LEGISLATIVE COUNCIL

Tuesday, 13 October 2020

The PRESIDENT (Hon. J.S.L. Dawkins) took the chair at 14:16 and read prayers.

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

Bills

COVID-19 EMERGENCY RESPONSE (EXPIRY AND RENT) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATE PROCUREMENT REPEAL BILL

Assent

His Excellency the Governor assented to the bill.

LEGAL PRACTITIONERS (SENIOR AND QUEEN'S COUNSEL) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

SENTENCING (SERIOUS REPEAT OFFENDERS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Adelaide Park Lands Ground Lease Agreement between the Corporation of the City of Adelaide and Minister for Education—Park 24—Tambawodli
Audited Independent Commissioner Against Corruption Financial Statements 2019-20—Report, 2019-20 [Ordered to be published]
Audited Judicial Conduct Commissioner Financial Statements 2019-20 [Ordered to be published]
Report of the Auditor-General—Annual Report for the year ended 30 June 2020, Report No. 13 of 2020

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2019-20—
Adelaide Festival Centre Trust
Adelaide Festival Corporation
Auditor-General's Department

Australian Criminal Intelligence Commission—Assumed Identities and Witness Identity Protection
Carrick Hill Trust
Country Arts SA
CTP Insurance Regulator
Defence SA
Department of the Premier and Cabinet
Department of Treasury and Finance
Distribution Lessor Corporation
Essential Services Commission of South Australia
Generation Lessor Corporation
HomeStart Finance
Infrastructure SA
Legal Services Commission of South Australia
Libraries Board of South Australia
Local Government Finance Authority
Motor Accident Commission
Office of the Commissioner for Public Sector Employment
Office of the Industry Advocate
Office of the South Australian Productivity Commission
Return of Authorisations Issued to Enter Premises Under Section 83C(1) of the Summary Offences Act 1953
Return of Authorisations Issued Under Section 52C(1) of the Controlled Substances Act 1984
South Australian Government Financing Authority
South Australian Multicultural and Ethnic Affairs Commission
South Australian Tourism Commission
State Owned Generators Leasing Co Pty Ltd
State Procurement Board
Transmission Lessor Corporation
Urban Renewal Authority (trading as Renewal SA)

Regulations under Acts—
COVID-19 Emergency Response Act 2020—Commercial Leases No. 2—Prescribed Period
Criminal Law (Legal Representation) Act 2001—Legal Representation.
Development Act 1993—Designated Day—COVID-19
Electricity Act 1996—Technical Standards
National Energy Retail Law (South Australia) Act 2011—Local Provisions—Tariff Structures
Planning, Development and Infrastructure Act 2016—
General—Miscellaneous (No. 3)
General—Planning and Development Fund
Public Sector (Data Sharing) Act 2016—Data Sharing—Prescribed Purposes
Road Traffic Act 1961—
Miscellaneous—GDA2020
Miscellaneous—Technical Matters
Road Rules—Ancillary and Miscellaneous Provisions—Technical Matters
Work Health and Safety Act 2012

Rules of Court—
Uniform Civil Rules 2020—Amending Rules No. 2
Supreme Court of South Australia Probate Rules 2015—Amendment No.2

Determination of the Remuneration Tribunal No. 5 of 2020—Electorate Allowances for Members of the Parliament of South Australia

Determination of the Remuneration Tribunal No. 8 of 2020—Per Diem Accommodation and Meal Allowances for Ministers of the Crown and the Leader and Deputy Leader of the Opposition

Determination of the Remuneration Tribunal No. 9 of 2020—Accommodation Reimbursement and Allowance for Country Members of Parliament
Report of the Remuneration Tribunal No. 5 of 2020—2020 Review of Electorate Allowances for Members of the Parliament of South Australia
Report of the Remuneration Tribunal No. 6 of 2020—2020 Review of the Common Allowance for Members of the Parliament of South Australia
Report of the Remuneration Tribunal No. 7 of 2020—Reimbursement of Expenses Applicable to the Electorate of Mawson—Travel to and from Kangaroo Island by Ferry and Aircraft
Report of the Remuneration Tribunal No. 8 of 2020—2020 Review of Accommodation and Meal Allowances for Ministers of the Crown and the Leader and Deputy Leader of the Opposition
Report of the Remuneration Tribunal No. 9 of 2020—Accommodation Expense Reimbursement and Allowance for Country Members of Parliament

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

Lake Gairdner National Park Co-Management Board—Report, 2019-20
Regulation under Acts—
Environment Protection Act 1993—GDA2020
Native Vegetation Act 1991—Recreation Tracks

Parliamentary Committees

JOINT COMMITTEE ON END OF LIFE CHOICES

The Hon. K.J. MAHER (Leader of the Opposition) (14:21): I bring up the report of the Joint Committee on End of Life Choices, together with minutes of proceedings and minutes of evidence.

Report ordered to be published.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. N.J. CENTOFANTI (14:21): I lay upon the table the annual report of the committee, 2019-20.

Report received.

Ministerial Statement

PEARMAN, PROF. C.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:25): On behalf of the Attorney-General in another place, I table a ministerial statement on the retirement of Professor Chris Pearman.

Parliamentary Procedure

ANSWERS TABLED

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

Members

MEMBERS, ACCOMMODATION ALLOWANCES, PRESIDENT'S STATEMENT

The PRESIDENT (14:31): Before moving to question time, on the last sitting day the Hon. Emily Bourke asked me whether there was any reason that would prevent me from tabling correspondence from the Independent Commissioner Against Corruption. I have given the matter consideration and have decided to seek some further advice from the commissioner before deciding whether to table the correspondence.

Question Time

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:32): My question is to the Minister for Health and Wellbeing regarding COVID. As the minister responsible, do you know precisely who made the decision to grant the 11 exemptions to Port Adelaide players' families and what the rationale was for that decision?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:32): The review by Mr Hunter from the Department of the Premier and Cabinet identified that the decision involved both the Deputy Chief Public Health Officer and the leader of the exemptions team. My understanding of Mr Hunter's review is that it was an exemption from the direction, not an approval of an essential traveller and, therefore, it is on broad terms, not specific terms.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:33): Supplementary arising from the answer: is there a person who is responsible for granting exemptions?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:33): The primary responsibility for advising the authorised officer who grants exemptions is with the exemptions committee, but as Mr Hunter indicated in his review, there's a whole range of officers who are authorised officers for both the purposes of approvals of essential travellers and also granting of exemptions under the Emergency Management Act.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:33): A further supplementary for the sake of clarity: is the minister aware of the person who granted the exemption in this case?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:33): As the honourable member knows, Mr Hunter's review identifies the authorising officer as Dr Everest.

The PRESIDENT: Final supplementary on this one, I think. Leader of the Opposition.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:34): Will the minister release all emails regarding the exemption request, including the email from Hitaf Rasheed to Chris Lease, and will the minister, having not been able to identify actually what went wrong on this question, agree to an independent review?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:34): I certainly don't see the need for a second independent review.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:34): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding border exemptions.

Leave granted.

The Hon. K.J. MAHER: Yesterday, the Premier said in relation to the 11 exemptions for Port Adelaide families, and I quote:

> You know, there was no finding that this was widespread or that there were other areas. This was an isolated incident.

Yet, the scope of the review does not seem to include the review of any other cases. Given that, my questions are:

1. How does the minister know this was an isolated incident if other cases haven't been reviewed?

2. How many other exemptions have been granted by a single officer without going to an exemptions committee for review?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:35): The main reason why I am confident that this is an isolated incident is the clear public health outcomes that we are experiencing in South Australia. Let's be clear: we had our first identified cases in South Australia on 1 February. We are now months after that, yet we have experienced, of the 475 total cases that we have identified, that only 1.9 per cent of those—1.9 per cent of those—are locally acquired/contact not identified/no interstate travel.

That is an extraordinary result when we are waking up day after day hearing tragic stats coming out of countries not at all dissimilar to our own. The public health achievements of Nicola Spurrier and her public health team are extraordinary. One of the reasons why I am confident that this error of judgement was an isolated error is because of the clear progress that we are making in public health in terms of this pandemic.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:36): Supplementary arising from the original answer: to be very specific, minister, have you actually been inquisitive enough to ask your department whether this was an isolated incident and whether there were any other exemptions approved outside the exemptions committee?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:36): The mountain of correspondence that I deal with as minister—

Members interjecting:

The PRESIDENT: Order! It would be good to listen to the answer.

Members interjecting:

The PRESIDENT: Order! The minister has hardly started his answer—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The Leader of the Opposition is out of order. The minister has the call.

The Hon. S.G. WADE: As I was trying to say, Mr President, I receive a mountain of correspondence, and every piece of correspondence is an opportunity to make sure that my department is delivering on top quality service to the people of South Australia. Often—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: Point of order: it was a very specific supplementary question—

The PRESIDENT: Point of order. The minister will resume his seat.

The Hon. K.J. MAHER: Sit down, Wadey. It was a very—

Members interjecting:

The PRESIDENT: Order! I can't hear the point of order.

The Hon. K.J. MAHER: It was a very specific supplementary, as we are endeavouring to be very specific in relation to answers given, and the answer has not even touched upon the question.

The PRESIDENT: There is no point of order but I am sure the minister is coming to the pertinence of the question.

The Hon. S.G. WADE: The pertinence of raising my correspondence is that every piece of correspondence is an opportunity to test the quality of service that we are providing to South Australians. I can assure you—

The Hon. I.K. Hunter: When did you ask? When did you ask for that information?

