able to continue or be proceeded with against a member of parliament and the claim of parliamentary privilege should not be able to stymie that particular investigation or prevent due process in relation to potential criminal prosecution.

Dot point 4 is simply a statement of fact. It is slightly different to the potential motion being moved or proposed to be moved in the House of Assembly in that we did note that the starting date in both chambers in March 2010 was about three weeks different. One house asked for all claim forms from 1 March 2010 to be tabled and the other house proposed that all claim forms from 20 March 2010 be tabled.

So the motion that we propose here refers to the period March 2010, but the motions in both houses a few weeks ago were slightly different for the purposes of the tabling of those statements and the request to the Auditor-General to cast his eye over those particular documents. It is of no great import, in our view.

We believe the substantive point of the commissioner withdrawing the notices and parliamentary privilege not precluding criminal prosecutions are equally substantive points in the motion. However, the final clause in the proposed motion, noting that all current members—and by 'current members' I am referring to, as I understand it, members of the Labor Party, because the Leader of the Opposition speaking on their behalf has made statements that he has either had statements from them or he has ordered them to assist the commissioner. Nevertheless, the public statements have been that they have cooperated with the ICAC investigation.

My understanding is that some crossbench members, or at least one crossbench member in the House of Assembly, have indicated a willingness to cooperate, or that they had cooperated with the ICAC. So the terms of this resolution are not just relating to Liberal MPs, it is talking about all current members. We understand all current members, Labor, Liberal and Independent, have publicly indicated they will cooperate with the current ICAC investigation. In particular, it now notes that, in respect of the three members the subject of the commissioner's public statement on 7 September, those three members have not and will not be claiming parliamentary privilege in respect of the request now made of them by the commissioner.

The commissioner's statement on 7 September did make some slightly differing comments in relation to the member for Narungga and did raise the question as to whether or not privilege might be claimed in relation to the current requests for information. The member for Narungga, together with the other two members referred to by the commissioner—all three—have made it clear that they, as I quote again, 'have not and will not be claiming parliamentary privilege in respect of the request now made of them by the commissioner'.

We believe, given the considerable debate there has been that in some way there is one rule for members of parliament and a different rule for others, it is correct that we are different in respect to the potential claim of parliamentary privilege, but no-one in the community, in our view, would support the view that a potential criminal prosecution against a member of parliament should be prevented by the claim or the attempt to claim parliamentary privilege.

This motion acknowledges that that should not occur and we, the government members, propose that we as a chamber indicate that as a shared position, but also, importantly, we acknowledge that in particular the three members who have been singled out by various statements have publicly acknowledged, after taking their own legal advice, that they have not and will not be claiming parliamentary privilege. I think it is important for us to note that.

It is my view and the view of government members that this should be an entirely acceptable motion. We respectfully request that members of the Legislative Council support the government in this principled position and this principled motion to acknowledge that the ICAC commissioner and her officers should be allowed to proceed with the work they have been asked to consider and they should be able to proceed and come to whatever determination, ultimately, they choose. With that, I urge the chamber to support the motion.

The Hon. K.J. MAHER (Leader of the Opposition) (15:14): I rise in part to support the government's motion. I want to reflect on a couple of points before getting to the substance of the motion. I note that this has been a very poor start to the current sitting of parliament after the winter break, in that we come to the chamber and are given a couple of hours' notice of a motion and we are expected to vote on it this very day.

It had been the opposition's intention to move a motion that would trigger the establishment of a privileges committee, if parliamentary privilege was being claimed on certain information or documents to do with the country members' accommodation allowance investigation that ICAC is undertaking. The statement on Monday, I think, has meant that that is not necessarily something that is needed. However, the motion that we were intending to move was distributed to members of this chamber over the weekend and, indeed, to—

The Hon. T.A. Franks interjecting:

The Hon. K.J. MAHER: To members of this chamber and, indeed, to the Treasurer and to the Premier in another place some days before it was to be considered, as opposed to the motion that we are considering now which was provided some hours before we were to consider it. It is a

contemptuous way to treat members of this chamber, to be expected to vote on something with such short notice.

I also note the government's 180 degree turn and change of views on some of the things that are claimed in here. For weeks the Premier was not wanting to make a comment, claiming that he did not know what was being claimed; claiming he did not know what privilege was being claimed on, and he did not have any view on it. Very suddenly, in both chambers, the government has a very strong view which marks an exceptionally different point of view than they have been carrying for the last couple of weeks. I further note that the motion at paragraph 3 states:

Further, acknowledges that parliamentary privilege will not preclude a criminal prosecution against a member of parliament in relation to the CMAA;

I indicate that at the end of my contribution, very shortly, I will be moving an amendment to strike that paragraph out.

The Treasurer has claimed that no-one will be claiming parliamentary privilege, so it is not needed in any event, that if no-one is claiming privilege that item has no work to do. Further, I think the Treasurer mischaracterised what he understands by item C when he said that he understood item C to mean that it should not be used as a shield against prosecution. Well, that is not what part 3 says. Part 3 wants this chamber to agree that parliamentary privilege will not preclude a criminal prosecution against a member of parliament in relation to the country members' accommodation allowance.

Notwithstanding the Treasurer tells us that no member will be claiming such a thing, it is not the case that if the only evidence being relied upon in a prosecution properly has parliamentary privilege attached to it it may well prevent a criminal prosecution. If the parliamentary privilege which attaches is absolute—which parliamentary privilege is—it could prevent a criminal prosecution, so we do not think this statement is in fact correct and we will be seeking to amend it to remove item 3.

I foreshadow that later this week the opposition will be moving a motion that would establish a privileges committee, if any member claims parliamentary privilege on anything that could be before this ICAC investigation. It will be in very similar terms to what we are intending to move today, but the parliamentary privileges committee that it seeks to establish would only be triggered in the event of a claim of privilege. If no privilege is claimed—as the Treasurer has undertaken and assured the chamber is the case—then that privileges committee will not be established and the motion that the opposition intends to introduce later this week will have no work to do. With that brief contribution, I move:

That paragraph 3 be left out of the motion.

The Hon. M.C. PARNELL (15:18): Whilst we have only had this motion for a short period of time, I am not surprised the government has felt the need to put something on the agenda to be on the front foot, as it were, because this has been a difficult and embarrassing time, not just for the Liberal Party but for all of us as members of parliament.

In considering the issue of privilege, The Greens were inclined to support a privileges committee while claims of privilege appeared to be afoot. That seemed to be the best way to get to the bottom of that. What we now have is the Treasurer saying that there are no claims of privilege that are live. I think the general consensus would be that, if that is the case, a privileges committee here and now does not necessarily make sense. Of course, that does not mean that a privileges committee might not have work to do in the future, it just would not really have anything to do right now. That is my understanding of it.

Whilst we have not had a chance as a Greens party room to go through this latest motion, my personal view is that if it consists entirely of statements of fact, noting this and noting that, and if everything being noted or acknowledged is factual, then it is pretty hard to see why there would be a problem with it.

As the honourable leader of the Labor Party has pointed out, I believe there is a problem with the wording of what was given to us as paragraph 3, which reads that this house 'acknowledges that parliamentary privilege will not preclude a criminal prosecution'. I think perhaps what the

Treasurer meant was 'ought not', but I do not think the Treasurer can say it will not as a matter of fact.

Honestly, if the only evidence available to support a prosecution was something that was a claim of privilege, I can tell you that privilege could win and all the charges could be thrown out because there would be nothing left to go on. I do not think that paragraph 3 as a statement of fact is correct and I think that it would be useful to delete that paragraph.

The other thing I note is in the final paragraph of the motion, which notes that:

...all current members have publicly indicated that they will cooperate with the ICAC investigation, and in respect of the three members the subject of the Commissioner's public statement published on 7 September 2020, those members have not and will not be claiming parliamentary privilege...

Without being pedantic, if the motion said, 'those members say that they will not be claiming parliamentary privilege'—it is not up to me to acknowledge that they will not, because they may change their minds. I am not convinced that even paragraph 5 is entirely accurate, but it is a matter of interpretation. If the proper interpretation of that sentence is that it is the public indications of those members that they have not and will not be claiming privilege, then that is probably fair enough. If that is what they said, then that is what they said.

Personally—this is the lawyer training coming out—lesson one of legal practice is do not make undertakings unless you are solely able to deliver. You do not make undertakings that rely on other people doing things. If that paragraph is interpreted as us stating as a statement of fact that they have not and will not be claiming privilege, then I cannot say that. I am happy to acknowledge that they have said it, but I am not going to say it. That might be a pedantic or a semantic matter. Otherwise, the remainder of the motion is factual. It is noting this and acknowledging that and I personally find that unexceptional.

I am looking forward to seeing what the opposition comes back with and whether they believe that a privileges committee still has work to do in the absence of any particular member of this council claiming privilege. That is a discussion that is worth having. Of course, if any member does claim privilege, then I think the committee approach is a very sensible one.

So, whilst we as the Greens party room have not formulated a formal position on this motion, I am fairly relaxed. I think that the removal of the third paragraph as indicated by the Leader of the Opposition makes it more comfortable for me to at least be voting in favour of this motion.

The Hon. C. BONAROS (15:23): Can I indicate for the record that our position is very similar to that which has just been outlined by the Hon. Mark Parnell. There is certainly some concern around paragraph 3 in terms of acknowledging that parliamentary privilege will not preclude a criminal prosecution against a member of parliament because that may very well not be the case in all instances.

I would also seek some clarity. I probably have not looked at it as closely as the Hon. Mark Parnell has in relation to paragraph 5, because I do not think it is just a matter of semantics. I think all of us would be very concerned about signing off on something that we cannot rule in or out either way.

I think it is impossible for us to rule out a member claiming privilege in line with paragraph 5. For the record, as it stands, as a matter of fact we do support the motion in principle. Our position would be that paragraph 3 ought to be removed in line with what has been outlined by the Hon. Mark Parnell and the Leader of the Opposition, and I would ask the Treasurer if he would be inclined to perhaps tidy up paragraph 5 to address the issues that have just been outlined by the Hon. Mark Parnell.

The PRESIDENT: I call the Minister for Health and Wellbeing.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:25): Thank you, Mr President, and may I take this opportunity to congratulate you on your election to your esteemed post. I move:

In paragraph 5, after the words 'those Members have', insert the following words: 'indicated that they have'.

The Hon. R.I. LUCAS (Treasurer) (15:26): I thank honourable members for their contribution to the debate. I thank my colleague the Hon. Mr Wade who, at very short notice, moved an amendment. The procedures of the chamber, for those who are watching with great interest this particular debate, indicate that as I speak this is the end of the debate and I am not allowed to move a further amendment to my own motion. I take the kind invitation of the Hon. Mr Parnell and the Hon. Ms Bonaros but it was not one that I could take up, so the Hon. Mr Wade has moved the amendment on behalf of myself and the government.

I think the point in relation to paragraph 5 made by the Hon. Mr Parnell and the Hon. Ms Bonaros is reasonable. Therefore, the amendment I and the government members will be happy to support indicates that those members have indicated they have not and will not be claiming parliamentary privilege. It covers the point the Hon. Mr Parnell has made, that is that this is their stated intention and we all, in the absence of any evidence to the contrary, accept their stated intention, but it is what it is in relation to that. I have no issues with that.

I do not propose to prolong the debate other than to say that the government will be opposing the deletion of paragraph 3. We believe this is an important statement of principle the parliament should acknowledge, that is that if a body such as the ICAC wants to pursue a criminal prosecution against a member of parliament in relation to these allowances, we the government members would place on the public record that we do not believe that parliamentary privilege can be used to prevent it. I note the views of others in this chamber who are going to delete that. We will strongly oppose it and we will divide upon that particular issue.

We want the people of South Australia to know that the government members are absolutely intent on making it clear that parliamentary privilege should not and will not be precluding a criminal prosecution against a member of parliament in relation to these particular allowance issues. It is a position the Premier has put strongly on the government members' behalf. We think it is a position that the majority of thinking members of the community and the public would support, and I think they would be concerned that the Labor Party is proposing to delete what is a most important principle in this particular motion.

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

Ayes 13
Noes 8
Majority 5

AYES

Bonaros, C.
Franks, T.A.
Maher, K.J. (teller)
Parnell, M.C.
Wortley, R.P.

Bourke, E.S.
Hanson, J.E.
Ngo, T.T.
Pnevmatikos, I.

Darley, J.A.
Hunter, I.K.
Pangallo, F.
Scriven, C.M.

NOES

Centofanti, N.J.
Lensink, J.M.A.
Stephens, T.J.

Hood, D.G.E.
Lucas, R.I. (teller)
Wade, S.G.

Lee, J.S.
Ridgway, D.W.

Amendment thus carried.

The Hon. S.G. Wade's amendment carried; motion as amended carried.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the President—

The Registrar's Statement, Register of Member's Interests, June 2020 [Ordered to be published]

Reports of the Auditor-General—

Education capital work: Planning and governance, Report No. 9 of 2020

Passenger transport service contracts: Bus and light rail, Report No. 10 of 2020

Adelaide Oval Redevelopment for the designated period 1 January 2020 to 30 June 2020, Report No. 11 of 2020

Information and communications technology reviews, Report No. 12 of 2020

Reports, 2019-20—

Independent Commissioner Against Corruption and Office for Public Integrity
[Ordered to be published]

Judicial Conduct Commissioner [Ordered to be published]

Phylloxera and Grape Industry Board of South Australia (trading as Vinehealth Australia)

Review under section 34(1) of the Serious and Organised Crime (Unexplained Wealth) Act 2009

Review under section 74A of the Police Act 1998

South Australian Administrative and Civil Tribunal

South Australian Classification Council

Return pursuant to section 74B of the Summary Offences Act 1953 Road Blocks

Authorisations issued for the period 1 April 2020 to 30 June 2020

Return pursuant to section 83B of the Summary Offences Act 1953 Dangerous Area

Declarations—Authorisations issued for the period 1 April 2020 to 30 June 2020

South Australian Superannuation Scheme Actuarial Report as at 30 June 2019

By the Treasurer (Hon. R.I. Lucas)—

Terrorism (Preventative Detention) Act 2005—Report, 2019-20

By-Laws—

Berri Barmera Council

No. 1 of 2020—Permits and Penalties

No. 2 of 2020—Moveable Signs

No. 3 of 2020—Local Government Land

No. 4 of 2020—Roads

No. 5 of 2020—Dogs

Yorke Peninsula Council

No. 1 of 2020—Permits and Penalties

No. 2 of 2020—Local Government Land

No. 3 of 2020—Roads

No. 4 of 2020—Moveable Signs

No. 5 of 2020—Dogs

No. 6 of 2020—Cats

No. 7 of 2020—Port Vincent Marina

Fee Notice under Act—

Gaming Machines Act 1992

Regulations under Acts—

Australian Energy Market Commission Establishment Act 2004—General

Authorised Betting Operations Act 2000—Gambling

Casino Act 1997—

Gambling (No. 1)

Gambling (No. 2)

Gambling (No. 3)

COVID-19 Emergency Response Act 2020—
General
Section 14 (No. 3)

Fisheries Management Act 2007—
Blue Crab Fishery—Quota
Lakes and Coorong Fishery—Quota
Marine Scalefish Fisheries—Quota
Rock Lobster Fisheries—Quota (No. 2)

Gambling Administration Act 2019—General

Gaming Machines Act 1992—
Gambling (No. 1)
Gambling (No. 2)

Petroleum (Submerged Lands) Act 1982—General

Planning, Development and Infrastructure Act 2016—
Fees, Charges and Contributions—Miscellaneous (No. 2)
Fees, Charges and Contributions—Revocation
General—Miscellaneous

Real Property Act 1886—General

Sheriff's Act 1978—General

State Procurement Act 2004—General

Subordinate Legislation Act 1978—Postponement of Expiry

Survey Act 1992—General

Urban Renewal Act 1995—HomeStart Finance—General

Valuation of Land Act 1971—General

Rules of Court—
District Court Act 1991—
Uniform Civil (No. 1)

Magistrates Court Act 1991—
Amendment No. 84
Uniform Civil (No. 1)

Supreme Court Act 1935—
Uniform Civil (No. 1)

Rules under Acts—
South Australian Employment Tribunal Act 2014—Fast Track Stream—General

Youth Court (General) Rules 2016—Amendment No. 2

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

Regulations under Acts—
Adelaide Dolphin Sanctuary Act 2005—General
Disability Inclusion Act 2018—Publication of Plans

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

Fee Notice under Acts—
Education and Children's Services Act 2019

Ministerial Statement

SACHSE, MR N.

The Hon. R.I. LUCAS (Treasurer) (15:40): I table a copy of a ministerial statement made in another place today by the Minister for Recreation, Sport and Racing, the Hon. Corey Wingard, on the death of Neil Sachse.

Leave granted.

*Parliamentary Procedure***SITTINGS AND BUSINESS**

The Hon. R.I. LUCAS (Treasurer) (15:48): I move:

That the sitting of the council be suspended until the ringing of the bells.

I indicate to members that we will proceed very shortly, as soon as the President is ready, to Government House to present the President, and we will return and soon after that we will recommence government business, which will be question time.

Motion carried.

Sitting suspended from 15:49 to 16:09.

*Members***PRESIDENT, PRESENTATION TO GOVERNOR**

The PRESIDENT: I have to report that, accompanied by honourable members, I proceeded to Government House and there presented myself as President to His Excellency the Governor and claimed for the council the right of free access to and communication with His Excellency and that the most favourable construction might be placed on all of its proceedings. His Excellency was pleased to reply:

I congratulate the Honourable Members of the Legislative Council on their choice of President.

I readily assure you, Mr President, of my confirmation of all the Constitutional rights and privileges of the Legislative Council, the proceedings of which will always receive my most favourable consideration.

His Excellency the Honourable Hieu Van Le

Governor of South Australia

*Question Time***INTEGRITY CARE**

The Hon. K.J. MAHER (Leader of the Opposition) (16:10): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding disability services.

Leave granted.

The Hon. K.J. MAHER: It has been reported that Integrity Care continues to operate from premises in Edwardstown. NDIS-related websites continue to advertise Integrity Care as a disability provider that is registered for the following support types: accommodation and tenancy assistance, daily personal activities, development of daily living and life skills, group centre-based activities, high-intensity daily personal activities, household tasks, participate community and specialist disability accommodation.

Today it has been reported that SAPOL raided the offices of Integrity Care after staff refused to cooperate with investigators. Superintendent Des Bray has been quoted as saying that Integrity Care staff and directors would not answer 'the simplest of questions'. My questions to the minister are:

1. What state government-related services has Integrity Care provided since the death of Annie Smith five months ago?
2. What advice has the minister sought and received that the state government has no power whatsoever to shut down Integrity Care over the last five months?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:12): I thank the honourable member for his question. Like many people who would have seen the news report and heard the comments from Inspector Des Bray in relation to his comments today about Integrity Care, we would all be concerned about his comments that key personnel within that organisation have not been cooperating with the police.

It's certainly something that I would urge anybody who is in that position to cooperate with the police, and that is indeed something that the Department of Human Services certainly did very early on. In fact, as soon as we were aware of the death and the horrific circumstances of Ann Marie Smith, the Department of Human Services fully cooperated with the police, and indeed the Quality and Safeguards Commission in their operations, both in terms of their investigations and so forth.

The Quality and Safeguards Commission has issued a ban to Integrity Care and its registration was revoked on 21 August 2020. My advice is that the Department of Human Services has no current contracts with Integrity Care and has made no payments to Integrity Care since November 2018. It's advised to all South Australian HACC-funded services that they cannot subcontract state government-funded services without permission. We have not found any records granting current permission to subcontract to Integrity Care.

I am also advised that Department of Human Services-funded providers who previously used Integrity Care have advised that they no longer do so. As this matter is still subject to police investigations, it would be inappropriate for me to comment further.

INTEGRITY CARE

The Hon. K.J. MAHER (Leader of the Opposition) (16:14): Supplementary question from the original answer. I think the minister stated in the answer that presently there are no subcontracted services being provided by Integrity Care. Can the minister inform the chamber if since April any such subcontract services have been provided?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:14): I thank the honourable member for his supplementary question and I stand by my original answer.

INTEGRITY CARE

The Hon. K.J. MAHER (Leader of the Opposition) (16:14): A further supplementary arising from the answer and the minister's discussion about the news that is just to hand. Can the minister advise if she had sought or received any advice as to whether the state government has had the power to shut down Integrity Care in the last five months prior to today's police raid?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:15): That's a pretty broad question in terms of the remit that the honourable member is seeking for me to respond to and may well go to other portfolio areas. The state opposition has been trying to make implications in relation to a range of areas, in this particular case that somehow the state government has had some involvement in this matter or should have been part of it.

I think part of what the Labor Party forgets, out of convenience, is that at the time of her death Ann Marie Smith was not a state government client, she had transitioned to the NDIS. So as much as the Labor Party will try to make this a matter of the state government, unfortunately for them that is not the case.

INTEGRITY CARE

The Hon. K.J. MAHER (Leader of the Opposition) (16:16): Final supplementary, and very precisely: did the minister ask for or receive any advice that there is no state government power to shut Integrity Care down over the last five months?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:16): I would refer the member to my original answer.

DISABILITY FUNDING

The Hon. C.M. SCRIVEN (16:16): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding disability funding.

Leave granted.

The Hon. C.M. SCRIVEN: Quarterly report figures provided by the National Disability Insurance Commission show that, as at 30 June 2020, the South Australian portion of the NDIS funding has been underspent by \$728,475,000, with just 65 per cent of South Australian funds being

spent in the 2019-20 financial year, down from 68 per cent in the previous financial year. My questions to the minister are:

1. How many jobs would an extra \$728 million per annum support, and what is the minister doing to recover unspent South Australian funds and provide them to groups like the Royal Society for the Blind that have lost funding?
2. With around \$2 million going unspent every week, what excuse is there for people like Annie Smith to have had only one carer for a few hours every day?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:17): I thank the honourable member for her question. She has I think mixed up quite a few issues in that particular question. If I can go to the matter of the single carer that she has raised, I don't think it is relevant to raise that in the context of the NDIS underspend. It has been an issue that was identified very, very early on when the news of Ms Smith's horrendous circumstances were made public.

The fact that she had had a single support worker going back for some years is something that has been identified by a number of the different investigations that have taken place, both in terms of the task force and indeed the report that was publicly released recently by the Hon. Alan Robertson, the retired Federal Court judge. When these matters were first made public, the Quality and Safeguards Commission, even though it is not an express breach of the NDIS practice rules, did seek to contact all providers to ensure that they didn't have a single support worker in this situation, so to conflate that with an issue of underspend is not really relevant.

If we talk about the situation of why the NDIS was created in the first place, it was because states and territories that had been responsible for disability services for some time were struggling to continue to fund them. There were annual unmet-need lists that were published in terms of the lack of services that people were able to receive. It has been a chronic situation that has gone on for decades, which is why the advent of the NDIS was brought into effect and which meant that the commonwealth is responsible for 50 per cent of the funding and takes the risk if the scheme goes above their share.

In terms of the original predictions, it was predicted that in South Australia it would go from the 16,000 people who were in the Disability SA system to some 32,000 participants—which is the language of the NDIS—and it is in fact actually much higher than that. I think it's over 35,000 South Australians who are now receiving NDIS supports. That is quite significantly higher than was originally predicted. The prediction in relation to jobs was that they would increase from some 3,000 disability-related jobs to 6,000 as a result.

The utilisation rates are of great interest to the Disability Reform Council, of which all state and territory ministers are members, in conjunction with the commonwealth and the relevant agencies, because clearly we are very keen to make sure that people are accessing all of the supports in their plans.

It does vary depending on geography and what is often referred to as 'thin markets'. Where you don't have a large number of participants and a large, robust market, people are less likely to be able to access their particular supports, which is a function of those market issues. It varies considerably by support type and we have pleasingly seen that the utilisation rate has increased as the more complex NDIS clients came on at full scheme. They are people who need support at home with a lot of their daily living skills, what is called supported independent living (SIL). Amongst that group of clients it is 83 per cent compared to 59 per cent.

I note that the utilisation rates have increased and while it has been below the national average there has been a 19 per cent increase from the same time last year for particular planned utilisations, and it is something that we turn our mind to. South Australia, according to my data, at the fourth quarter 2019-20, was at about 65 per cent which compares to the national average of 67 per cent.

Some other jurisdictions have been keen to have some of the funding, which should be contributing towards plans, returned to those states. South Australia's position is a little bit unique in that there is some funding under what's called, I think, a 'cap', which the state has been utilising

particularly for some inclusion initiatives and for the continuation as we transition into the NDIS and as people get used to the new system.

The PRESIDENT: Before the member rises for a supplementary: that was a very broad area of questioning and the minister gave a very comprehensive answer. I think in future probably we wouldn't have an answer quite as lengthy as that, but it did cover a great deal of ground. I go to the supplementary question from the Hon. Ms Scriven.

DISABILITY FUNDING

The Hon. C.M. SCRIVEN (16:23): Given the minister's reference to that additional funding which is available to the state, is she saying that the Royal Society for the Blind will have funding reinstated to them?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:23): No. Look, we have been very clear as a party in terms of the previous block funding arrangements that organisations were receiving. Under the previous arrangements all organisations were block funded. Those arrangements have ceased as of 30 June 2019, and that is no secret to anybody. There were other grant programs which were available, I think there might have been some ILC grant funding or something of that nature.