The PRESIDENT: The Hon. Mr Hunter is out of order!

The Hon. S.G. WADE: —that my office, my team and myself are in constant discussions with our department on how we can do better. And let's be clear—

The Hon. I.K. Hunter: You've never asked.

The PRESIDENT: Order, the Hon. Mr Hunter!

The Hon. S.G. WADE: We are well into a pandemic and SA Health—

The Hon. E.S. Bourke interjecting:

The Hon. S.G. WADE: Excuse me, could I be given the opportunity to answer?

The PRESIDENT: The Hon Ms Bourke! Members of Her Majesty's Loyal Opposition will have the opportunity to ask some supplementaries and further questions, but let's listen to the minister. The minister.

The Hon. S.G. WADE: I have had constant discussions with the department on how we can improve our processes, and one example—I couldn't date it as to when it occurred, but one example was in recent months: SA Health established a review process, which Mr Hunter identified in his review. It wasn't there four or five months ago; it's there now. People who get a result from the exemptions committee will have the opportunity to have it reviewed. Mr Hunter's recommendation in relation to that is that it should not be called an appeal, it should be called an internal review. That recommendation has been accepted, but as—

The Hon. E.S. Bourke interjecting:

The PRESIDENT: Order, the Hon. Ms Bourke! I am trying to hear the minister and I am sure you can't because you're commenting—shouting—across the chamber. All of those interjections are out of order, and I am sure the minister is about to conclude his answer.

The Hon. I.K. Hunter: Yes or no?

The PRESIDENT: Order!

The Hon. S.G. WADE: So, yes, Mr Hunter, I have been constantly talking to my department about how to improve our processes.

Members interjecting:

The PRESIDENT: Order! A supplementary.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:39): Minister, have you even asked your department, and can you understand how it looks to the public and the media if you won't even answer if you have asked the department if that has happened before?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:39): The honourable member's question, as I recall it, is whether I have asked if any decisions have been made outside of the exemptions committee. The whole question indicates his lack of understanding of the process.

As Mr Hunter's report states, the exemption committee makes advice to the authorised officer. It is the authorised officer who makes the decision. In relation to low-complexity matters, Mr Hunter himself suggests that there should be a fast-tracked process.

CORONAVIRUS, TRAVEL

The Hon. T.A. FRANKS (14:40): A supplementary: is any appeal of a determination that is then appealed to the exemptions committee made of a subjective or objective nature?

The Hon. I.K. Hunter: He won't have a clue.

The PRESIDENT: The minister has the call.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): Sorry, could you clarify what you are asking?

The Hon. T.A. FRANKS: Where are the published requirements for an objection to a determination for an exemption made? Are they subjective or objective?

The Hon. S.G. WADE: The point made—

The Hon. K.J. Maher interjecting:

The PRESIDENT: The honourable Leader of the Opposition will allow the minister to at least open his mouth and start to answer the question.

Members interjecting:

The PRESIDENT: Order! The minister has the call and will be heard in silence.

The Hon. S.G. WADE: As Mr Hunter highlighted in his review, approvals in relation to essential travellers under the direction—in this case direction No. 13 or edition No. 13 of the cross-border direction—is against specific criteria, and SA Health has, if you like, custody of three of those criteria. In relation to exemptions from the direction itself, it is broad, and therefore there is much greater latitude in relation to exemptions from the direction.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:42): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question regarding border exemptions.

Leave granted.

The Hon. K.J. MAHER: The investigation released yesterday was conducted by someone at director level in the Premier's department. The Premier told the media that the report was handed to the chief executive last Tuesday, and that some checking, some final writing was done over the last six days. My questions to the minister are:

1. When did the minister or his office first receive the report?

2. What changes to the report were made between it being provided to the chief executive last Tuesday and its release yesterday?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:42): In relation to the second question, the honourable member would need to ask the Premier, not me. In relation to the first question, I received a copy of the report yesterday.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:43): A supplementary arising from the answer: when did the minister's office first see the report (which was the actual question)?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:43): In relation to my office? I'll need to speak to my office, but my understanding—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The Leader of the Opposition might listen to the answer.

The Hon. S.G. WADE: My understanding is that no member of my office received the report before I did, but I will consult them.

CORONAVIRUS, TRAVEL

The Hon. K.J. MAHER (Leader of the Opposition) (14:43): A supplementary arising from the original answer when the minister said he would have to ask the Premier about receiving the report one week earlier: has the minister even bothered to ask if there were any changes made between the report being finalised a week ago and being released yesterday?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:43): No.

Members interjecting:

The PRESIDENT: The honourable Government Whip has the call. Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order, Leader of the Opposition! The honourable Government Whip has the call.

EMPLOYMENT FIGURES

The Hon. D.G.E. HOOD (14:44): My question is to the Treasurer. Does the Treasurer have any recent information on the different employment and unemployment levels that have had an impact, particularly in regional South Australia?

The Hon. R.I. LUCAS (Treasurer) (14:44): There have been two recent pieces of publicly available information released. One is in relation to a recent set of figures produced on internet job vacancies in both the metropolitan and regional areas of Australia, and the other is a breakdown of the labour force figures, which shows an interesting variation between parts of regional South Australia, in particular.

In relation to the internet job vacancy analysis that has been done, what it shows in South Australia is that, compared to a year ago (these are quarterly figures, to August of this year), in the three months to August 2019, internet vacancies in regional South Australia grew by 18 per cent. The strongest areas of growth were actually in the Yorke Peninsula and Clare Valley regions, which grew about 26 per cent. The Fleurieu Peninsula and Murray Mallee grew by 24 per cent and Port Augusta and Eyre Peninsula grew by 24.7 per cent compared to a regional figure in South Australia of 18 per cent, as I said.

That compares reasonably with the growth in terms of internet vacancies in metro Adelaide, looking at the comparison of internet vacancy growth between the quarter to August and the quarter to May of this year. To look at the early COVID figures compared to the more recent figures in Adelaide metro, internet vacancies grew by 69 per cent, and in regional South Australia they grew by just below that, at 60 per cent.

Just before that, the labour force regional breakdown analysis again shows some patchy figures in relation to regional employment and unemployment. What it shows is that the unemployment rate was 6.9 per cent in Greater Adelaide and just under that, at 6.6 per cent, in regional South Australia. So, comparative to the metropolitan area, the unemployment rate in regional South Australia was a little less than the unemployment rate in Greater Adelaide—that was in the year to August 2020 compared to the previous year. It's a year-on-year analysis that has been done.

Importantly, again, there is a difference in terms of the regions. If you look at the year to August 2020 compared to the year to August 2019 for employment in the regions (this is as opposed to unemployment), the strongest growth was in central and the Hills (up 2.5 per cent) and then Barossa, Yorke and Mid North (up by 2.22 per cent), whereas in some of the other regional areas employment figures actually fell during the same period. In the South-East, for example, it was down 2.8 per cent, and in the outback, as defined by the labour force breakdown, it was down by 3.5 per cent.

So, in summary, there are patchy results, as one would expect, in terms of regional growth, in terms of employment and unemployment, growth in terms of employment and performance in terms of unemployment in the region. Some regions are doing slightly stronger than others. It is important.

I think we have seen, because of the restrictions placed on international travel and, up until recently and still to a degree, on interstate travel, there are some sections of regional South Australia, and in particular some industry sectors, that are performing relatively well because people are travelling locally in terms of school holiday travel, weekend travel or just getting away for a little bit of a break travel and having to do that within South Australia, as opposed to being able to travel interstate or indeed overseas.

Certainly, from the government's viewpoint, and as we lead into the state budget in just on four weeks, an important focus for us will be on jobs and economic growth across the state, but there will also be a particular focus, as there always is with a Liberal government, on economic growth and jobs growth in regional areas.

NATIONAL IMMUNISATION PROGRAM

The Hon. J.A. DARLEY (14:49): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question regarding the National Immunisation Program.

Leave granted.

The Hon. J.A. DARLEY: I understand other states across Australia have extended the distribution of the National Immunisation Program for influenza vaccine for persons over 65 to community pharmacists. I further understand that SA Health is currently reviewing how the state government will distribute the 2021 influenza vaccine through the National Immunisation Program.

My question to the minister is: can the minister advise whether the 2021 influenza vaccines, under the National Immunisation Program, will be distributed and made available through community pharmacies?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:49): The Immunisation Program is key, obviously, to the ongoing health and wellbeing of South Australians, and it has never been more starkly shown than this year, as we are struggling against a pandemic for which we don't have a vaccine.

In terms of our established Immunisation Program, it has had a positive impact on influenza. I note that as at 26 September 2020, in this state we had 1,556 cases of influenza notified to CDCB compared with almost 25,000 at the same time last year. I appreciate this is a program that is supported right across the house, right across the parliament, and I am sure that the experience of this year will encourage us to redouble our efforts to maximise our Immunisation Program.

This state government has invested heavily in immunisation beyond the National Immunisation Program. We were the first state in Australia to offer meningococcal B vaccines for both children and young people and the first jurisdiction in the world to offer it to young people. We introduced free flu vaccines for under fives.

In relation to partnerships with immunisation providers, we certainly regard community pharmacy as a key partner in the distribution of vaccines and in that context, I think it was earlier this year but certainly within the term of this government, we expanded the young people who can get immunisations through pharmacists. Certainly, we will continue to look at opportunities to maximise the impact of the National Immunisation Program, including the suggestions the honourable member has made.