I would need to double-check, but the state did make some grants to some organisations because it had some cash available that was then distributed to some non-government organisations. The previous arrangements that organisations were used to, where they were block funded to provide services, has not been the case in South Australia and, as far as I understand, apart from those states that are continuing to transition, will cease for all jurisdictions.

DISABILITY FUNDING

The Hon. C.M. SCRIVEN (16:25): Further supplementary: can the minister explain why South Australia's utilisation rate is below the national average, why it has gone down from 68 per cent to 65 per cent, and what responsibility she takes for that decrease in utilisation by South Australian participants?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:25): I continue to advocate at a national level in terms of utilisation rates. I think when we came to office the rate was well below 60 per cent. We know, and I have spoken about this in this chamber before, that as participants become used to the scheme the utilisation rates generally go up. When we have a smaller market, those rates can also be below, but I am pleased that South Australia is much closer to the national rate than it has been previously.

COMMUNITY VISITOR SCHEME

The Hon. E.S. BOURKE (16:26): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding the Community Visitor Scheme.

Leave granted.

The Hon. E.S. BOURKE: On Friday last week, the NDIS Quality and Safeguards Commission released its independent report into the death of Annie Smith. In that report, the Hon. Alan Robertson SC stated:

Consideration should be given to the Commission establishing its own equivalent to State and Territory based Community Visitor Schemes to provide for individual face-to-face contact with vulnerable NDIS participants...Until that happens, the Commission should continue to support the State and Territory Community Visitor Schemes and any doubt about State and Territory powers under those schemes in relation to NDIS participants should be resolved between the law officers of the Commonwealth and of these States and Territories.

My questions to the minister are:

1. With the minister stating on multiple occasions that safeguarding of NDIS participants is the sole responsibility of the commonwealth, will the minister now admit she was wrong and reinstate and strengthen the Community Visitor Scheme?

2. Has the minister sought legal advice and drafting instructions from parliamentary counsel to immediately implement the recommendations of the inquiry?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:27): I thank the honourable member for her questions. I think the public release of the report by the Hon. Alan Robertson would not have been that well received by the Labor opposition, given that it has been so consistent with the position of the state government and the final report of the Safeguarding Taskforce. The state government has accepted all the recommendations, one of them being that we need to continue to work with the commonwealth government in terms of what the Community Visitor Scheme should look like going forward.

It would be a very brave minister who ignored Crown law advice. The Crown law advice, which was sought by the Labor Party prior to the election and was provided after the election, made it quite clear that if there was a community visitor scheme that purported to do similar functions to the Quality and Safeguards Commission, it would be, in their language, invalid. That is a matter of the public record. I have stated on numerous occasions and, indeed, in relation to some of the debate in this house that I also hold concerns that those visitors may be exposed unless there is some change to those arrangements.

The position of the state government has been that we want to find a way forward with the commonwealth in terms of how the Community Visitor Scheme would operate. The primary agency for quality and safeguarding is indeed the NDIS commission. That is clear through any of the statutes that anybody wishes to look at. We have been consistent on this issue.

I think it is worth stating for the record, too, that the South Australian Labor Party's response to the tragic death of Ann Marie Smith has been nothing short of just baselessly political. They have made no contribution to the debate in terms of safeguarding. There are a range of recommendations that sit within the Safeguarding Taskforce, and Alan Robertson makes some similar recommendations.

The Labor Party's sole contribution to this entire debate has been to focus on the Community Visitor Scheme, which they knew was not able to go into private homes and would not have been able to assist Ms Smith in her particular situation. Indeed, even if legally she had been able to be offered it, she may well have refused.

It has been very disappointing that the Labor Party undermined the task force from the beginning, called into question its independence, made some merry fuss about whether the terms of reference were valid, said it didn't have enough time to report but then it was going to take too long and, in terms of the policy debate, made absolutely no contribution—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —to any of these matters. They have just continued to talk about a community visitor scheme that in South Australia is in the order of 40 volunteers—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —who not only have a role in terms of those people who are under public guardianship and those people who are under the state supported accommodation arrangements but have a role in terms of mental health visitations, particularly their unannounced visits arising out of the Oakden scandal.

My understanding is that the NDIS has identified that there are some 5½ thousand vulnerable clients in South Australia. The logistics of asking a volunteer workforce to undertake that level of work is something that I think the Labor Party needs to reflect on. It would be really, really useful if they could actually genuinely contribute, read some of these reports and try to understand what it is that people with lived experience want from their governments.

COMMUNITY VISITOR SCHEME

The Hon. E.S. BOURKE (16:32): A supplementary: can the minister confirm that she has sought legal advice and drafting instructions from parliamentary counsel and, if so, when?

The PRESIDENT: I'm not sure that fits into the original answer, but if the minister wishes to respond.

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:32): Certainly. That's not consistent with what the recommendations of either the task force report or the Robertson report state. They state that advice needs to be sought with the commonwealth. In the first instance, those matters about the constitutional issue that the South Australian Crown has identified need to be resolved. Further, the task force recommendation is that people would need to be consulted about the model of a community visitor scheme going forward.

The task force is still accepting individuals' submissions, which it is doing until 14 September. In any case, the matter of what form the Community Visitor Scheme should take going forward is something that I tasked Dr David Caudrey once I had received the WestWood Spice report, which was commissioned by the Disability Reform Council. Those are models that we have already been looking at in determining how the scheme should look into the future.

COMMUNITY VISITOR SCHEME

The Hon. E.S. BOURKE (16:34): A supplementary arising from the original answer: the minister was quick to point to the Labor Party, but will the minister now support the opposition's proposal to address this anomaly in the legislation?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:34): It's a flawed bill, so no.

PREVENTATIVE HEALTH

The Hon. D.W. RIDGWAY (16:34): My question is to the Minister for Health and Wellbeing. Can the minister please update the council on preventative health services?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:34): I thank the honourable member for his question.

Members interjecting:

The PRESIDENT: Order! I would be grateful if I could hear the minister.

The Hon. S.G. WADE: Thank you for your protection, Mr President. The Marshall Liberal government was elected with a strong commitment to increase the focus on preventative health. In the words of the sage advice, prevention is better than cure, and this is true both for individuals and for the health system. It's estimated that every dollar spent in preventative health saves you \$5 in acute hospital care. As we drive down risky behaviour, such as smoking or alcohol and drug abuse, we will see ongoing benefits for individuals and health across the community.

An example of a very successful preventative health program is BreastScreen SA, which this month celebrates its two millionth breast screen. BreastScreen SA has been providing free screening to South Australian women for over 30 years and during that time it is estimated that 12,000 South Australian women have had their lives saved through this service. Evidence shows a reduction in the chances of dying from breast cancer of up to 40 per cent for women who undertake regular screening. This is a clear benefit for the individuals involved, as well as for their families and loved ones.

BreastScreen SA operates across the state, with three mobile screening units providing services to regional South Australia and seven clinics in metropolitan Adelaide, hence their slogan From Ocean to Outback. There are currently two additional pop-up clinics operating in Port Lincoln and Victor Harbor. The government is determined to provide these high-quality and life-saving services to South Australian women in an accessible manner.

It's heartening to see the high uptake during the COVID-19 pandemic. One of the unfortunate side effects of the pandemic is that some people might hesitate to maintain the regular care and check-ups that can help early discovery and more successful treatment of serious conditions.

Yesterday, I had the opportunity to meet BreastScreen SA's two millionth patient and was encouraged to hear firsthand from the staff at the clinic that the number of women presenting for a screen has actually increased in the past months. I thank South Australian women for maintaining their care and I thank the staff of BreastScreen SA for the fantastic work over three decades they have done to keep South Australian women safe.

CORONAVIRUS VACCINE

The Hon. F. PANGALLO (16:37): Thank you, Mr President, and may I congratulate you on your ascension. I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing about a COVID-19 vaccine being developed by Oxford University and AstraZeneca.

Leave granted.

The Hon. F. PANGALLO: Yesterday, the federal government announced a \$1.7 billion deal to receive the first doses of a COVID-19 vaccine developed by Oxford University and AstraZeneca, rolling it out in early 2021, to quote the government, 'should it pass late stage testing'. The vaccine, known as AZD1222, is now in stage 3 testing. It is so far unproven and there have been question marks over side effects in phase 1, including high fever from some of the participants.

The federal health minister also said the government would provide the manufacturers of the vaccine, which would also include Australia's CSL, an indemnity in the event of subsequent side effects; in other words, people who suffer any side effects would be unable to sue. This is unheard of in Australia, although the US government has for many years provided indemnities. Imagine if this was done with thalidomide in the early sixties.

I support vaccination and I hope this vaccine works. As members know, I'm also part of a locally made vaccine trial, which has shown no side effects with early positive signs. My question to the health minister is: is the state government comfortable to support and approve the AstraZeneca vaccine for use in South Australia under those indemnity conditions?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:39): I thank the honourable member for his question. If I might take an opportunity to make a side reference, because the honourable member did in this explanation, he referred to the vaccine project which he is an honourable participant in. I just want recognise the fact that earlier this month the commonwealth announced funding for five COVID research projects, totalling a \$4.1 million investment. Vaxine Pty Ltd was a recipient of one of those grants, so that is great to see a South Australian team of researchers receiving commonwealth support for their work.

In relation to the Oxford work, obviously that's not an Australian venture. I do appreciate that the commonwealth has not only done at least two rounds of funding for Australian-based initiatives for vaccine development but also has taken an active procurement approach. To me that is responsible; we just don't know which of these vaccines will be successful. As the honourable member has highlighted, they have a long way to go. There is a very methodical process to assess the benefits and the risks of any vaccine.

We saw in the worldwide reaction to the Russian announcement that they were rolling out vaccines the high level of concern amongst both public health experts and world leaders at the prospect of what I would say is a premature rollout of a vaccine. I am very confident that the commonwealth government of Australia, consistent with its comments about the safety of vaccines, will ensure that any vaccine that it facilitates the distribution of will be safe for users.

In relation to the indemnity, I will seek advice on that. I am not sure of the nature of the indemnity. I presume there's a range of different approaches that can be taken, whether or not it's the commonwealth that takes responsibility to pay for any liability that might be owing or whether it's, as the honourable member's question suggests, an indemnity such that the person who experiences side-effects has no recourse. I will seek further advice on that. I would be very confident that the commonwealth government will respect the well-developed patterns for the approval of vaccines and that any rollout will be done respecting the rights of people who participate.

CORONAVIRUS VACCINE

The Hon. F. PANGALLO (16:42): Supplementary: will the South Australian government match the \$1 million in funding that was provided by the federal government for further research into the South Australian vaccine that's being developed at Flinders by Vaxine?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:42): The commonwealth government is putting so many billions into medical research. I can't actually remember how much; I think it might be something like \$40 billion over 20 years through the medical research, the MRFF. Whether it's the MRFF or the ARC or the NHMRC, the commonwealth is the lead funder of medical research.

We fundamentally provide support to health and medical research through providing our health networks, our health, if you like, infrastructure. This particular project, the Vaxine project, is supported by the South Australian government through SA Pathology and CALHN, but as is standard practice by other states and territories, we don't try to match the commonwealth in relation to health and medical research funding. They are the lead funder, and our support is primarily through access to our health networks and partnerships with our clinicians.

CORONAVIRUS VACCINE

The Hon. F. PANGALLO (16:43): Has the government received an application for funding from Vaxine?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:44): I'm not sure whether there's been a formal application. My understanding is that the health portfolio and, it may well be, other parts of government have received requests for support from Vaxine in different forms. Whether or not it's a formal application, I wouldn't be surprised if Vaxine had requested funding.

My response would be the same, which is that the commonwealth is the lead provider of funding. We provide very limited financial contributions. Earlier this year, the Premier made a reference to the Productivity Commission and asked the Productivity Commission to look at health and medical research, so it will be an opportunity for us to look again at what we are doing in the health and medical research space.

The state government in the past has made significant contributions to institutes such as SAHMRI, but my understanding is that the state government has never tried to compete with the commonwealth government as the primary funder of individual grants to clinicians and research teams.

HUMAN SERVICES DEPARTMENT

The Hon. R.P. WORTLEY (16:45): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding the Department of Human Services' chief executive officer.

Leave granted.

The Hon. R.P. WORTLEY: It has been five months since the sudden resignation of former DHS chief executive Tony Harrison. Mr Harrison resigned from the DHS prior to the end of his contract at the beginning of March, at a time when South Australia was grappling with the bushfire recovery and the COVID-19 pandemic was beginning to grip the state. The opposition has been advised that, despite interviews being conducted a number of months ago, the department is still without a chief executive. My questions to the minister are:

1. When did the minister or the government receive the recommendation to appoint a chief executive?
2. Why hasn't the government appointed a permanent chief executive?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:46): I thank the honourable member for his questions. In response to his questions, I can advise that there is an acting chief executive in that role, so the Department of Human Services is being ably led at the moment. As the honourable member would be aware—he was a minister at one stage—the responsibility for

appointment of chief executives is the responsibility of the Premier, and so he should direct his questions to the Premier.

The PRESIDENT: Supplementary, the Hon. Mr Wortley.

HUMAN SERVICES DEPARTMENT

The Hon. R.P. WORTLEY (16:47): How can the minister and the government implement long-term stable plans for the department when almost every executive position in DHS is in an acting role?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:47): The honourable member makes a number of assumptions. I am very proud of the team within the Department of Human Services and the extraordinary work that they do. During the height of COVID-related restrictions, the Department of Human Services was a very important partner in terms of assisting, particularly through our non-government sector partners, and one of the things that they managed to put together in a very short space of time was a framework of support to ensure that all South Australians were able to eat, quite frankly.

People would be familiar with a number of the programs that we fund through Foodbank, and a range of people who are in financial difficulty who need particular support. COVID has presented challenges for a lot of South Australians and for lots of people who weren't necessarily considered vulnerable previously.

For instance, I received a letter from the member for MacKillop, who had a constituent who wasn't able to access any of the home delivery programs that were available through the supermarkets, so we moved very quickly during that time to ensure that there were partners across the state for anybody who was needing to self-isolate and did not have family members to assist them. That is just one example of the amazing work that the department does.

We have also been undertaking significant reforms in the child and family services area, another important—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —policy area that we are involved—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order! The Hon. Mr Hunter, I would like to listen to the minister, and I cannot hear her at the moment. If you wish to ask a supplementary then I will consider that, but until that time, be silent. The minister.

The Hon. J.M.A. LENSINK: Another very important role that we continue work in is in the family and domestic violence space. So these are just some of the examples of the fantastic work of the Department of Human Services. We continue to be quite reformist in terms of ensuring that the services are being provided to those who most need them.

The PRESIDENT: The Hon. Mr Wortley, this will be a final supplementary.

HUMAN SERVICES DEPARTMENT

The Hon. R.P. WORTLEY (16:50): Thank you, Mr President. Does the minister play any role in the process of appointing her chief executive?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:50): I will refer the honourable member to my original answer.

The PRESIDENT: Supplementary, the Hon. Ms Scriven.

HUMAN SERVICES DEPARTMENT

The Hon. C.M. SCRIVEN (16:50): Yes, please, Mr President, thank you. Is the minister saying that she has not seen any recommendation or similar in regard to the chief executive of her department?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:50): I didn't say that. It is once again one of the Labor Party's favourite tactics; there are many. There are many tactics that they employ. They like to put words in people's mouths, they like to pretend that we're in the middle of an open book exam where they're the only ones who've got the book.

Members interjecting:

The PRESIDENT: And I'd like to hear the answer. Order!

The Hon. J.M.A. LENSINK: There's a range of interesting strategies that the Labor Party, in their complete desperation and their complete irrelevance at this time, employ during question time. But if it makes them happy, Mr President, then so be it.

Members interjecting:

The PRESIDENT: Order! The Hon. Leader of the Opposition is out of order. The minister should conclude her answer.

The Hon. J.M.A. LENSINK: I'm sorry, Mr President. In that case, I stand by my original answer.

The Hon. C.M. SCRIVEN: Supplementary, Mr President.

The PRESIDENT: This will be the last one, because I am keen to get further down the list of people that are due to have a question today. Final supplementary on this topic, the Hon. Ms Scriven.

HUMAN SERVICES DEPARTMENT

The Hon. C.M. SCRIVEN (16:51): Can the minister answer: has she seen a recommendation for a new CE for her department?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:51): These are matters that the honourable member needs to direct to the Premier.

VOLUNTEERING STRATEGY

The Hon. N.J. CENTOFANTI (16:51): My question is to the Minister for Human Services about the SA volunteering strategy. Can the minister please update the council on the Marshall Liberal government's commitment to continue to support South Australia's volunteers through partnering in the development of a new volunteering strategy for South Australia?

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:52): I thank the honourable member for her question and for her interest in this area, knowing, as I do, that she is a keen volunteer in her local community in the Riverland.

The first volunteering strategy for South Australia is due to expire this year, and I was very pleased recently, together with other strategy partners, including Business SA, Volunteering SA & NT and the Local Government Association of South Australia, to sign the next volunteer strategy, which will take us up into the next period.

I should congratulate the former government for their original volunteering strategy, from 2014 to 2020, which has seen those strong relationships ensure that we are, as a combined group, doing everything we can to support volunteers in their important roles and ensuring that every opportunity is being provided. I understand, from my discussions with Janet Stone, who is the independent chair of the volunteering strategy for South Australia partnership board, that this is a global first: having a strategy between these groups.

In terms of volunteering, we know there is some 125,000 across government. There is a public sector volunteer network, which assists with portfolios and the non-government sector; some

5,000 businesses across 17 sectors—that is the membership of Business SA, I should say, which equates to some 92,500 employees, of which Business SA estimate 50,000 are volunteers. The Local Government Association has some 11,000 volunteers and has had a good track record of retention and attraction.

The original volunteering strategy helped to bed down some of the framework issues, if you like, so the next phase is very much looking towards how we continue to develop those pathways. There are more people who are willing to volunteer than there are organisations to take them, in some instances. They are also very keen to ensure that young people are accessing volunteering opportunities, which is a benefit for them in a range of areas for their health and wellbeing but also clearly has links to assist them to gain employment.

During these times of COVID, the volunteer workforce has experienced some challenges. I understand that about two-thirds of South Australia's volunteers are back doing what they were doing. But the strategy going forward for 2021-27 is to ensure that our priorities are remaining relevant so that we can continue to support the many South Australians who are engaged in volunteering who also have obtained free screening checks from the South Australian government.

POLICE, SOCIAL MEDIA

The Hon. T.A. FRANKS (16:55): I seek leave to make a brief explanation before addressing a question to the Minister for Health and Wellbeing, representing the Minister for Police, on the topic of SAPOL's social media, and media policy and protocol.

Leave granted.

The Hon. T.A. FRANKS: A media release and Facebook post was published on 5 September by SAPOL with an image of a claimed suspect with a request for public assistance to identify the man depicted. He was required in relation to two separate incidents of deception between 14 and 30 July involving 'fraudulently obtaining two laptop computers'.

This post has resulted in many Sikh organisations urging social media users not to make derogatory and racial remarks about the young man. The young man, it turns out, is a 19-year-old Adelaide-based Indian international student. Mr Singh, as he has asked to be known, whose pictures were shared by SAPOL, wishes to be identified by his last name only. He arrived in Australia in December 2019 on a student visa from Punjab.

According to SBS Punjabi, he has attended the police station to explain his 'innocence and ignorance' after SAPOL shared his images. He also submitted to SAPOL approximately 50 screenshots of his work-related communications with a job provider who he now believes has been using him for illegal activities. The young student says he has been tarnished in his small Indian-Australian community, many of whom now believe he has committed a crime. In that interview with SBS he has stated:

It has ruined my life. This news has gone viral within our Sikh and Indian-Australian community. While the police have removed the post, it is still impacting on me and my life. Many people have shared screenshots of the post on social media and WhatsApp.

Only when contacted by SBS Punjabi did a spokesperson for SAPOL actually say on the public record:

We can confirm that investigators have spoken with a 19-year-old man from Edwardstown in relation to two separate incidents of deception between 14 and 30 July.

I understand from the same SBS article that the following day SAPOL took down the media release and Facebook post but not before a number of comments on that Facebook post had to be deleted by SAPOL due to breaches of their standards. Those standards include incredibly large amounts of racist remarks. My questions to the minister are:

1. Why does the SAPOL social media account only delete or amend incorrect information rather than make statements of clarification?
2. What are the protocols for correcting public prejudices when SAPOL publishes images of a suspect who turns out not to have committed a crime?

3. What is the SAPOL social media policy with regard to racist and derogatory comments, and why does it not have measures to edit out incitements to hate before publication rather than a process that deletes them after they have already been published?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:59): I thank the honourable member for her three questions and I will refer them to the Hon. Vincent Tarzia, the Minister for Police, Emergency Services and Correctional Services, and seek a response on her behalf.

CORONAVIRUS, HOTEL ACCOMMODATION

The Hon. I. PNEVMATIKOS (16:59): I seek leave to make a brief explanation before asking the Minister for Human Services a question regarding the emergency COVID-19 hotel accommodation.

Leave granted.

The Hon. I. PNEVMATIKOS: On Friday 12 June, the minister appeared on ABC 891 with David Bevan and said:

...hotel options are available for people at the moment, unless they have misbehaved and come up against the anti-social behaviour policy, which applies to everybody across the system.

My question to the minister is:

1. What is meant by 'misbehave'?
2. Is this the government's excuse for not providing appropriate support to people with mental illness, cognitive impairments or acquired brain injury who need extra help?

The Hon. J.M.A. LENSINK (Minister for Human Services) (17:00): I thank the honourable member for her question. In response to her last set of questions, the answer certainly is no. We are well aware that there are people who do need extra support. In fact, I was just at the Hutt St Centre this afternoon where we were celebrating that there are some 250 people who have come through the hotel support system during the height of the COVID restrictions who have been placed into more permanent accommodation, some of it through the South Australian Housing Authority, some through community housing providers, some in the private rental market and some who have returned home to their previous situation.

It has been a very big team effort, not just on behalf of government but on behalf of a range of community service providers that operate homelessness services, who have been working very hard to ensure that we can place people. Indeed, one of the remarks that Chris Burns, from the Hutt St Centre, made specifically about what the hotel accommodation had enabled service providers to do was, because people effectively had a fixed address, the support services were able to provide case management and other support services to assist them with their particular challenges.

As a result, we do have this large number of people who are enjoying successful placement into more permanent accommodation. It has been an enormously successful program in terms of providing a safe place during the height of restrictions. I have said many, many times that, for people sleeping rough, that is not a safe situation for them. We always have the aim of not having people sleeping rough. We are aware that a number of people came into Adelaide from a number of suburban areas as well because they became aware of the program, and some of those people have now been placed into more permanent accommodation.

It has demonstrated that in these times of crisis we are able to move the dial very quickly. In terms of the support services that people have received, I think it has been a great demonstration. The Aspire Program demonstrates similar outcomes that, when people are provided with a roof over their head and the support services that they need, they are often able to engage on that recovery journey and transition back to living their lives as full citizens.

The PRESIDENT: A supplementary question, the Hon. Ms Pnevmatikos.

CORONAVIRUS, HOTEL ACCOMMODATION

The Hon. I. PNEVMATIKOS (17:03): Has anyone been evicted from emergency COVID accommodation who was suffering from mental illness?

The Hon. J.M.A. LENSINK (Minister for Human Services) (17:03): In order to be able to respond to that specific question I would need to examine all of the particular records of those individuals, so it is very hard to say definitively whether there weren't any. People would be familiar with the range of mental illnesses that people can suffer from and it would be very hard for me to say that without examining all of those individual records.

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

CORONAVIRUS, HOTEL ACCOMMODATION

The Hon. I. PNEVMATIKOS (17:04): I initially, in my two questions, asked about what defined misbehaving.

The Hon. J.M.A. LENSINK (Minister for Human Services) (17:04): What I was referring to was the antisocial behaviour policy, which is a matter of the public record. In terms of the hotel accommodation, there were similar standards that were applied, but ultimately some of the proprietors of those hotels were able to make those decisions themselves. However, I can assure the honourable member that we gave as much support as we were humanly able to possibly provide to all of the people who came through the program. It has been a huge collective effort from the non-government providers as well as the government to try to assist people through this challenging time.

BUILDING INDEMNITY INSURANCE

The Hon. D.G.E. HOOD (17:04): My question is to the Treasurer: what are the reasons for the recent announcement of increases in the levels of building indemnity insurance?

The Hon. R.I. LUCAS (Treasurer) (17:05): There has been some recent publicity about the recent decision to raise premiums for builders' indemnity insurance. I think it's worthwhile placing on the public record the brief history of builders' indemnity insurance in South Australia and the reasons for the decision.

I am advised by SAFA that back in 2013-14, immediately prior to withdrawing from the market in that year, QBE increased building indemnity insurance premiums by 50 per cent. Caledon, which was the only other operator in the market at the time, increased their premiums by 30 per cent and then withdrew from the market on 30 September 2013. I am advised that at that time QBE advised SAFA that premiums would need to increase by 300 per cent to attract private market interest in underwriting the risk.

The former government took the decision at the time, and the opposition was supportive, that, given that the private insurance market was no longer prepared to insure or provide building indemnity insurance, it was imperative from a homeowner's viewpoint that that insurance continue. The former government continued, in essence through taxpayers taking on the risk, of underwriting that insurance through SAFA, and QBE was contracted to provide the service, but the risk was, in essence, undertaken or accepted by taxpayers through the government.