There is currently a review underway of the influenza immunisation program this year, which is, to be frank, an annual review, but I am particularly keen that we learn the lessons from the COVID experience to learn what we can to strengthen the influenza program for next year. I am not expecting that this pandemic will be over before we start to face the next wave of influenza. The fact that we are likely to continue to have international travel restrictions will significantly reduce the risk of an outbreak the size we have seen in recent years.

Also, if people continue to comply with the public health measures in relation to COVID, I expect that that will help in suppressing any other outbreak of influenza. I am not an epidemiologist, I am a politician, but I can assure you that my department is currently looking at what we can do to improve immunisation next year, and that will include the matters the honourable member referred to.

The PRESIDENT: Supplementary, the Hon. Mr Darley.

NATIONAL IMMUNISATION PROGRAM

The Hon. J.A. DARLEY (14:53): Does the minister have an approximate idea as to when a decision will be made on that review?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:53): Just to clarify, it is a review to government, so then once the review is received we would have to consider the recommendations. If I can take the opportunity to unpack the honourable member's question slightly more, the challenges of the influenza vaccination program and other vaccination programs in 2020 will need to be considered in the context of the COVID vaccine. If indeed we have a

COVID vaccine, it will be putting pressure on our distribution networks that we would otherwise be using for those other immunisation programs.

I would like to pay tribute to the federal government. The work they have done to secure COVID vaccine supplies is commendable. I am also grateful that the Hon. Greg Hunt, the federal minister, and his department have already engaged the states and territories to start planning for vaccine distribution. We are very appreciative of the leadership that they are providing in that regard, but it will not be without challenge, not only for the commonwealth but certainly for each state and territory government and our partners, such as community pharmacists. These are challenges that we will need to face together.

YOUTH JUSTICE SERVICES

The Hon. C.M. SCRIVEN (14:55): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding youth justice.

Leave granted.

The Hon. C.M. SCRIVEN: The Community Youth Justice program oversees children and young people in fulfilling community service orders and other orders within the youth justice system, rather than detaining them in the Adelaide Youth Training Centre. The government's 2019-20 budget papers claimed that 70 per cent of community based orders were successfully completed. However, the opposition understands that the Department of Human Services has begun work to outsource this important program, which has been provided by the government for many years. My questions to the minister are:

1. Does the minister believe that this program is failing or underperforming in some way and, if so, how?

2. Will any privatisation tender ensure that cultural responsiveness and cultural responsibility are at its core, in view of the over-representation of Aboriginal young people in the system?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:56): I thank the honourable member for her question and for her interest in this important area. In response to the last question, the overwhelming answer is yes. A bit of background in relation to the decision to take this pathway in relation to community orders is that it has arisen from our Youth Justice State Plan, Young People Connected, Communities Protected. Through the consultation that came about, there was a strong message that a number of stakeholders believed that more connections, particularly through the non-government sector, would be of great benefit to young people who are currently going through these programs.

This measure is actually designed to provide better outcomes for children. We think that we can do better than 70 per cent and so we want to provide that diversity that the non-government sector has on offer. There is a range of services that operate in that space, and that was one of the messages that we received from the sector in relation to the programs as part of it.

I can also say that the process began much earlier this year. The advice I have received is that, on 28 February this year, the Department of Human Services announced to staff that alternative methods for the metropolitan delivery were being explored by Youth Justice services, and on 17 April, following a consultation period with staff that included consultation with the Public Service Association, it was announced that the metropolitan CSO program would be put to tender. Staff and stakeholders have continued to receive communication and support throughout this process, and we think that there are great opportunities in this program going forward.

YOUTH JUSTICE SERVICES

The Hon. C.M. SCRIVEN (14:58): Supplementary: will the government rule out any job losses through this move, and does this amount to a privatisation of a government service?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:58): I think it would be interesting if the Labor Party put that proposition to all the people who run community services in South Australia, that they are private organisations, given that so many are non-government

organisations. It will be interesting to see what response we get from the non-government sector and organisations such as SACOSS as to whether this is a privatisation.

The advice that I have received from my department is that the change to non-government sector delivery will result in the creation of two new positions in the department and the loss of 11 positions, resulting in a net loss of nine positions, and all affected employees are receiving support throughout this process.

YOUTH JUSTICE SERVICES

The Hon. C.M. SCRIVEN (14:59): Further supplementary: the minister indicated in her answer that this will be applying to metropolitan services. What will be the situation for regional equivalent services?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:59): I thank the honourable member for her supplementary. My understanding is that the regional services will continue as they are.

YOUTH JUSTICE SERVICES

The Hon. C.M. SCRIVEN (14:59): Final supplementary: can the minister guarantee how long that will be the case for regional services?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:00): I am not aware that there are any plans to change those arrangements.

SOUTH AUSTRALIAN BUSHFIRE APPEAL

The Hon. N.J. CENTOFANTI (15:00): My question is to the Minister for Human Services regarding the South Australian Bushfire Appeal. Can the minister please update the council about how the Marshall Liberal government has continued to support the bushfire-affected communities of the Adelaide Hills and Kangaroo Island through the distribution of the South Australian Bushfire Appeal Fund?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:00): I thank the honourable member for her question. In light of the tragic fires that we experienced in South Australia, particularly at Cudlee Creek and Kangaroo Island, which is where the funding for the bushfire appeal has been distributed, we are really pleased that the funding has all been completely finalised as of, I understand, last Wednesday. Every last dollar of the $9 million has been distributed to families, businesses and communities that have been impacted by the fires.

Affected is a total of 1,062 families, individuals and businesses. There was a range of categories early on. Funding was provided to families of people who had died as a result of the fire. We also had a category for people who were seriously injured, people who had had their principal place of residence destroyed, and we had the largest category, in terms of the number of grantees, for infrastructure damage, which might have included sheds, machinery, cars and the like. Small business and primary producers also had a round.

Registered apiarists: we discovered that quite a number of people who had been keeping bees were impacted. They had a round. And then there was a round of a series of top-ups, in particular to those who lost their principal place of residence and/or suffered infrastructure damage.

It was a great experience on the weekend to catch up with the Webb family of Kenton Valley, who had received $23,000 through this program. What they reported was that, because the grants had been provided in a range of rounds, as they were able to assess their particular situation they were able to use those funds in ways that they might not have anticipated at the start of the process and as they were processing grief and were into that planning phase for their family. So that has obviously been quite a good process for everyone.

There has also been a range of community organisations that have shared in the community strength and resilience initiatives. We had two rounds of those, and those organisations include sporting organisations, some support for mental health projects, arts, gardening, and a range of things, which I think really do boost the wellbeing of those communities in knowing that they have not been forgotten, and that other people have been assisting them through that financial support.

We are grateful for every individual who has donated—businesses, sporting clubs, even Elton John was a donor through one of his concerts, and a range of other celebrities have donated. So we are very, very grateful. I also thank the committee for their hard work. I know they have been challenged at times to work out what was the most appropriate and equitable way to get funding out on the ground. I think they have done a fantastic job, as have all the staff in the recovery centres who have been working with people to assist them with their applications. So, yes, I think we can all stand proudly as a state for the support that has been provided to these communities.

PATIENT AGE DISCRIMINATION

The Hon. C. BONAROS (15:04): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about concerns about age discrimination of patients by SA Health.

Leave granted.

The Hon. C. BONAROS: South Australians were shocked by the revelation of the contents of a leaked email by a senior SA Health bureaucrat suggesting that surgeons should say no to older patients or those with multiple health concerns. At its best the email, leaked by a whistleblower disturbed by its contents, is said to be an indication of a hospital administrator trying to influence the decision of frontline clinicians; at worst it is age discrimination of some of the most vulnerable people in our community.

Council on the Ageing chief executive Jane Mussared said that the email showed 'pure and simple ageism' within our public health system. At the time, the minister was said to be dismissive of the email claiming it was 'clumsy'. Then today we hear some patients, many of them elderly, are being forced to wait up to a decade to get an appointment to see a specialist in the public health system, even before they join the queue for surgery. My questions to the minister are:

1. Are waiting list statistics, like the ones I just mentioned, driving decision-making as outlined in the leaked email?

2. Was the minister concerned about the contents of the email?

3. Can the minister provide a more comprehensive, justifiable explanation for the email?

4. Does he believe the email is justified or reflects poorly on SA Health.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:06): I would like to thank the honourable member for her question. Could I immediately clarify that I was not dismissive of the email, and the reference to 'clumsy' was not my word. It was the phrase of the President of the Australian Medical Association, Dr Chris Moy, who described it as clumsy.

I want to be very clear: the Marshall Liberal government is committed to providing quality care to all South Australians, including older South Australians, and all patients who present to hospitals are treated in response to their clinical condition regardless of their age. I think the values of this government are reflected in the actions of this government.

This is the government that established an Adult Safeguarding Unit to make sure that vulnerable elderly South Australians had recourse. It is this government that is investing tens of millions of dollars in a world-class dementia village at the Repat. It is this government that has a nationally, if not internationally-lauded response to elderly South Australians in residential aged-care facilities in the context of COVID. My understanding is that we are the only jurisdiction that will, as a matter of process priority, transfer a COVID positive patient from a residential aged-care facility to hospital.

The honourable member asks me whether this particular email was part of the—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order, the Hon. Mr Hunter!

The Hon. S.G. WADE: —if you like, response by the hospitals to the long waits for outpatients.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter will be silent.

The Hon. S.G. WADE: In fact, it is actually linked—

The Hon. E.S. Bourke interjecting:

The PRESIDENT: Order! As will the Hon. Emily Bourke!

The Hon. S.G. WADE: —because it's part of a process to reduce the long waits.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: The honourable member asks me to unpack what the email was getting at, so let me do that. Key to providing quality care to older South Australians will also include providing quality care in surgical services—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter will be silent.

The Hon. S.G. WADE: —and improving the patient's journey for them, from the GP to the outpatient clinic to the surgical list. One opportunity for improvement that the Central Adelaide Local Health Network has identified is improving the quality of the communication between the GP and the hospital-based specialists. That is really important because it is the GPs who know their patients best; they have access to information that they can provide—

The Hon. I.K. Hunter: And you just ignore it.

The PRESIDENT: Order!

The Hon. S.G. WADE: —which is key to enabling the hospital-based specialists to more accurately triage patients to ensure that no-one is left without advice or care. The process for seeking further information from GPs is a clinician-led process. In other words, it is the hospital-based clinician having a conversation with the GP.

The email, I am advised, was part of engaging clinicians actively in the triage of cases on the waiting lists, first of all to support the quality of care and, secondly, to address long waits. The email was sent by a clinical program delivery manager who, to be clear, is a clinician, not a bureaucrat, not an administrator. This lady was a clinician and she was requesting consultants to look at all the factors in their referrals in order to make a clinical judgement as to the care the patient needs. This government is committed to quality care for all South Australians, including older South Australians.

PATIENT AGE DISCRIMINATION

The Hon. C. BONAROS (15:10): A supplementary: has the author of the email been reprimanded or spoken to about the content of that email? If so, what was the context of that discussion, and, if not, why not?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:10): I haven't been briefed on what action, but I think it would be—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: I think it would be very likely they would be aware—

The PRESIDENT: Order! The minister will resume his seat.

Members interjecting:

The PRESIDENT: Order! I do not think anybody on the opposition has a clue as to what the minister said, because none of you are listening. The minister has the call, and those members on my left will remain silent. The minister.

The Hon. S.G. WADE: I will seek the information the honourable member requires.

ELECTIVE SURGERY

The Hon. C. BONAROS (15:11): A further supplementary: given the minister's claim of quality care, by how much, if at all, have the waiting lists reduced under your watch, given that we have 28 months for cardiology, 26 months for orthopaedics and 24 months for ENT surgeries, to name but a few.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:11): I thank the member for her supplementary. Let me name a few: orthopaedics at the Women's and Children's Hospital, a reduction in the median wait time from 2.3 years to one month; ear, nose and throat services at the Royal Adelaide Hospital, a reduction in the median wait time from 3.7 years to two years; rehabilitation medicine at TQEH, a reduction in the median wait time from 3.4 years to 10 months. To switch over to the maximum wait times: the ENT appointments at the RAH have fallen by nearly 14 years to 10 years.

HOMELESSNESS SERVICES

The Hon. E.S. BOURKE (15:12): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding housing for older women.

Leave granted.

The Hon. E.S. BOURKE: In November last year, the minister announced nine home and land packages, ranging between $320 000 and $395,000, in suburbs including Findon, Kidman Park and Woodville West, and construction is expected in February 2020. The minister informed this house last sitting week:

> We also have a program that was targeted towards women who might want to get back into the housing market, through a pilot of affordable homes. We set aside nine properties which were, I think, a shared equity product…
>
> I think there may be three contracts either close to or having been signed for those properties…

These homes and the shared equity product were first approved under Labor in 2017. My questions to the minister are:

1. Why was the original approval for these homes scrapped by the Liberal government, only to be reapproved after year of delay?

2. With a minimum deposit, what income does an older woman need to buy a $395,000 home?

3. How many homeless women have that income?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:13): I thank the honourable member for her question. I am not quite sure what she is referring to in relation to a program that Labor had that we subsequently scrapped, but I will ask my department for some more information on that. I think, once again, it's the Labor Party loving to reinvent history and pretend they came up with things.

The original program that we announced in November last year was very much a pilot in terms of testing the capacity of older women particularly to be able to get their foot in the door of a program. What we have found through the program is that—and which is true for anybody who is seeking to purchase a home—you need a deposit and you need a reliable source of ongoing income. What our program has found is that often women in this situation have one or the other, so we are taking some learnings from that to see how we can reprioritise that.

I think I might have been asked about this previously in terms of the pricepoints. The pricepoint was roughly between $208,000 and $260,000 for those particular homes that were made available through that program. The affordability levels for purchasing a property—and I am not about to start giving financial advice, but anyone can look on the websites to get some information about how much income someone needs on a regular basis to be able to purchase a home.

I had something I had written on a post-it note here in terms of the capacity of someone on a lower income. Certainly, people who are on lower incomes would find it much easier, particularly if

they go to HomeStart. If they are looking at purchasing a new home, they may well be able to access a range of the grants that are available at the moment. In fact, this is from the popular media so people can take it at face value. For instance, a property with a sale price of $220,000 needs a salary—this is their calculation from Finder.com—of $23,261.

In terms of people who are homeless, I think the honourable member makes some assumptions. We do know that some people when they are homeless, if they have been going through particular challenges, may need to reinstate their Centrelink income, and those sorts of supports, of course, are available to assist them through a range of our program partners in the non-government sector. We do believe that there are a number of people who would be interested in getting their foot in the market.

Some of the community housing providers have specific programs that they also target in the affordable rental space for women who are in similar situations. So there is a range of support available through both the government and non-government partners, depending on where somebody is in their pathway, and we will continue to provide that support.

HOMELESSNESS SERVICES

The Hon. E.S. BOURKE (15:17): My supplementary is arising from the original answer. The minister has highlighted that many people are looking to get their foot in the door. Can the minister advise the chamber how many older women have applied for these homes and how many are eligible for this program?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:18): I would have to take the details of that on notice and get back to the honourable member.

HOMELESSNESS SERVICES

The Hon. E.S. BOURKE (15:18): Supplementary: is the minister suggesting this was completely an initiative of the Liberal government to invest in affordable housing?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:18): I will ask the department for her allegation and see what they have to say about that, but there is a media release that I issued in November 2019. We had been in government for 18 months and that was a particular program that, my understanding is, we initiated. If that's not correct, I will get back to her.

RESTART A HEART DAY

The Hon. T.J. STEPHENS (15:18): My question is to the Minister for Health and Wellbeing. Can the minister please update the council on initiatives to improve cardiac care outcomes?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:19): I thank the honourable member for his question. This Friday 16 October is international Restart a Heart Day. The annual campaign aims to raise awareness in the community of cardiac arrest and the use of hands-on CPR and automatic external defibrillators (AEDs) to save lives. Sudden cardiac arrest affects more than 1,800 people each year in South Australia, with only one in 10 surviving. We can all help to improve that statistic.

Time is a critical factor for survival. The difference between life and death for a person suffering a heart attack could be a bystander that is willing and confident to start CPR. Every minute that someone is in cardiac arrest without receiving CPR or defibrillation, their chances of surviving decrease by 10 per cent, so the sooner someone receives help, the higher their chance of survival. After 10 minutes without intervention, I am advised that the damage caused is nearly irreversible.

I encourage everyone to familiarise themselves with the three important steps to restart a heart: call, push, shock. Call 000, start CPR, apply a defibrillator. The South Australian Ambulance Service delivers free 30-minute training sessions for community groups in relation to CPR. COVID-19 restrictions unfortunately mean that those training sessions are currently unavailable, but community groups are still encouraged to register their interest so that as soon as they resume, they can be provided to their group.

Automatic external defibrillators (AEDs) do not require any training to use and can be used by anyone. The South Australian Ambulance Service maintains an AED register, which allows

emergency response agencies to direct a caller to the closest AED so that it can be used in a cardiac emergency until an ambulance arrives.

I understand that many organisations have bought AEDs but have not notified the Ambulance Service, which means that if someone calls 000 the emergency responder is unaware that there is an AED nearby to help. I would encourage all community groups, sports clubs and businesses that have an AED to contact the Ambulance Service to ensure the register is up to date with their facility.

As members of parliament, we are very fortunate that the Presiding Officers have ensured that defibrillators are available at multiple locations in this building. The City of Adelaide has also installed AEDs for public use, with the support of SA Ambulance and the Heart Foundation. Those AEDs are located at 24 locations throughout the city, and the location of these AEDs is easily identified with heart-shaped artwork by artist Pat Welke above each service.

Each year, the South Australian Ambulance Service celebrates Restart a Heart Day with a program of activities that has included hosting a public event. Unfortunately, with the impact of COVID-19, this year social media and traditional media will be the focus in promoting the important message of: call, push, shock. I would encourage all members of the council to help spread the message through their social media platforms.

CARDIAC SERVICES

The Hon. C. BONAROS (15:22): Supplementary: given that time is a critical factor for survival, and everything the minister has just said, how does a 28-month waiting time (up from 19.7 months) at The QEH and a 15-month waiting time (up from 8.3 months) at the RAH for an appointment with a cardiologist gel with the importance of early intervention and treatment?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:22): I make the point that the comments that I was making were in relation to cardiac arrest. In relation to waiting times, those outpatient waiting times are in relation to category 2 and 3. The situation the honourable member refers to—an urgent case—is category 1 and they would be given priority for outpatient appointments.

CARDIAC SERVICES

The Hon. C. BONAROS (15:23): Further supplementary: isn't it correct to say that the longer a patient goes without early intervention and treatment, the more likely they are to end up in one of those higher categories?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:23): Indeed, and that's why we are working to bring the waiting times down. We have—

The Hon. C. Bonaros: They've gone up. In The QEH and RAH they've gone up.