Since 2013-14, that process has continued. At varying stages there have been premium increases. I am advised that in 2016-17 there was a premium increase of 11 per cent based on actuarial advice to ensure a break-even premium pool. The circumstances this year have again brought to the fore, based on independent actuarial advice, that in particular the recent experiences and the projections for the immediate future by the actuary was that there needed to be a 10 per cent to 11 per cent premium increase for building indemnity insurance.

Just by way of example, I am told that back in 2013-14, when the private sector insurers fled the market, there were only 16 claims reported but in the last year in South Australia there were 280 claims reported—so there were 16 claims back when the private insurers fled the market, and in this last year 280 claims. The total value of the claims back in 2013-14, when the private sector insurers fled the market, was \$211,000, and the total value of the claims this last year, with 280 claims, was \$19.1 million.

The actuary has highlighted that there are multimillion dollar losses being underwritten by taxpayers through accepting the fact that there has been market failure. Private sector insurers are not prepared to ensure but, nevertheless, homeowners need to be protected. We have had a

continuing series of builders going broke in the last 12 months—some 19 builders. The government has taken action, after consultation with stakeholders such as the MBA and others, to place higher requirements in terms of builders and in terms of getting a builder's licence. My understanding was that the MBA and the stakeholders had supported those particular initiatives from the government.

However, the choices are stark: either the taxpayers of South Australia continue to underwrite at an ever-increasing rate the provision of this important insurance option, or the government was to vacate the field and there would not be any building indemnity insurance. That is not a set of circumstances the former government countenanced and it is certainly not a set of circumstances that the current government is considering.

The inevitable reality is a significant increase for building indemnity insurance of some 10 per cent. Compared, as I said, to some of the examples in the previous years under the former government for understandable reasons—for the same reasons—there have been similar significant increases in what is an important insurance product.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (17:09): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about the Women's and Children's Hospital.

Leave granted.

The Hon. C. BONAROS: Seasoned clinicians at the Women's and Children's Hospital are concerned about the independence of a so-called independent review into paediatric cardiac surgery services at the Women's and Children's Hospital. That review recommended that South Australian clinicians requiring cardiac surgery should continue to be transferred to the Royal Children's Hospital in Melbourne because such surgery is not available at the Women's and Children's—the only state, I might add, in Australia to not provide such life-saving surgery.

Disturbingly, some doctors have stated publicly that babies and young children have died due to the Women's and Children's Hospital not being able to perform paediatric cardiac surgery and, as I understand it, have even been sanctioned for daring to speak out against this review.

I am reliably advised by medical experts at the Women's and Children's that heart surgery and acute cardiopulmonary treatment can safely and efficiently be performed there instead of sending up to 100 babies and children to Melbourne each year. My questions to the minister are:

1. Are you satisfied with the independence of the independent review, given the concerns of clinicians that its recommendations were predetermined to ensure the status quo remained?
2. Do you, as minister, acknowledge that very sick babies in a prosperous state like South Australia are having to travel interstate for life-saving surgery, and how do you respond to claims that this is nothing more than a cost-cutting exercise?
3. Can you confirm whether any doctors or any other staff have been spoken to about their public comments and at whose direction, and, if that is the case, does it concern you that doctors are being silenced by either the bureaucracy or the government?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (17:12): I thank the honourable member and am glad that, now that we have come to the end of question time, I have a sort of open rein and am limitless in my answer. The freedom has gone to my head.

The PRESIDENT: Please proceed.

The Hon. S.G. WADE: In relation to the first question, which is if I am satisfied as to the independence, let's put it this way: there has been no evidence put to me that suggests the review was not independent. I am aware of public claims that there were members of the team of the Royal Children's Hospital in Melbourne who were part of the review team. I specifically sought advice on that claim and I am being assured that was not the case. I am actually very disappointed that public claims were made about the independence of the review that, on the evidence presented to me, are completely baseless.

If I can make a side comment about the honourable member's comment about South Australia being the only state that doesn't provide paediatric cardiac surgery, it goes without saying that Tasmania doesn't provide paediatric cardiac surgery. In terms of whether I acknowledge that patients have to go to Melbourne, I will never diminish the disruption that families with children with heart conditions go through. First of all caring for their child and then the disruption to go to Melbourne I will never underestimate. That is very significant.

The independent review was specifically asking the question on the basis of suggestions from within the hospital that the journey could be avoided by establishing a paediatric cardiac surgery in Adelaide. The conclusion of the review was that we should continue to seek a service through the Royal Children's Hospital in Melbourne, as we have done for 18 years.

In relation to the suggestion that this might be cost cutting, I have spoken to both people who are proponents of the introduction of paediatric cardiac surgery and people who do not support the introduction of paediatric cardiac surgery, and I have been impressed that nobody is talking funding. Everybody is talking about patient care and safety as issue number one. In that regard, I just make the point that it is unlikely to be a cost-saving measure because we don't provide the service now. It is not as though we are cutting a service and we are going to recoup the money from it.

In terms of sanctions, I would hope there would be no leader in the South Australian health system who would be unaware that I do not support the gagging of clinicians. Obviously, there are appropriate channels through which clinicians can raise issues. I am not aware of a clinician being sanctioned in relation to this conversation.

Bills

FAIR TRADING (REPEAL OF PART 6A - GIFT CARDS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 July 2020.)

The Hon. K.J. MAHER (Leader of the Opposition) (17:16): I rise to speak on this bill and indicate the Labor opposition's support. The repeal of part 6A of the Fair Trading Act 1987 is a useful but, in the scheme of things, not particularly notable part of the government's legislative agenda. After the federal government introduced its own gift card legislation last year, the constitution effectively ended the operation of this section of state legislation.

Whilst the two sets of laws are broadly consistent in applying a three-year expiry period, the commonwealth legislation includes much higher penalties. Fines are up to \$6,000 for individuals and \$30,000 for companies under federal law, but the previous state provisions were only \$5,000. This reflects the Liberal government's permissive approach to corporate crime and excesses; for example, their fuel pricing bill proposed expiation fees of just a few hundred dollars for breaches.

I think we can all agree that a nationally consistent approach to things like gift card legislation with meaningful penalties is preferable to different state systems that lack real deterrent value. Whilst the vast majority of businesses do the right thing, there needs to be a clear incentive to comply with the law. Honest businesses do better when others do not cut corners. As such, the opposition welcomes the federal government's new laws in this area.

Whilst we are supporting this bill, it once again shows up the government's approach to consumer affairs and other matters where there is the potential for both state and federal legislation. On a number of matters, the Attorney-General, the Premier and the government have told us that the state should not legislate on matters where the commonwealth can cover the field. When it is convenient, we apparently need to act in South Australia. When it is not convenient or does not align with an ideological bent, we apparently need to wait.

For example, this includes labour hire and payday lending schemes. In both areas, the state Liberal government thought the federal government should act to ensure national consistency before the state could do anything at their own level. On labour hire, the government took two years and three bills to get anything done. In doing so, they have trampled on workers' rights and left us with an inconsistent national approach.

On payday lending, the Attorney-General announced a review by consumer and business affairs in April after asking her federal colleagues to act over an extended period of time, apparently without success. I hope payday lending customers will not suffer the same fate as victims of serious crimes, who waited two years for the government's review into sentencing discounts before action was mooted to be taken.

The federal Liberal Party has shown time and again that it does not care for consumers, for example, rejecting on numerous occasions a royal commission into the banking sector until the banks themselves asked for one. We have seen the federal Coalition go soft on better regulation of financial advice and we continue to see constant attacks from the federal Coalition on industry super funds that provide better returns for their members.

Time and again, well connected industry groups manage to get the federal Liberals to drop any meaningful consumer protection. Whilst the federal legislation on gift cards on this occasion is welcome, it is a drop in the ocean compared to what remains to be done to protect consumers and ensure a level playing field for business.

We are disappointed that in a number of areas the state Liberal government is not acting because they are awaiting federal intervention but on gift cards they have acted even though federal intervention has now occurred. Having said that, we will, of course, support this bill because it is required now that the federal Liberal government has done something about it.

The Hon. C. BONAROS (17:20): I rise to speak in support of the bill, which has already been outlined in terms of its nature. It makes absolute sense to have nationally uniform and consistent laws, given our national economy and free trade across states. This is especially so in this expanding area of online and contactless shopping with companies that could be located anywhere in Australia or indeed the world. It does not make much sense to have unnecessary duplicate laws in each jurisdiction in Australia, different regimes for companies to have to adhere to in each of those jurisdictions, different terms and conditions and different complaints mechanisms for consumers to grapple with in each state and territory.

The ACCC is now charged with enforcing the national laws, which should free up some of our own valuable state consumer and business affairs resources and provide a national centralised contact point for all consumers. These laws will require all gift cards sold from 1 November to have an expiry date of no less than three years. That is something we certainly welcome. It is a move that we have welcomed previously in this place. Before these amendments, we had an issue of only having 12 months on some of these cards.

Just for the record, I will raise that, when we first dealt with this, and indeed when some regulations were passed on this recently, I flagged concerns over ATM rechargeable cards, as opposed to gift cards as such, because they were treated in a different light in terms of the expiry period that related to them. I could not see any reason why an ATM-type gift card, which is not bank issued as such so it does not come under our banking laws, would be treated any differently to a gift card from Myer, Coles, Woolworths, Dan Murphy's, or whatever the case may be.

The fact is that people spend good money on these cards and you expect they are going to have a decent life duration on them, so it makes sense that those dates be extended. Indeed, we are estimated to spend up to \$2.5 billion on gift cards each year, and I have been unfortunate to have forgotten to spend the credit on a card. They have evolved from the traditional plastic cards, which emerged in the nineties and are still seen today hanging on countless supermarket shelves and at counters throughout the country, to digital gift cards and e-cards loaded onto wallet apps on our mobile phones.

Gift cards are a convenient halfway point between cash and a gift: showing some thought but leaving the eventual final choice with the gift recipient. Again, it makes absolute sense that we deal with this in a nationally consistent way, especially given how popular they are and especially given how much Australians spend on them each year, and I welcome this piece of legislation.

The Hon. R.I. LUCAS (Treasurer) (17:24): I thank honourable members for their contribution to the debate.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (17:26): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SINGLE-USE AND OTHER PLASTIC PRODUCTS (WASTE AVOIDANCE) BILL*Committee Stage*

In committee.

(Continued from 23 July 2020.)

Clause 1.

The Hon. M.C. PARNELL: I move:

Amendment No 1 [Parnell-4]—

Page 2, line 4 [clause 1]—Delete '*and Other Plastic*' and substitute:

Plastic and Other

I will make just some general remarks. The main questions I had at clause 1 I did ask before the winter break. I will occupy a bit of time until we wait for the advisors to get here, if we start getting into more technical issues. What I will outline now is that I emailed members earlier today to assist in understanding the four sets of amendments that I had filed.

I appreciate that, whilst this is not the most complex bill we have ever dealt with, having four sets of amendments, many of which appeared to have double-ups or were very similar, can be confusing. I have given the advice to the clerks as well. The advice is that, of the four sets of amendments I have filed, sets 1 and 2 you can dispose of and we will just go with sets 3 and 4.

In relation to my set 4, the very first amendment is to clause 1. The amendment to clause 1 is very simple. It just replaces the words '*and Other Plastic*' and substitutes '*Plastic and Other*'. That might appear to be not at all important or significant. Parliamentary counsel will tell me if I have misremembered the reason for that, but my memory is that this was an important amendment because I have a subsequent amendment to ban the release of helium-filled balloons.

Helium-filled balloons obviously come in different types. We are familiar with the latex balloons. Many of them contain other chemicals as well. There are some helium-filled balloons that contain plastic, and there are some helium balloons that are effectively metallic. You see those shiny, metal-looking ones with 'Happy 21st' or whatever written on them.

Having incorporated the issue of balloon release into this bill, it was also seen as appropriate to amend the words '*and Other Plastic*' and replace them with '*Plastic and Other*'. There is another amendment later on, I think, to the long title of the bill as well.

I am in the chamber's hands, and yours, Mr Chairman, but because this is consequential on a subsequent amendment that relates to banning balloon releases, we might take this as the opportunity to test that issue—balloon releases. Whilst I am moving amendment No. 1 standing in my name, I am talking to amendment No. 3 [Parnell-4], which is the creation of a new clause 12A. That clause seeks to ban helium-filled balloons.

I did take the opportunity over the winter break to consult with the opposition, to see if I could get them over the line in supporting this particular amendment. There were two changes, ultimately, that I made. One was to make sure that we could have an exemption provision, so that the Bureau of Meteorology officers were not put in handcuffs and dragged away for releasing a weather balloon. My understanding is that they like to get their balloons back because they have valuable equipment attached.

There is a general exemption—that might have even been in the first draft—but more recently I have added the words 'intentionally or recklessly'. In other words, the new offence now reads:

A person must not intentionally or recklessly cause or permit the release into the open of a helium-filled balloon.

The addition of those words 'intentionally or recklessly' makes it clear that this is no longer a strict liability offence. There is a level of mens rea, to use the Latin involved. It means that the person accidentally releases the balloon. I was going to say a small child, but small children cannot commit offences. Let's say an older child accidentally lets go of the string.

I have had a staff member of a member of parliament confess to me, very recently, that one of their children accidentally let go of the string. These things happen. Similarly, if a piece of rubbish falls out of your pocket, you do not get done for littering, unless there was some level of either recklessness or deliberate behaviour involved. We do not do that to people. We do not ping them for something that really does not involve fault.

I put balloons in that category. It has to be a reckless or intentional release. What I will say, without repeating things I said in my second reading speech, is that I would actually be quite surprised if we ever see another mass balloon release in South Australia at a big organised event. I could be wrong; I hope I am not. I went back and had a look at when was the last time the AFL grand final released balloons en masse. It was not actually that easy. Dr Google is quite good, but not that good.

I did find the video of the 1980 grand final in Melbourne, when thousands of balloons were released and the commentators were saying what a glory it was and how wonderful that the balloons in the team colours were released. I do not recall seeing that at an AFL match or another big sporting event in recent times. I am hoping that the mass release of balloons is a form of celebration that has had its day and that we will not see again. It has been banned in other places.

I had a look online earlier at some of the places that still do like to release balloons. Funerals is one. We want to remember the departed, especially if it is a child, and often people want to release balloons. The Funeral Celebrants Association Australia has a guideline under the heading 'Balloon releases at services' and their advice to the bereaved is:

Releasing balloons at Funeral or Memorial Services is discouraged and may be illegal, pending on your state or territory. Please consider other environmentally friendly tributes for your loved ones.

They then point out a 2016 CSIRO study, which identified balloons among the top three most harmful pollutants threatening marine wildlife, along with plastic bags and bottles.

I hope we will not see them. Some local councils in South Australia have banned balloon releases, so it struck me that in this bill it was timely to put the ban into law. I know there was some talk that we could do what they do in other states and say, 'Well, as long as it's less than 20,' but I have to say that as a Greens member of parliament, signing off on 19 balloons being released deliberately is 19 too many. I did not want to go down that path.

The amendment I have moved is very simple—it just changes a few words around—but this is a test, if you like, for the more substantial amendment which follows, amendment No. 3 in set 4, which is a ban on helium-filled balloons. Like I have said, it is no longer a strict liability offence because of the changes I have made to it, and there is an exemption provision to make sure that scientific experiments or meteorological work is not impeded.

I will say that of all the amendments that are in this bill, this is one that is very important to us, and I will be dividing on the matter of balloons.

The Hon. J.M.A. LENSINK: The government is not supporting this amendment. I take the honourable member's point that this is a bit of a test clause for him in terms of the further amendments to this legislation regarding helium-filled balloons. I also concur with his remarks in terms of—I think we will see less and less of these events going forward, now that the environmental harm is much better understood. I think the last time I went to an event where there were balloons released was the Homelessness Week event that we have in Victoria Square. It was not this year or last year; I think it was the year before when we released balloons, and that practice has now ceased. It has been replaced with pinwheels, I guess you would call them, and—

An honourable member: Bubbles.

The Hon. J.M.A. LENSINK: Yes, bubbles. Kids' bubbles, for want of a better word. There is probably an official name for it. So I think in terms of the harm he is seeking to avert, people are becoming better understanding of the environmental harm and doing it voluntarily.

So to the script: this amendment adds a new part to the legislation to create an offence for the release of helium-filled balloons. If we are debating his subsequent amendments as well—so this applies to the set of amendments, if you like—the amendment applies an expiation fee as well as a maximum penalty for offences under this part. It also contains regulation-making powers to exempt a person or product—helium-filled balloon—from the operation of the clause.

The government is aware that some states and local governments have introduced their own balloon-release bans, including where the offence relates to the number of balloons released. The government notes that the Hon. Mr Parnell has revised his amendment to clarify the offence relates to intentionally or recklessly releasing a helium-filled balloon; however, the government does not consider this legislation to be the appropriate mechanism to prevent litter associated with the release of helium-filled balloons. The provisions of the Local Nuisance and Litter Control Act 2016 can be applied to littering of balloons to land and water. Enforcement action, including fines of \$5,000 or an expiation fee of \$210, apply if it can be proven that the balloons ended up as litter.

Introduction of a ban on the release of helium-filled balloons in this bill would mean that the social and economic impacts of such a reform would not be assessed. Community and stakeholder consultation is required to understand the consequences of such a ban on the community. In the event that, following consultation and impact analysis, it was recommended to ban the release of helium-filled balloons, the preferred approach would be to draft regulations to amend schedule 1 of the Local Nuisance and Litter Control Act 2016 to declare the release of helium balloons subject to appropriate conditions or limits as a form of local nuisance.

The Hon. K.J. MAHER: I rise to indicate that, although we have some sympathy with the intent of what the Hon. Mark Parnell is trying to do, we will not be supporting the amendments on this occasion. The opposition believes that the expectations of industry, following the government consultation process, makes it difficult to support these amendments, but the opposition indicates it will support separate amendments requiring the feasibility of these products being added to the list of prohibited products upon the first annual report.

The Hon. M.C. PARNELL: I am disappointed that neither of the major parties sees fit to support this amendment at this time, although I am yet to meet anyone in either party who actually thinks balloon releases are a good idea, so I understand that they are talking about the processes and consultation. I will say that the actual movement Australia-wide and worldwide to ban balloon releases has been many years in the making and I do not expect that there would be a single child who does not understand what the impacts of balloons are, in the marine environment in particular.

The Hon. Michelle Lensink referred to the fact that you could deal with this under litter laws. When you think about it, by definition, releasing balloons cannot be anything other than litter, unless you retrieve them all. I am not aware of anyone ever having retrieved all of the balloons. The physics involved, as I understand it, is that they can rise very high in the sky. My physics and chemistry start to fail me, but I think there is an expansion process at higher altitudes. The balloons eventually burst and they fall back down to earth, and I am not aware of anyone collecting them. Therefore, by definition, whether they end up in a city, a street, a suburb, a garden, the ocean or anywhere, they are litter.

I am not aware of anyone having been pinged for littering on the basis of balloon release. Nevertheless, I understand the minister is saying that there are other approaches. There has not been any commitment on the part of the government or anyone else to introduce such an approach but I accept that it is possible. This is an important issue, certainly for my constituents, so whilst I am aware of the numbers, this is something where we want to get everyone on the record. Which side do they stand on about whether this outdated and environmentally harmful practice is going to potentially continue into the future in South Australia?

The Hon. J.A. DARLEY: I indicate that I will not be supporting the Greens amendment on this occasion.

The Hon. C. BONAROS: I indicate that SA-Best will be supporting the Hon. Mark Parnell on this amendment.

The committee divided on the amendment:

Ayes..... 4
 Noes 17
 Majority 13

AYES

Bonaros, C.	Franks, T.A.	Pangallo, F.
Parnell, M.C. (teller)		

NOES

Bourke, E.S.	Centofanti, N.J.	Darley, J.A.
Hanson, J.E.	Hood, D.G.E.	Hunter, I.K.
Lee, J.S.	Lensink, J.M.A. (teller)	Lucas, R.I.
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Amendment thus negatived; clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. M.C. PARNELL: I move:

Amendment No 2 [Parnell-4]—

Page 3, after line 29 [clause 6(1)]—After paragraph (c) insert:

- (ca) a single-use cup comprised wholly of plastic;
- (cb) a single-use plastic bowl;
- (cc) a single-use plastic plate;
- (cd) the plastic lid of a single-use coffee cup;
- (ce) a plastic balloon stick;
- (cf) a plastic balloon tie;
- (cg) a plastic-stemmed cotton bud;

I have previously explained the purpose of this amendment, which is basically to add to the list of banned plastic products some things that were featured in the consultation and were popularly supported in the community but never found their way into the final list. To give a simple example, the government's bill bans plastic cutlery but not the plastic 'crockery', if I can use that word—in other words, it bans a plastic spoon but not a plastic bowl, it bans a plastic fork but not a plastic plate and it bans the plastic knife but not any of the other plastic crockery.

I know there was an issue in relation to plastic cups, because the definition in the act says that if it has any plastic in it at all it is covered, so I do appreciate that coffee cups are in the government's too-hard basket for now. I am sure everyone here has had a take-away coffee at some point, when you have forgotten your keep cup for example. It is often a corrugated cardboard, basically to stop your hand burning, but they often have a thin plastic lining on them as well. There are various others that do not have any plastic, but they are in the minority.

In the course of drafting these amendments, I did change my proposed prohibition on plastic cups to make sure that it was only single-use cups comprised wholly of plastic. In other words, I

accepted that the coffee cups would be in the too-hard basket for now and that we would do them another day.

The other things that I have on this list are things that the European Union has agreed to ban, so there will be many millions of people in Europe who will be subject to these laws, either recently or very soon. I am not sure what the commencement date was. As well as the plastic cups, plates and bowls, we also have the plastic lids of coffee cups, which are generally made entirely of plastic—they do not have to be; they can be made of corn starch or other material—plastic balloon sticks, plastic balloon ties and plastic-stemmed cotton buds. The rest of the world has got with the program and I think South Australia can as well.

I understand that this amendment does not have the support of the opposition either. I will not be dividing on this. Plan B was to make sure that this list, if it is not going to be banned today, at least gets put in the priority list for the next iteration of amendments to this bill. We do that via the annual report to the minister, so we will make it clear that these items, if we are not to ban them today, will be first cab off the rank for inquiry when the minister reports to parliament on the state of single-use plastics in South Australia. I think it is a worthwhile amendment so I would urge members to support it.

The Hon. J.M.A. LENSINK: Prior to the winter recess I think we did canvass these issues but I will just quickly try to sketch over them again. At that stage we discussed those matters. I note that the honourable member would like to see other products included in the bill. Feedback on the discussion paper also proposed a range of other products for attention, some of which have already been flagged by the Minister for Environment and Water for consideration. The government has identified the initial products within the bill as a starting point to phase out those items, and we acknowledge the member's comments about bowls, plates, cups, etc.

In consideration of the impact to business, the government considers that it will be easier for businesses to transition a smaller number of products in the first group of prohibited items, and that is why the government has also committed to a delayed commencement for the prohibition of the expanded polystyrene products listed in the bill, as well as oxo-degradable plastics.

The government's intention is to pass legislation that prohibits the initial plastic products while also establishing a framework for adding other products in the future. This is in keeping with community support for action on single-use plastic products and is also cognisant of businesses that will be required to transition to alternative products. It also helped focus the attention of the single-use plastic stakeholder task force to these items and the exemptions that will be required to support implementation.

The government did not want to delay the passage or commencement of the legislation by including a large initial list, which is also likely to add further levels of complexity, such as recyclability. That can be considered through the consultation process outlined in clause 6(2). It is certainly the government's intention, which I understand the Minister for Environment and Water has communicated, to consider other products for inclusion in the legislation.

The government will be supporting another of the member's amendments regarding annual reporting under the act, which lists products that must be considered for inclusion in the definition of prohibited plastic products in the initial annual report. This effectively requires the government to consider the honourable member's list of products for inclusion in the legislation within one year after commencement.

The Hon. K.J. MAHER: The honourable member has correctly stated the position of the opposition, so I thank him for stating our position. We will not be supporting this amendment but, like the government, will be supporting the inclusion in the annual report. I have a question for the government on clause 6, if I might: does the ban on single-use plastic straws include those attached to some milk cartons or juice boxes?

The Hon. J.M.A. LENSINK: The advice I have received is no, they are not part of the initial ban.

The Hon. C. BONAROS: Can I indicate that as a matter of principle we support where the Hon. Mark Parnell is coming from with this amendment. However, we have had ongoing discussions

with the minister about this and I can say that I am confident in this case that the minister is genuine in his desire to transition these changes. I note that in my discussions with him there were other items that he thought ought to be included on that list which are not included on that list, and wanted to deal with this in the least complex way possible.

I have no doubt that is his genuine intention. The list is not exhaustive—that is what we want. We want items to be added to that list by regulation. We are confident that will be the case. If it is not the case then obviously we can take it up again with the government but, just for the record, we will also be supporting the Hon. Mark Parnell's amendments that relate to the annual reporting requirements and consideration of those further items in that context. While we support the position in principle, we share some of the minister's concerns in terms of the complexities and look forward to further developments in this space and an extension of that list in due course.

Amendment negated; clause passed.

Clauses 7 to 12 passed.

The CHAIR: Just to check on amendment No. 3 [Parnell-4], the Hon. Mr Parnell, do you want to comment?

The Hon. M.C. PARNELL: No, only to say that we canvassed the issue of helium-filled balloons in amendment No. 1. My amendment No. 3 is the substantive clause. I did actually refer to it, so what it says is on the record. I will not be moving it.