The PRESIDENT: Order! I can't hear the minister and the minister needs to direct his answer through me.

The Hon. S.G. WADE: Thank you for that reminder, Mr President. This government was the first government to publicly make available the wait times for outpatient clinics because we see the reality of what the honourable member is saying. There is a journey towards care and a delay at the gate, if you like—at the outpatient clinic—is an unacceptable delay which should be minimised. That's why we publicly make available these outpatient waiting time data and that's why we are working to bring them down.

ELECTIVE SURGERY

The Hon. F. PANGALLO (15:24): Supplementary: how can the minister explain that as of September the SA Health website listed the following for elective surgery waiting times: category 1 procedures that are clinically indicated within 30 days; category 2 procedures within 90 days; and category 3 procedures within 365 days. Today, the CEO of SA Health—

The PRESIDENT: The member has to ask his question.

The Hon. F. PANGALLO: My question is: why are South Australians being forced to wait eight years or more, contrary to the information on his department's website?

The PRESIDENT: I will allow the minister to answer. I think we are getting a bit far away from the original, but the minister can answer.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:25): Even more so, I think we have jumped categories. The Hon. Connie Bonaros's question, as I understood it, was in relation to outpatient waiting times, and the Hon. Frank Pangallo is now asking about elective surgery waiting times. In relation to elective surgery, I am pleased to inform the house that since the COVID-19 peak in May there has been a more than 40 per cent reduction in the overdue waits for elective surgery.

ESTIMATES COMMITTEES

The Hon. T.A. FRANKS (15:25): I seek leave to make a brief explanation before addressing a question to the Treasurer about the appropriations bill and the estimates process.

Leave granted.

The Hon. T.A. FRANKS: As we all know, appropriations bills, under the Westminster system, can only be originated in a lower house of the parliament. Indeed, treasurers have traditionally, by convention, therefore sat in the lower house of most Westminster parliaments; however, in practice some are radical and renegade in their approach to our parliament, and our Treasurer is one of those. Indeed, he is joined by the likes of Michael Egan, Michael Costa, Eric Roozendaal, John Lenders and, in Tasmania, Michael Aird, in this unconventional approach to budget processes.

Furthermore, while members in the lower house, including its ministers, are accountable in only that house typically, and upper house members are accountable only to that house typically, provisions are often made in standing orders to enable ministers from one house to appear before one or other of the committees. Indeed, in Tasmania upper house ministers regularly appear before the lower house to answer questions with regard to their portfolios.

This is something this council does in allowing upper house ministers to appear before our estimates process. I note that South Australia is possibly alone in the commonwealth in that this upper house does not participate in the estimates process of our parliament. Those rules are not set in stone, however: they are set in the standing orders, specifically standing orders 266 to 278. My questions to the Treasurer are:

1. Will you be seeking the leave of this place to unconventionally deliver the budget in the other place?

2. Will you and your colleagues, as ministers, be seeking the leave of this council to participate in the upcoming estimates committees process (which, I must add, is quite unconventional)?

3. Will your party support the participation of willing members of this council to take part in this year's estimates process?

The Hon. R.I. LUCAS (Treasurer) (15:28): The labels 'renegade' and 'rebel' sit very comfortably with me—and not just in relation to budget matters, I might say. I don't shy away from those labels. I wouldn't view them in a pejorative sense at all; I wear them as a badge of honour—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —that I am seen as a rebel, as a renegade and all the other similar words and phrases.

I and my ministers here serve at the will of this particular chamber. The answer to the first question is that yes, we will respectfully seek the permission of the upper house to perform the usual functions of the estimates committees, but should this chamber not give its permission then we won't be appearing before the House of Assembly estimates committees. That will be an issue on which we will, of course, accept the judgement of our colleagues within the Legislative Council chamber.

As the honourable member has indicated, that has occurred for a very long time, but it is a judgement call for the honourable member and her colleagues. If they don't wish to give permission they are perfectly entitled to do so, but the House of Assembly estimates committee process will be much the poorer for it.

The Hon. Mr Wade is in charge of about a third of the state's budget, the Hon. Ms Lensink is in charge of very important sections of public sector administration and, of course, I have the mere responsibility of bringing down the budget as well. But we accept, of course, the will of the Legislative Council in terms of whether or not the Hon. Ms Franks deigns to give us permission to present to the House of Assembly estimates committees.

In relation to the second part of the question, my views are well known on that particular issue. Again, I don't shy away from those particular views. I have expressed them for many, many years. I see the Legislative Council as being a separate and independent house from the House of Assembly. In my view, our processes in the Legislative Council, to the extent that we can, should be separate and independent.

It is one of the reasons that, as a member of the then opposition, I moved for our equivalent of the estimates committee process in terms of the Budget and Finance Committee. When returning to government, I happily and willingly moved again, as a member of the government, for the re-establishment of our equivalent process of an estimates committee process where, on a weekly basis almost, or certainly a fortnightly basis, the non-government members of this chamber, by and large because they control the committee, can hold to account government departments and senior executives in terms of public sector administration in estimates.

So, no, I have never supported members of the upper house, as a chamber, participating in the House of Assembly estimates committee process. I support the processes that we have here in the Legislative Council. There have been occasions in the past where, during the committee stage of the Appropriation Bill debate in the Legislative Council, individual ministers have been asked questions and have had advisers sitting in the adviser's box to provide answers. More often than not, the process has been to place questions on notice again, and ministers have given an undertaking to respond.

The main part of the honourable member's question is in relation to whether we will be seeking permission. Respectfully, we will, but we will of course accept the decision that the Hon. Ms Franks and her colleagues may well take.

Bills

STATUTES AMENDMENT (SENTENCING) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2020.)

The Hon. K.J. MAHER (Leader of the Opposition) (15:33): I rise to speak on this bill and indicate that I will be the lead, and in fact only, speaker for the opposition. This government, the Liberal government, engaged a retired Supreme Court judge, Brian Martin QC, more than two years ago to review sentencing discounts on a guilty plea. Mr Martin did good and thorough work: he called for public submissions and consulted with stakeholders; he reviewed cases; he examined the law and compared it with other jurisdictions; and he made detailed recommendations. The government published his report way back in June 2019. It has now been 16 months since Brian Martin QC had his report published.

Until very recently, on this issue the government did nothing. Labor moved a bill to fix sentencing discounts in July, before the winter recess. Again, the government did nothing. The government promised to introduce legislation immediately after returning from the winter break. We came back on 8 September, and again the government did nothing on the first day back. Why did they do nothing? What were the reasons given for the government's failure to protect the community? To justify their unacceptable delays in not supporting Labor's bill, the Attorney-General, the member for Bragg, Vickie Chapman said:

Regrettably, COVID-19 and other such activities have taken up Parliamentary time and has made some of our legislation a little delayed.

Further:

It's a complex body of work that needs to be 100 per cent right…poorly drafted legislation and amendments can cause chaos, so we're being thorough to ensure we get it right…

The Attorney-General went on to say:

We need to do it properly and that's precisely what we're doing.

Yet, the Attorney-General's own chief executive just this week publicly stated that COVID-19 had no impact on the development of this legislation.

The opposition has supported all the COVID-19 legislation, supports this legislation and has even offered to sit late to deal with this legislation. It is unconscionable that this government would use the current pandemic as an excuse for hanging out victims to dry.

Since Brian Martin QC handed down his report, they have made time for many other things as a government in the Attorney-General's area. They have made time to slash funding for the Victim Support Service by millions of dollars. The Attorney-General has made time—time in parliament and for personal briefings—on what elite lawyers call themselves. The Attorney-General has made time to repeal obsolete gift card legislation that is trumped by commonwealth law. But the Attorney-General did not make time to ensure that dangerous child sex offenders spend more time in gaol when that is what was recommended by the expert report.

This government, having not moved their bill on the first day back from sitting or given notice, moved it on 9 September and then realised they had completely stuffed it up. I will return to the Attorney-General's quotes for one of the various reasons, short of 'the dog ate my homework', that was given for the delay in this: 'It's a complex body of work that needs to be 100 per cent right,' the Attorney said, 'so we're being thorough to ensure we get it right'.

Well, one of the Attorney-General's excuses for the day was to get it right, but she got it wrong—so very, very wrong. It just exposes another of the hollow excuses for the delay in this. The Attorney-General's stuff-up left out a range of serious sexual and violent offences from the government's proposed bill.

The Liberal government had to amend their own bill. The Attorney assured us the huge delays were to ensure it was '100 per cent right'. Well, the Attorney-General had to amend their own bill after lecturing the opposition and refusing to support a Labor bill that did include those serious offences. The Liberal Party were prepared to let a range of violent and sexual offenders get off more lightly even after changing the law in their original bill.

In the Labor bill that we put before parliament as an opposition bill before the winter break, we made it easy by including a definition of serious offences in the bill that captured the relevant offences. But the government's twisted sense of pride meant that they could not simply do a cut and paste of a Labor bill. The price of their pride is more suffering for victims.

In her second reading explanation the Attorney-General was clear what a serious indictable offence meant. The Attorney-General said:

The bill provides that a 'serious indictable offence' is defined to mean a serious offence of violence, within the meaning of section 83D of the Criminal Law Consolidation Act 1935, and a serious sexual offence within the meaning of section 52(1) of the Sentencing Act for which the maximum penalty is or includes at least five years' imprisonment. Defined in this way, 'serious indictable offence' will include, for example, offences of murder, manslaughter, causing death or serious harm by dangerous driving, rape, maintaining an unlawful sexual relationship with a child, unlawful sexual intercourse, aggravated indecent assault and offences relating to the production and dissemination of child exploitation material.