Clause 13 passed.

New clause 13A.

The CHAIR: We have two proposed amendments, one in the name of the Hon. Mr Maher and the other in the name of the Hon. Mr Parnell, to insert a new clause 13A.

The Hon. M.C. PARNELL: I move:

Amendment No 1 [Parnell-3]—

Page 7, after line 23—After clause 13 insert:

13A—Annual report by Minister

- (1) The Minister must, on or before 30 September in each year (other than in the year in which this section comes into operation), prepare a report on the operation of the provisions of this Act for the financial year ending on the preceding 30 June that includes the following:
 - (a) information regarding the extent to which the Act has achieved the objects set out in section 5;
 - (b) information regarding consideration given to including additional plastic products within the ambit of the definition of *prohibited plastic product* by regulation pursuant to section 6(1)(h);
 - (c) the number of reports or complaints received from members of the public in relation to breaches or purported breaches of the Act;
 - (d) information regarding the measures taken by authorised officers in relation to monitoring compliance with the Act;
 - (e) information regarding any enforcement action taken by authorised officers under the Act including—
 - (i) the number of persons issued with expiation notices for the purposes of the Act and the general nature of the notices; and
 - (ii) the number of persons charged with an offence against the Act and the general nature of the charges;
 - (f) the Authority's assessment of the impact of any exemption granted under this Act on the goal of reducing single-use plastics in this State.
- (2) The initial report prepared under subsection (1) must include information regarding consideration given to including the following additional plastic products within the ambit of the definition of *prohibited plastic product* by regulation pursuant to section 6(1)(h):

- (a) single-use plastic cups (including coffee cups);
 - (b) single-use plastic food containers;
 - (c) single-use plastic bowls;
 - (d) single-use plastic plates;
 - (e) plastic lids of single-use coffee cups;
 - (f) plastic balloon sticks;
 - (g) plastic balloon ties;
 - (h) plastic-stemmed cotton buds;
 - (i) plastic bags.
- (3) The Minister must, within 12 sitting days after completing the report under subsection (1), cause copies of the report to be laid before both Houses of Parliament and published on a website determined by the Minister.

This is one of those clauses that has gone backwards and forwards a few times and there are a few versions floating around. My understanding is that because of the overlap between my clause and the Labor Party's clause they will be supporting my clause, which effectively includes the items that they wanted in the annual report.

As the minister alluded to before, I have made a few changes to this provision to make it a bit less onerous. There was originally an obligation to identify the amount of single-use plastic that is out there and being sold in the community. That would be very difficult and I appreciate that, so we have modified that clause.

I have added the list of single-use plastic items that we were just debating to make sure that they were included at least in this first review and I understand that has the government's support. The version of new clause 13A—annual report by the minister—I am moving is the one in [Parnell-3] and I am pretty confident that is the one that has everyone's support.

The Hon. J.M.A. LENSINK: As previously foreshadowed, the government supports this amendment.

The Hon. K.J. MAHER: We will be supporting this amendment.

New clause inserted.

Clauses 14 to 17 passed.

New clause 18.

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

Amendment No 2 [Maher-1]—

Page 8, after line 36—After clause 17 insert:

18—Review of Act

- (1) The Minister must, as soon as practicable after the third anniversary of the commencement of this Act, appoint a person to prepare a report on—
 - (a) the effect on the community of Part 2 and Part 3 of the Act; and
 - (b) any public information campaigns conducted by or on behalf of the Government on reducing the use of plastic products and increasing the recycling of plastics; and
 - (c) any other matters determined by the Minister to be relevant to the review of this Act.
- (2) The person must report to the Minister within 6 months after the person's appointment.
- (3) The Minister must, within 12 sitting days after receiving the report under this section, cause copies of the report to be laid before both Houses of Parliament.

The Hon. M.C. PARNELL: The Greens will be supporting this amendment for the extensive reasons provided by the Leader of the Opposition just now. This clause basically says that after the

third anniversary of the commencement of the act there will be a review, and that is in addition to the annual report the minister is required to prepare.

Annual review clauses are often inserted in legislation and I think it is all the more important for an act such as this, when alternatives to single-use plastic are coming onto the market and becoming available every day of the week. I think what we are going to find is that more and more innovations are made. As well as continually keeping the list of banned items under review via the regulation-making process and via the annual reports to parliament, I think a wholesale review of the act in three years' time makes sense.

The Hon. J.M.A. LENSINK: That is the most sensible thing the honourable member has said all day—no, I am being facetious. For all those reasons, the government is also supporting this amendment.

New clause inserted.

The CHAIR: We have an amendment in the name of the Hon. Mr Parnell to amend the long title of the bill.

The Hon. M.C. PARNELL: That is also consequential on the item that was defeated earlier, so I will not be moving amendment No. 5.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (18:01): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Parliamentary Committees

NATURAL RESOURCES COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed Mr Pederick to the committee in place of the Hon. D.K.B. Basham (resigned).

CRIME AND PUBLIC INTEGRITY POLICY COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed Mr Murray to the committee in place of Mr Ellis (resigned).

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed Ms Luethen and Mr Brown to the committee in place of the Hon. S.J.R. Patterson and the Hon. A. Piccolo (resigned).

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The House of Assembly informed the Legislative Council that it had appointed Mr McBride to the committee in place of the Hon. S.J.R. Patterson (resigned).

STATUTORY OFFICERS COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed the Hon. J.B. Teague to the committee in place of the Hon. V.A. Tarzia (resigned).

LEGISLATIVE REVIEW COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed Mr Ellis to the committee in place of the Hon. J.B. Teague (resigned).

At 18:05 the council adjourned until Wednesday 9 September 2020 at 14:15.

*Answers to Questions***SOUTH EASTERN FREEWAY EXPIATION NOTICES**

6 The Hon. F. PANGALLO (22 July 2020). Can the Minister for Police, Emergency Services and Correctional Services advise:

1. What was the wording on the proforma expiation notices issued in regard to SE Freeway offences prior to August 2019?
2. What was the reason for changing the wording of the proforma expiation notices in August 2019 to include the following: 'payment of a truck/bus speeding offence occurring on a prescribed road as the driver will result in a licence disqualification'.
3. Was the reason for changing the wording because of a defect of the wording in the pre-August 2019 expiation notice?
4. Was this based on legal advice and, if so, what was that advice?
5. Why was the advice that 'payment of a truck/bus speeding offence occurring on a prescribed road as the driver will result in a licence disqualification' not included in expiation notices when the legislation commenced in May 2019?
6. Why was this done after the media drew attention to the fact that people were paying the fines without any notification that there would be a licence disqualification?
7. Why was the police commissioner previously unaware that he had the discretion to ask the Registrar of Motor Vehicles not to issue a notice of disqualification for a first offence, or to dismiss the matter completely?
8. How has the police commissioner announced or made this discretionary power known to the public, the legal profession and the police?
9. On how many occasions has the commissioner exercised this discretionary power (which he describes as a 'request power')?
10. What was the nature of each of the matters in which the police commissioner exercised his discretion or 'request power'?
11. Under what circumstances would the police commissioner exercise the 'request power'?
12. What factors would be taken into consideration by the police commissioner in the exercise of the discretion or 'request power'?
13. Are there legislated prerequisites that the police commissioner must take into account in exercising his discretion or 'request power'?
14. What is the time within which the commissioner is required to respond to a request from those issued with an expiation notice under the SE Freeway offences and other traffic offences, made to him to exercise his discretion or 'request power'?
15. Does the commissioner have a policy requiring correspondence to be addressed within a certain timeframe? If so, what is that time frame?
16. Why did the commissioner take up to five months to acknowledge or respond to requests from those issued with expiation notices?
17. Has the commissioner breached the Code of Conduct No. 3, *Conduct prejudicial to SA Police* contained in the Police Complaints and Discipline Regulations 2017, by taking five months to acknowledge requests?

The Hon. R.I. LUCAS (Treasurer): The Minister for Police, Emergency Services and Correctional Services has provided the following advice:

1. Prior to August 2019 the red banner on the front of the camera expiation notice form contained the following text:

DEMERIT POINTS MAY APPLY—SEE REVERSE

Do not pay this notice if you are submitting a Statutory Declaration nominating the driver and have a defence to the allegation.

On 16 September 2019 it was changed to:

DEMERIT POINTS OR LICENCE DISQUALIFICATION MAY APPLY—SEE REVERSE

Do not pay this notice if you are submitting a Statutory Declaration nominating the driver and have a defence to the allegation.

Prior to August 2019 a paragraph on the rear of the expiation notice form had the following text:

Demerit Points

Demerit points may apply. For more information contact Service SA on 13 10 84.

On 16 September 2019 it was changed to:

Demerit Points and Licence Disqualification

Demerit points and licence disqualification may apply. Payment of a truck/bus speeding offence occurring on a prescribed road as the driver will result in a licence disqualification. For more information contact Service SA on 13 10 84 or online at: www.sa.gov.au

2. The text changed in September 2019. Although there was no legal requirement to alter the text on the camera expiation notice, in light of the heavy penalties that applied for truck/bus speeding offences and the media attention that the offences were receiving, it was prudent to provide more information to alleged offenders.

3. No.

4. No.

5. Owners and drivers of trucks with five axles or more had to comply with the 60 km/h speed limit (unless a 40 km/h speed limit applied) since May 2011. Owners and drivers of trucks and buses had to comply with the 60 km/h speed limit (unless a 40 km/h speed limit applied) since 1 September 2014.

The cameras were upgraded and commencing 2 April 2019 all trucks and buses detected speeding were issued expiation notices.

The higher penalty provisions commenced on 1 May 2019 and there was an extensive community awareness campaign undertaken by the Department of Planning, Transport and Infrastructure (as it was at the time) prior to that date.

It has remained an offence for trucks and buses to exceed the 60 km/h speed limit since 2014 (2011 for trucks with five axles or more). The road has been signposted accordingly.

A disqualification warning on the expiation notice was not legally required. The offences (in a slightly different form) had been in existence for some time.

6. Although there was media attention relating to the new provisions, providing more information to the public on the potential outcome should the notice be expiated was the primary reason the notice was altered.

The expiation notice form has been amended over time to provide additional or different information to the public. Occasionally the form will be altered and provide different information. An example of this was in 2016 when the payment methods were altered on the front of the notice where phone payments were changed from the Department of Planning, Transport and Infrastructure (as it was at the time) to Service SA.

7. The authority for the Commissioner of Police to write to the Registrar of Motor Vehicles to request a notice of disqualification not be issued was contained within Statutes Amendment (Vehicles Inspections and South Eastern Freeway Offences) Bill 2017.

This bill was introduced in to the House of Assembly on 9 August 2017 and passed with no amendments and subsequently introduced in to the Legislative Council on 18 October 2017. It was passed on 16 November 2017, again without amendments.

The Statutes Amendment (Vehicles Inspections and South Eastern Freeway Offences) Act 2017 commenced operation on 1 May 2019.

Section 19(1) of the Police Act 1998 enables the Commissioner of Police, by instrument in writing, to delegate any powers or functions conferred on the Commissioner of Police by any act.

The legislation providing the commissioner with the authority to write to the registrar was passed in 2017 and the commissioner was not aware this authority had come into effect when the bill became operational after a period of approximately 18 months in May 2019. The commissioner has since delegated this power to the manager of SAPOL's Expiation Notice Branch.

8. There is no requirement for the Commissioner of Police to notify the public.

9. The commissioner has not exercised the power to write to the Registrar of Motor Vehicles. The power has been delegated to the manager, SAPOL's Expiation Notice Branch. The manager has exercised the discretion on 23 occasions but has decided not to write to the registrar on any one of those occasions.

10. The offences were all truck and bus speeding offences.

11. There are no defined circumstances. This would be reviewed on case by case basis.

12. There is no defined time frame. This would vary on case by case basis.

13. Yes. The commissioner must take into account the transitional provisions in the Statutes Amendment (South Eastern Freeway Offences) Act 2019 and the legislation as it existed on the date of the offence.

14. There is no legal time frame in which the commissioner is required to respond to a request to write to the Registrar of Motor Vehicles to not impose a licence disqualification for a South Eastern Freeway offence.
15. No.
16. Legal advice had to be obtained before the requests could be properly determined.
17. No.