With that definition I am not sure what bill the Attorney thought she was speaking about, but it certainly was not the bill she introduced to parliament. When the government introduced its bill in the other place on 9 September, along with their own amendments to fix the stuff-ups to the bill that they said they spent 16 months getting right, the opposition offered, again, absolute support.

The opposition wanted this done quickly. In the lower house we had just one speaker, we did not move amendments and we did not ask questions in committee. In contrast, the government had a conga line of speakers who wasted valuable time and delayed even further the passage of this bill in the lower house.

Not just that, but one after another they complained that Labor had told local voters in their local Liberal electorates that they, as the local Liberal MP, had voted against a bill that would cut sentence discounts for child sex offenders.

The complaints that were given, particularly by the members for King and Adelaide, included that Labor let people know that on Wednesday 22 July the *Hansard* records various members, including the member for King, Paula Luethen, and the member for Adelaide, Rachel Sanderson, voting to adjourn a bill that would have cut the amount of discount that was available for dangerous child sex offenders. There was a complaint that Labor had the audacity to let voters in their electorate know.

Let me assure the member for King that Labor will be constantly reminding the good folk in her electorate that she voted to delay a bill that would see dangerous child sex offenders locked up for longer. We will be reminding the member for King's, Paula Luethen's, voters that because of the way the member for King, Paula Luethen, voted, dangerous paedophiles might be on the streets in their community when they should be behind bars.

Be assured that we will continue to remind the people of Elder that because of the way their member, Carolyn Power, voted, dangerous paedophiles might be on the streets of their community when they should be behind bars. Be assured that we will remind the people of Adelaide that because of the way their member, Rachel Sanderson, voted, dangerous paedophiles might be on the streets of their community when they should be behind bars. Be assured that we will be reminding the people of Newland that because of the way their member, Richard Harvey, voted, dangerous paedophiles might be on the streets of their community when they should be behind bars.

In the lower house, finally, after hours of navel-gazing and complaining, the government did not even pass the bill that day or that week. It will be interesting to see in this chamber if, like the Labor Party, the government decide to only have one speaker, or if they are going to have multiple speakers and further delay this bill. This will be a challenge for members of the Liberal Party in this place. If they want to speak further and delay the bill, they might get themselves on a Labor Party brochure that allows the good voters of South Australia to know about their delaying tactics, but that will be an issue for them.

After hours of navel-gazing and numerous speakers, unlike the Labor Party, who wanted the bill passed quickly in the lower house, the government did not even pass this bill that day, or even that week. Another two weeks went by before the bill was belatedly and finally agreed to in the other place. The bill was delivered to this council, but the delays continue. The government chose not to debate the bill.

It seems the Liberals have literally spent their time and effort dreaming up ways to delay this legislation and dreaming up excuses to describe to the South Australian public why they have not been serious about this. The Labor Party opposed the adjournment of the council when we last sat, so that we could sit as long as possible to pass this bill. The government voted this adjournment down. It gets worse—a lot worse. After failing to pass its own bill after a week, the government then cynically blamed the Greens in this chamber for their delays. It was an extraordinary and completely baseless attack on the crossbench.

The government may wish to refute this, but I understand the government had not even offered all members of the crossbench a briefing on such important legislation until the very last second, with no intention of actually debating it that week. They could not even offer a briefing before it was to be in this chamber. The opposition absolutely supports briefings for everybody on bills, but the government seems to be selective about when it is necessary or even a nicety.

Just today, the Attorney-General at a press conference invented another excuse for the delays on this bill. Keeping longer sentences will incur more prison costs, and keeping dangerous paedophiles behind bars could cost more was what the Attorney-General said today. It is said that a fool knows the price of everything and the value of nothing, and this Attorney certainly does not

understand value in relation to this. What is the value of a victim knowing that their perpetrator will be properly punished? What is the value of a victim knowing that they will be safer for longer? What is the value of our community being in a safer place?

Since Labor moved the bill in the lower house that the government shut down, we have seen offenders rush to plead guilty to get less time in prison. We have seen a double murderer, who killed his son and his son's girlfriend, plead guilty to get the more generous discount. We have seen a drug kingpin seek to move up his court hearings so that he can plead guilty to get this Liberal government's more generous discount. Then, we have seen the sex offenders: in September and October we have seen horrific outcomes with sentences handed down that would have been longer had the government joined Labor and changed the law before the winter break.

An offender known as RW was caught in possession of crude and horrific images of children, they included children engaged in bestiality. He got a 30 per cent discount and may be free in under two years. Jason Lee Booth was caught chatting online to a police officer who he thought was a 13-year-old girl. He got a 30 per cent discount and likely will be free in a year. Hamzeh Bahrami abused a girl in a public toilet while his niece and daughter were outside. He got a 40 per cent discount and may be free in less than two years. Arnold Taylor raped a 12-year-old girl. He got a 40 per cent discount and may be free in six years.

Matthew James McIntyre raped a 13-year-old girl in state care who became pregnant and then underwent a termination. He got a 25 per cent discount and may be free in less than two years. Steven Mark Edwards raped a 12-year-old girl. He got a 30 per cent discount. Robert George Cronin raped a girl repeatedly from the age of nine. He got a 20 per cent discount, with three years wiped off his sentence. An offender known as AJH sexually abused his sister and his daughter while both were underage. The circumstances were described as like being in a cult. He got a 20 per cent discount and four years wiped off his sentence.

All of these had one thing in common: if the government had acted on their own review—on their own review—when they made it public, every single one of these people would be spending more time behind bars. I know that the government is fond of talking about the fact that these laws have changed over the years. Sentencing discounts originally were introduced when Labor was in power, and guess what? We think we got it wrong back then. We have said the law was wrong. We had a review done by an expert, who said that it is out of step with other jurisdictions, and compared it. When you get something wrong you move to fix it, and move to fix it quickly.

Every single one of these people will be out of gaol earlier because of the excuses and the inaction from the Attorney-General, the member for Bragg, Vicki Chapman, and the Premier, Steven Marshall. Every single one of these offenders will spend less time in gaol, and the community will be less safe because of the Liberals' inaction. I want to assure particularly the members for King and Adelaide, who complain in the lower house, that we will keep reminding the good people in their electorates of the type of offenders that their vote shows they chose to let out early. We will remind them right up until the election.

We will not just be reminding the voters in Elder, Adelaide, King or Newland, we will also be reminding the voters in Mawson that their member, Leon Bignell, voted to keep dangerous paedophiles in gaol longer. We will be reminding the voters in Badcoe that their member, Jayne Stinson, voted to keep dangerous paedophiles in gaol longer. We will be reminding the voters in Torrens that their member, Dana Wortley, voted to keep dangerous paedophiles in gaol longer. We will be reminding the voters of Wright that their member, Blair Boyer, voted in parliament to keep dangerous paedophiles in gaol longer, and we will certainly be reminding members in Liberal-held seats that, as a consequence of their votes on 22 July, dangerous child sex offenders will be out on the streets in the community earlier than they would otherwise be.

As the Labor leader said in the other place, a conga line of criminals danced past the Attorney and she did not bat an eyelid. Labor has been willing to move on this critical issue for months, but the government and the Attorney-General are incapable of allowing anybody else to do anything for which they might get credit. We have seen it over and again, and now we are seeing the same slow-moving train wreck on sentencing discounts.

If somebody else introduces a bill that has merit, it seems that the Liberals introduce a reason not to vote for it. On this one we have seen it from 'COVID held it up' to 'it needs to be got 100 per cent right, yet we will have a swathe of amendments because we stuffed it up'. Their ego and sense of entitlement leaves everything else in the shade. This includes victims of murder and victims of child sex offenders. Shame is not nearly a strong enough word to describe how the government should feel on this issue. The public has had enough of this government's excuses and attempts to blame others. This must end now, and we must pass this bill.

The Hon. M.C. PARNELL (15:50): This bill is one of very many that I have seen on the vexed issue of sentencing in my 14½ years in this chamber. The Greens' position has always been to provide judges with as much discretion as possible in relation to sentencing, whilst acknowledging that it is the right and responsibility of parliament to fix maximum penalties and to set out criteria to be taken into account in the sentencing process.

We have mostly voted against minimum mandatory sentences because that offends the notion of judicial discretion and can lead to unjust outcomes in individual cases. We have supported maintaining the concept of proportionality in sentencing. In the words of Gilbert and Sullivan's *The Mikado*, we want the punishment to fit the crime, and that is taking into account all of the sentencing considerations, including punishing offenders, keeping the community safe and encouraging rehabilitation.

I note that in the last sitting week of this chamber the concept of proportionality was removed for a number of sentencing considerations, which we feel was a backward step. In relation to sentence discounts for early pleas of guilty, the Greens have supported the codification of longstanding common law practice. In fact, I do not think any MPs have opposed making sentencing discounts available in all of the previous debates that we have had on this topic.

In fact, the only real debate has ever been the circumstances in which discounts might be available, the quantum of discounts—especially in relation to the most serious offences—the role of sliding scales of discount, and the degree of judicial discretion to allow or not allow discounts. I would note that even under the current bill the sentencing discounts proposed are maximum discounts and judges are able to offer lower amounts. That is judicial discretion at work.

This debate is no different. This is not a new and emerging issue; it is an old debate and its resolution is always complex and always contested. The views of stakeholders are important and all members of parliament should take care to familiarise themselves with the competing and conflicting arguments. This is basic lawmaking 101 and we need to do it properly.

Along with the shadow attorney-general, I also want to comment on the events of the last sitting week when the Legislative Council first received this bill. I take a slightly different approach to the shadow. Let me say at the outset that the confected outrage of the opposition in relation to the adjournment of this bill on the last sitting day of the last sitting week was partisan politics at its worst and it does no credit to the Labor Party's claim to be a responsible alternative government.

As the architect of the current system, they were so desperate to distance themselves from their creation that they were prepared to sacrifice proper lawmaking processes for a cheap headline: who can be the toughest on criminals; who can put more people away for longer? The shadow attorney-general's contribution just now made it very clear that as far as they are concerned this is pure politics. This is an election issue: which leaflets will go in which letterboxes of which local members of parliament in relation to how they voted.

I would remind the shadow attorney that this concept of sentencing discounts, the codification of 40 per cent discounts, is a decade or so old. The list of cases that he read out, he could have gone back and read out 10 years worth of cases, the period from, say, 2012 onwards (the last eight years)—if we take one of the early sentencing discount bills—10 years of cases where you can always find a crime that is abhorrent and the community is outraged by it, and then complain that the sentencing discount scheme resulted in that person staying in gaol for a shorter period of time. That overwhelmingly happened on Labor's watch, and using it as a pure political toy I do not think does them any credit.

Disappointingly, the Labor opposition dragged the government down into the gutter with them and so the Attorney-General blames the Greens for all of this as well. Well, I have a thick skin and I

can cope with it. But at least, to the government's credit, they ultimately agreed that expecting a bill to be voted on in this chamber less than 24 hours after it was introduced was unreasonable, unless every member and every party was satisfied that it was urgent and therefore prepared to forgo any due diligence, any direct consultation with stakeholders and the opportunity to consider any amendments. The government got that right.

Whilst the government ultimately accepted the unreasonableness of their request—or, more accurately, the reasonableness of the Greens' request to look at this more closely—the opposition, smelling an opportunity to be tougher on crime than the other lot, reverted to type with histrionics and theatrics, dividing on the question of whether this house should adjourn on Thursday evening, even though the item of business that they said they wanted to debate, this very bill, had already been adjourned off until today.

When the government moved that all remaining orders of the day be made orders of the day for the next day of sitting, the opposition let that decision stand without dividing. Yet, like petulant children, the Labor opposition decided to punish the government by disagreeing to adjourn the day's sitting even though there were no remaining items on the agenda.

Not surprisingly, when both the old parties have had enough of getting stuck into each other, they turn on the Greens. So I do need to put on the record why the partisan positions of both Liberal and Labor were unreasonable. I will start with the agenda of the Legislative Council. This bill was introduced into the Legislative Council at 9.01pm on Wednesday 23 September. The second reading explanation and explanation of clauses ran to some five pages of *Hansard*. Of course, they were not available to members until 9am the next day, that is when they are in the *Hansard* and when the next day's *Notice Paper* is published.

So the government's request, and the opposition's demand, was that the bill and all the accompanying material should be digested, along with hundreds of pages of Brian Martin's report and related submissions, over the ensuing nine hours.

There were also dozens of pages of secret submissions that the government claimed were cabinet-in-confidence. I wanted to see them all, but I identified four that were of particular interest, and the Attorney eventually delivered three of these to me around midday on that last sitting day, because I had foolishly—and I will accept this—said I would do my best to get on top of the material before the end of the sitting day.

I will not be doing that again. Next time, I will follow the protocol strictly and I will refuse outright to even consider a bill like this that is unreasonably foisted on us at the eleventh hour. We do not vote on bills in the week that they are introduced unless they are urgent, non-controversial and every member agrees. If we throw that standard out the window, then we will absolutely rue the day. Our lawmaking will be the worse for it.

Part of the opposition and the government's criticism of the Greens is that we should have known that this bill was coming and that Labor's embarrassment at being the architects of the original scheme was so intense that they would be putting pressure to pass it immediately. So it was no longer a Labor law but becomes a Liberal law, and we should have known.

Should we have known that this was coming and supposedly the most urgent reform on the *Notice Paper*? The answer is no and here is why. On the Friday before a sitting week, the Treasurer sends all members a letter setting out the government's priorities for the forthcoming sitting week. In that letter there was no mention of this bill. It was not a priority.

It is not an excuse that the bill was not in the letter because it was not yet on the *Notice Paper*, because the Treasurer's priority letter often includes items that are not yet on the *Notice Paper* but which we are expecting to be introduced or to receive from the lower house and which are a priority. This has been happening all year in relation to COVID response bills. We are told that they are coming, we are told what is in them and that they need to pass by a certain date. In those circumstances, we do not stand on protocol and we do pass them as a matter of urgency. But for this particular bill, there was no mention in the government's own priority letter.

On the Monday of a sitting week, representatives of all parties sit around the table and we determine the priorities for the week: how many speakers are likely to be on each item and whether

it is likely to need an early start or a late-night sitting. It is a good process and it is handled far better under the current government than their predecessors. In this case, there was no mention of the fact that this sentencing bill was coming and was a matter of priority and that it had to be passed immediately. If it was a matter of urgency then it would have been raised then, and it was not. We are not mind-readers. We do not know what games other political parties are going to play.

So in all this process, we were led to believe it was a regular sitting week with an established list of priorities and bills that would be introduced and debated in accordance with the usual practice. In fact, it was only when the Labor Party started their stupid law and order auction that this became an issue at the very end of the sitting week. As I say, I am not at all happy about being the meat in the sandwich, but I am more than comfortable with the fact that the bill is now being considered in the sober light of day rather than as a knee-jerk reaction to partisan gameplaying.

I think it is important to remind the public that the report on which the bill is based has sat on the Attorney-General's desk for over a year. That is how urgent this is. The government sits on it for a year. So any alleged consequence that has flowed from not passing the bill in the last sitting week is precisely the same consequence as it has been for the past 12 months. If we go back to when Labor first introduced the 40 per cent discount, it has been a problem for all those years as well.

There is another indication, I think, as to why this debate has really been quite pathetic and a race to the bottom in the law and order auction. The shadow attorney-general referred to the fact that the bill was introduced into the lower house on Wednesday 9 September. It was not debated that day or the next day. In fact, it was debated in the following sitting week. If it was so desperately urgent to pass it, it would have been passed in the same week it was introduced. But the lower house, quite reasonably, took their time and they dealt with it in the next sitting week.

That is not a consideration or a respect that was shown to the Legislative Council. We get the bill at 9.01pm on one day and are expected to pass it by 6pm the next day. It is an appalling way to make laws and I think the South Australian public expects better of both the Liberal government and the Labor opposition. Personally, I am over these stupid games and I will not be sucked in again to only be thrown under a bus.

But I would like to deal with the merits of the bill. For starters, it is important to put on the record that this is an incredibly complex area of law and it is one that has occupied dozens of hours of debate over several bills in the last decade alone. I do not think it is a point of pride for a political party to stand up and say how few speakers they have and how they do not have any questions. This is an incredibly complex area of law. The issue of sentencing discounts for early pleas of guilty or for cooperation with the police has always been with us, whether it is part of the common law and the practice of the courts over many decades or whether it has just codified in this state in the last 10 years or so.

It is also timely to remind people that the concept of sentencing discounts is almost universally accepted by all stakeholders. If there were no prospect of getting a lighter sentence through a plea of guilty, then nobody would plead guilty. Why would you? You might as well put the prosecution to its burden of proof, cross-examine all the witnesses, including the victims, and with a bit of luck you might just get off. If you do not, well the penalty is the same anyway, so no harm was done. That is why everyone supports sentencing discounts.

In fact, it is worse. There would be great harm done if we did not have them, harm to victims forced to revisit their trauma and certainly harm to the budget with the expense of unnecessary trials. When we were looking at whether we could debate this in the last sitting week, one of the news reports was on the quite notorious murder trial in Western Australia, the Claremont killings. That trial cost $11 million.

Contested criminal trials are incredibly expensive. If every defendant pleaded not guilty the criminal justice system would probably grind to a halt and the maxim 'justice delayed is justice denied' would become reality. When you look at recent history of bills and debates over sentencing discounts, you find that reducing the backlog of cases in the courts is often the primary reason for encouraging early guilty pleas with sentencing discounts.

I did say to the Attorney-General in the last sitting week that I did want to take the opportunity to consult more with stakeholders and to consider the hundreds of pages of submissions that had

been made over many years but most recently in relation to the Brian Martin review. I did contact the Aboriginal Legal Rights Movement. I have had some communications with Cheryl Axleby and also another group that they are working closely with, the Change the Record organisation. I did receive some feedback and I acknowledge, as well as Cheryl Axleby, also Sophie Trevitt of the Change the Record organisation, who reminds us that:

> …part of the original purpose of this bill was to facilitate access to justice. Too many people—particularly Aboriginal and Torres Strait Islander peoples—were languishing in prison on remand due to backlogs in the courts. [The sentencing discount for early pleas] was one measure to reduce that backlog, which disproportionately affects First Nations people.
>
> If the government reduces the incentives for early pleas, what are they going to do to address an already overburdened justice system—even more so now due to Covid or so I understand—and the substantial delays faced by people to have their day in court…

The opposition is proud of the fact they are not going to ask any questions. I am asking a question: if an inevitable consequence of this bill is that the delays in the court system will be exacerbated, what is the government's response to that? Does the government have a parallel package of measures to increase funding to the courts to reduce the backlog, or will we find more people—in particular, Aboriginal and Torres Strait Islander people—languishing on remand because they are not even able to get their day in court? That is the first question for the minister.