POLICE COMMISSIONER DETERMINATIONS

7 The Hon. F. PANGALLO (23 July 2020). Can the Minister for Police, Emergency Services and Correctional Services advise:

1. Whether the minister will provide a full explanation and report to the parliament as to why not one 'determination' appears to have been laid on the table of either the House of Assembly or the Legislative Council since the Police Complaints Disciplinary Act 2016 (PCDA) commenced operation on 19 April 2017?
2. If it is correct that the Commissioner of Police has not furnished to the Minister for Police, Emergency Services and Corrections, during the period following the commencement of the act to the present day, with the information as to his 'determinations' under part 3 PCDA, then why has the minister not required the commissioner to furnish that information?
3. Why has the government also not laid on the table of either house of parliament regulations under section 17 (1) (a) and (b) of the PCDA?
4. Does the government propose to promulgate such regulations and lay them on the table of the House of Assembly and the Legislative Council, and, if so, on what date is the Minister for Police, Emergency Services and Corrections intending to do this?
5. Has the Minister for Police, Emergency Services and Corrections sought and/or obtained any legal advice that exculpates him from his apparent failure of office and function to comply with the PCDA?
6. If so, will he provide that advice to the parliament, and when will he do this?
7. Will the minister produce to each house of parliament the communication or communications from the Commissioner of Police and/or the Office of Public Integrity (OPI) to the Attorney-General relating to the document tabled in both houses on 10 September 2019 purporting to be a 'determination' by the commissioner under section 16 of the PCDA approved by Michael Riches of the OPI?
8. Is the minister able to explain the apparent delay of approximately two years between the date of that document and its tabling?
9. Does the minister assert that the document tabled on 10 September 2019 was a 'determination' as required by section 16 (5) of the PCDA to be tabled?
10. If yes, what does the minister assert is the 'determination' of the commissioner referred to in section 17 (1) (a) of the PCDA?
11. If he believes that, having regard to section 17 (1) (a) of the PCDA, the document tabled on 10 September 2019 constitutes an agreement between the Commissioner of Police and the OPI as to what kinds of conduct are appropriate to be the subject of a 'determination' by the commissioner under section 16 in the absence of regulations?

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

The question on notice calls for a response from the Minister for Police, Emergency Services and Correctional Services. However, administration of the *Police Complaints and Discipline Act 2016* (the act) is committed to the Attorney-General. The Attorney-General has provided the following advice:

Part 3 of the act provides for certain matters relating to police conduct to be resolved by management resolution, as opposed to by a more formal disciplinary process which is dealt with in part 4 of the act. Part 3 management resolution applies to kinds of matters determined by the Commissioner of Police under section 16(1). Pursuant to section 16(4), a determination made by the Commissioner of Police has effect when it is approved by the Office of Public Integrity (OPI).

A determination under section 16(1) of the matters that may be dealt with by management resolution was made by the Commissioner of Police on 14 August 2017 and approved by the OPI on 1 September 2017. The operative provisions of the act commenced on 4 September 2017. The determination was tabled in both houses of parliament on 10 September 2019. The reason for the delay in the tabling of the determination is that it was not provided to the Attorney-General until 26 July 2019. It was then tabled within five sittings days. The delay in the tabling of the declaration had no impact on the operation of management resolution under the act and the Attorney-General does not intend to produce to parliament any communications from the Commissioner of Police and/or the OPI relating to the declaration.

The determination tabled on 10 September 2019 is the only determination that has been made by the Commissioner of Police and approved by the OPI under section 16 of the act. It sets the parameters for the matters

that may be dealt with by management resolution. It is not necessary for separate determinations to be made by the Commissioner of Police, approved by the OPI and tabled in parliament in respect of each individual matter to be referred to management resolution under the act.

Section 17(1)(a) of the act provides that regulations may be made specifying the kinds of complaints, reports and conduct that should, or should not, be the subject of a determination of the Commissioner of Police under section 16. This provision does not require the making of regulations. Rather, it provides the government with an ability to limit by regulation the scope that the Commissioner of Police has in making a determination under section 16 should the need arise. No regulations have been made under section 17(1)(a) as no need to do so has been identified. The government does not accept that this constitutes any breach of the act.

Section 17(1)(b) of the act provides that regulations can set out procedures for dealing with matters under part 3 and section 17(1)(c) provides that regulations may make further provisions relating to the operation of part 3. Again, there is no obligation on the government to make regulations under these provisions, but it has the flexibility to do so if the need arises. The *Police Complaints and Discipline Regulations 2017* were proclaimed by the Governor on 19 April 2017 and commenced on 4 September 2017. Regulation 4 is a regulation that is contemplated by section 17(1)(b) and/or 17(1)(c). It provides that reports that are required by section 19(1) of the act to be prepared by a resolution officer in relation to each matter dealt with by management resolution under part 3 must include specified information. The regulations were tabled in both houses of parliament on 26 September 2017. The government does not have any present intention to make further regulations under section 17 of the act.

The Attorney-General has not sought and/or obtained any advice in relation to any of the matters that are alleged in the question on notice to be failures of the minister to comply with the act.

PUBLIC SECTOR EMPLOYEES

In reply to **the Hon. R.P. WORTLEY** (13 May 2020).

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

I am advised that the Department for Education considers that it is unlikely that any swimming and aquatic instructor's continuity of service will be impacted at this time. This is because although the program has not been taking bookings from schools, the department has taken the opportunity to engage some instructors for the purposes of administrative and maintenance duties. In addition the department has also scheduled a paid professional development opportunity for all instructors in June 2020.

It is possible, however unlikely, that swimming and aquatic instructors could be in a position where their workplace remained closed and they could not access the planned professional development opportunity or other paid duties. Dependent on their employment arrangements, this could constitute a break in service which would impact on their long service leave entitlement calculation.

OPERATION FLINDERS

In reply to **the Hon. E.S. BOURKE** (16 June 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. In considering resourcing external events, the South Australian Ambulance Service (SAAS) first priority must be to ensure they are able to meet the ambulance service needs of the South Australian community, whilst at the same time adhering to legislative requirements, particularly in relation to working hours, overtime and fatigue.

In 2019, staff attending Operation Flinders were abstracted from normal rosters for a total of 895 hours. This creates a significant operational impact and would in fact result in more pressure on paramedics. It is not sustainable to resource events such as these with dedicated paramedics.

2. SAAS remains committed to supporting the event in any way it can without undermining its own ability to respond to the community.

3. SAAS has been providing support to Operations Flinders as a charitable donation.

HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSIONER

In reply to **the Hon. C. BONAROS** (17 June 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

On 30 July 2020, the Health and Community Services Complaints Commissioner (HCSCC) released a public summary about an own motion investigation into the care of people with a disability by SA Health in acute settings in South Australia. The public summary can be found on the HCSCC website.

POLICE, RACISM

In reply to **the Hon. T.A. FRANKS** (18 June 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): The Minister for Police, Emergency Services and Correctional Services has advised:

1. No.

2. SAPOL does not racially profile. SAPOL is developing cultural capability training to be delivered across the organisation and an associated refresher program delivered on a three yearly cycle to ensure the organisation achieves and maintains cultural capability. SAPOL is also developing a cultural capability self-assessment tool to measure the organisation's journey towards cultural capability, with self-assessment to be carried out prior to the implementation of the new program and again at a point in the future once training has been delivered.

3. SAPOL does not have a racism problem and the nature and tone of this question is offensive.

CORONAVIRUS

In reply to **the Hon. F. PANGALLO** (30 June 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

Section 28 of the *Emergency Management Act 2004* (EM act) deals with failure to comply with a section 25 direction; such direction may be given for a person to undergo an examination, including diagnostic procedure. An individual fine if reported (through the courts) for failure to comply with a direction under the EM act, is \$20,000 for a natural person.

A failure to comply may more appropriately be expiated. *COVID-19 Emergency Response Act 2020*, Part 1, section 1(g) modifies the penalty provision on EM act s28(1) to add the expiation of \$1,000 (plus a victims of crime levy).

Should circumstances warrant, the person may also be subject to a direction under part 10 of the *South Australian Public Health Act 2011* and required under that legislation to undertake a test.

AGED-CARE CCTV TRIAL

In reply to **the Hon. F. PANGALLO** (30 June 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. Nine submissions were received.

2. SA Health is aware that Sturdie has a partnership with Hikvision as well as other companies that provide CCTV cameras, which they utilise to suit the individual requirement of each client.

Three types of Vivotek cameras will be installed for the SA Health CCTV pilot project:

Vivotek FD9189-H

Vivotek FD9380-H

Vivotek FD9388-HTV.

None of these are made in the People's Republic of China.

AGED-CARE CCTV TRIAL

In reply to **the Hon. F. PANGALLO** (1 July 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

O'Connor Marsden and Associates Pty Ltd.

AGED-CARE CCTV TRIAL

In reply to **the Hon. F. PANGALLO** (2 July 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The agreed rates for each site are subject to a confidentiality clause in the agreement with Sturdie Trade Services, however, in addition to the commonwealth government's \$500,000 contribution to the pilot, there is additional investment by the South Australian government to deliver the whole project.

VACCINATION BREACHES

In reply to **the Hon. F. PANGALLO** (1 July 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): The Minister for Police, Emergency Services and Correctional Services has advised:

The Commissioner of Police is aware a nurse was nominated as a suspect on two occasions in 2014 and 2017. However, due to insufficient evidence both matters were not further investigated.

The Commissioner of Police notes that the Australian Health Practitioner Regulation Agency investigation and subsequent South Australian Civil and Administrative Appeals Tribunal hearing on 15 April 2020 would have been conducted using the balance of probabilities burden of proof threshold.

CORONAVIRUS, HOTEL QUARANTINE SECURITY

In reply to **the Hon. F. PANGALLO** (2 July 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. MSS Security (MSS) were engaged to undertake the role of guarding at the nominated hotels at the start of the COVID-19 pandemic.

As at 10 July 2020, there had been a total of 22 breaches of policies or guidelines relating to hotel quarantine procedures. Ten of those were breaches of infection control guidelines, all of which have been determined as low risk. The remaining twelve breaches were of MSS' Policy Position and Standard Operating Procedure.

2. I am advised that the security staff member maintains employment with MSS, however, will not be redeployed to any SA Health sites.

VIDEO GAME INDUSTRY

In reply to **the Hon. T.A. FRANKS** (2 July 2020).

The Hon. R.I. LUCAS (Treasurer): The Minister for Innovation and Skills has advised:

Game developers typically retain the intellectual property over all original games that they create, including games created by South Australian studios that will be supported by the expanded PDV rebate for games.

Video games are among the most valuable intellectual properties of any creative works, and they often continue to provide strong revenue streams back to their developers for years after they are first released or even become franchised.

For example, the game Hollow Knight, created and owned by South Australian studio Team Cherry, is still globally popular even though it was released back in 2017. A highly anticipated sequel is due to be released this year.

Australia's strong copyright framework, which is governed by federal law, is effective in protecting the intellectual properties of South Australian game developers, and provides them with various ways to enforce their copyright.

Among other things, Australian copyright laws give South Australian game developers legal rights to protect their copyright from infringement by other people and businesses, whether they are based in Australia or overseas, while the use of technological protection measures (TPM) in our sector makes video games among the most resistant of all cultural content against piracy.

WAITE TRUST (VESTING OF LAND) BILL

In reply to **the Hon. M.C. PARNELL** (21 July 2020).

The Hon. R.I. LUCAS (Treasurer): The Minister for Transport and Infrastructure has advised the following:

A vegetation survey (field work) of the study area has been completed. The survey area included vegetation within the road reserve along both Cross Road and Fullarton Road as well as areas within Urrbrae Agricultural High School and University of Adelaide in the south-east quadrant.

Not all of the vegetation surveyed will be impacted by the project.

The vegetation required to be removed to facilitate the intersection upgrade project has not yet been fully determined and will be defined during the detailed design phase of the project.

Once finalised the vegetation survey report will be made available to both the public and parliament.

LYMPHOEDEMA COMPRESSION GARMENT SUBSIDY

In reply to **the Hon. J.E. HANSON** (21 July 2020).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The Department for Health and Wellbeing is seeking to engage with a panel of suppliers for the provision of lymphoedema compression garments in both metropolitan and country areas across South Australia.

SHACK LEASES

In reply to **the Hon. J.A. DARLEY** (22 July 2020).

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

1. The cost of freeholding a shack site will be calculated pursuant to the *Crown Land Management Act 2009* (CLMA). The CLMA requires that the Minister for Environment and Water must not dispose of Crown land for less than the market value of the Crown's interest in the land.

2. The market value of the Crown's interest in the land excludes any site improvements made by the lessee such as the buildings, landscaping or ancillary structures.

3. Shack owners who are eligible and wish to purchase the site freehold will be required to make their own financial arrangements.

FOOD WASTE

In reply to **the Hon. M.C. PARNELL** (22 July 2020).

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

The action in the draft Food Waste Strategy (Valuing Our Food Waste—South Australia's strategy to reduce and divert household and business food waste) and draft South Australia's Waste Strategy 2020-25 to consider legislative proposals to harmonise council collection services is to standardise services for ratepayers and divert more organic material from landfill.

Under Green Industries SA's Council Modernisation Grants Program, the government has provided funding to three councils to trial weekly collections of organic material, including food waste. The results of these trials will contribute to actions that will support increased diversion of organic material from landfill for beneficial use.