At the heart of this bill is a provision that reduces the maximum available sentencing discount from 40 per cent to 25 per cent, and the rationale is quite simply that 40 per cent is unnecessarily large to achieve the purposes of the discount regime.

As I have said, this is not at all a new argument. I went back through the archives to have a look at what the Labor Party had to say about this when this chamber considered the Criminal Law (Sentencing) (Guilty Pleas) Amendment Bill back in 2012. The Attorney-General's second reading explanation, delivered in this chamber by the Hon. Gail Gago, states:

> The figures for the discounts in the Bill are not intended to be overly rigid or mechanically applied. They merely provide the upper limit at which a discount for a guilty plea can be set. Though there may be debate as to what should be the precise upper limits, the figures in the Bill are not overly generous. They are consistent with existing sentencing practice. What the Bill achieves is the codification of the rule that the earlier the guilty plea, the greater the discount. It places some limits on the freedom of the courts in providing discounts in sentencing.
>
> The Bill is not radical or revolutionary. Its major effect is to make transparent and regulate what already happens or, at least, what should be happening, in the State's criminal courts on a daily basis. There has been strong support in both Australia and overseas amongst law reform agencies, judges, academics and legal practitioners for a statutory scheme to encourage early guilty pleas and regulate discounts for guilty pleas. Such a reform helps tackle delay and thus assists all parties in the criminal justice process, especially victims and witnesses.

The minister went on:

> The present Bill represents a sensible and balanced model. Furthermore, contrary to some assertions, the present Bill should not result in the granting of unduly lenient sentences for offenders through excessive discounts. The figures for the maximum discounts in the Bill for a guilty plea are consistent with existing common law guidelines.

The minister later went on:

> A great deal of effort and preparation going over several years has gone into the Bill. The Opposition's approach has been unhelpful and obstructive. It is a bit rich of the Opposition to talk about alleviating the pressures on the criminal justice system and helping victims when all it does is seemingly oppose anything concrete that the Government comes up with. Whenever the Government makes a move to legislate to try and improve the effectiveness of the criminal courts, to tackle delays and assist victims and witnesses, maximise the use of prosecutors' time and minimise the amount of time defendants have to frustrate the system, the Opposition comes up with new arguments to oppose whatever the Government is proposing to do.

Nothing changes. That is eight years old. It is exactly the same debate that we are having now. I just remind members that that was the bill that introduced 40 per cent discounts for people who pleaded guilty at the earliest possible opportunity. I will read the final comment from the Labor government back then:

> The Bill contains an overriding provision for any court to be able to decline to provide all or part of a discount for a guilty plea within the ranges in the Act having regard to public interest considerations, namely where the gravity of the offence and/or the circumstances of the defendant are such that the sentence that would arise from conferring the discount would be so inadequate as to 'shock the public conscience'. This expression is not new and is consistent

with that already used in governing prosecution appeals against sentence. It is expected that the use of this provision will be rare but it is a necessary provision to make very clear that the courts' discretion is to award up to the level of the discount—it need not award the level of discount, especially for the most repugnant offender or offences. In fact, it need not award a discount at all if the circumstances demand such a course.

None of that has changed, all they are doing is tinkering a little bit with the numbers. That general principle that the parliament is setting a range or a maximum has not changed. You still have judicial discretion, and as I have said the Greens support judicial discretion.

The review undertaken by the Hon. Brian Martin, AO QC, was announced by the current government back in September 2018. The Attorney-General said at the time:

> However, the response to some recent matters from victims, their families and the broader community would tend to indicate that discounts given on sentences may not be in line with community expectations.
>
> Sentencing is an integral part of our criminal justice system—it serves as a punishment to the offender, a deterrent to others, and a signal to the broader community that the interests of justice have been met.
>
> It is a complex equation, which is why I have asked Mr Martin to look at whether the level of the discount available to offenders gets the balance right in delivering benefits to the community while ensuring the level of punishment is appropriate.

It is a complex matter and that is why the Attorney went to a prominent former Supreme Court judge, a prominent barrister, to actually do that complex analysis. Compare that approach to the one that has been suggested in this place, that we should automatically just sign off within 24 hours of whatever law reform is put in front of us.

I will refer to some sections of the Hon. Brian Martin's report, because it actually shows that the government did not entirely accept what Mr Martin came up with. Certainly, Mr Martin was far more nuanced than the opposition has been in relation to this issue. At paragraph 361, Mr Martin says:

> As to the maximum percentage reductions available at various stages, not only is 40% significantly higher than the maxima in other jurisdictions, there is a widespread view within the community that, put simply, 40% is too high. This is a major source of distress for victims.
>
> In other than rare and exceptional cases, I agree that a reduction of 40% from the appropriate sentence, purely for pragmatic reasons, is too much. It detracts significantly from the fundamental principle that the sentence should appropriately reflect the criminality of the conduct, considered in the light of the offender's personal circumstances. It possesses the capacity to compromise the fundamental purpose of protecting the public and the potential to undermine public confidence in the administration of [criminal] justice.

What I have read is Mr Martin's justification for the government's bill. That is the basis on which they have said, 'Yes, we agree; we agree with the former judge, 40 per cent is too high.' However, His Honour then goes on and says:

> Notwithstanding this general view, I recognise that there may be cases involving rare and exceptional circumstances in which a 40% reduction is not only justified, but is in the best interests of the community. For example, with specific exceptions, 40% might be appropriate in the case of a first offender who not only pleaded guilty at the earliest opportunity, but from the outset provided complete and valuable assistance to the authorities in respect of other offenders or serious criminal conduct. The mental capacity of an offender might be such as to place the offending in an exceptional category.

So even His Honour is not black and white about this. He says, 'Yes, generally times have moved on; 40 per cent when the Labor government introduced it may have been the standard, it now appears things have changed,' and he is prepared to agree with what the government is proposing. That is, 'Yes, that's probably on the high side now, let's drop it down a bit.' His Honour goes on:

> It is apparent from my conclusions that, in my view, the sentence reduction scheme is not meeting community expectations and is a source of disquiet among reasonably minded members of the community. Further, in respect of major indictable matters, the scheme has not achieved the appropriate balance between the benefit to the community of an early plea of guilty, and the need to ensure that offenders are adequately punished and held accountable to the community. However, it must be recognised that the disenchantment with the current maximum percentages is primarily experienced in cases of serious crimes. For example, the application of 40% to sentences for summary offending does not attract adverse attention. In my view there is a good case for maintaining the existing maximum of 40% for summary matters.

In terms of the stakeholders, there were actually three rounds of submissions: two rounds were called for by Mr Brian Martin, and the Attorney-General also called for submissions as well. Interestingly,

the submissions that were made to Mr Martin are publicly available; they are on the Attorney-General's website. The submissions on this bill to the Attorney-General herself are not publicly available. When I asked for them, I was told that I could not have them because they were cabinet-in-confidence.

The Hon. C. Bonaros interjecting:

The Hon. M.C. PARNELL: That is what I was told: cabinet-in-confidence. Ultimately, as I have outlined earlier, the Attorney-General did rock up to my office at about lunchtime on the day that we were expected to debate this bill, and she did produce some of those submissions. In my view, they should all be publicly available. I think that whenever the government calls for submissions on a draft bill those submissions should routinely be available to the public. Making them available certainly makes for more efficient lawmaking—we do not have to chase things up.

I will quickly outline some of the submissions. I will start with the Law Society. The Law Society points out in paragraph 9 of their submission:

> The Society conveyed to Mr Martin during the consultation for Review in November 2018, that the current sentencing discount scheme was operating well and had been extremely effective in encouraging defendants to plead guilty at an early stage. Even with respect to charges such as murder, where defendants were previously unlikely to plead guilty at an early stage.

At paragraph 12 they state, in relation to the bill:

> The reduction in the discount regime is likely to further disincentivise people to plead guilty. For example, this is particularly relevant in relation to the offence of indecent assault, which is often a very useful tool in resolving child sex offences and spares a child complainant from the trial process.

So despite the outrage of the opposition—and we are all outraged at these terrible cases—the Law Society is pointing out that the availability of pleas can avoid retraumatising victims of crime. I think the case of victims of child sex offences is particularly noteworthy. In paragraph 14 of the Law Society's submission they state:

> Further, the Society notes that one of the few recommendations from the Martin report that was not adopted in the Bill is Recommendation 5(a). Recommendation 5(a) provides that if the maximum percentages were lowered for cases of more serious crimes, the court could be empowered to increase the percentage reduction by up to 5% over the percentage otherwise available, if satisfied that the additional reduction is appropriate by reason of rare and exceptional circumstances attaching to the offender and/or the offending.
>
> 15. There has been no explanation for the omission of this recommendation. The Society strongly urges you to adopt recommendation 5(a) and ensure that a discretion remains for the court to increase the percentage reduction where there is good reason to do so.

If the bill did contain that, then we would be talking not about 40 versus 25, we would be talking about 40 versus 30. But at the end of the day, there is a lot of fiddling around the edges, the effect of which I think has been overstated by some members in this place. I refer also to the submission of the Bar Association. Their president, Mark C.J. Hoffmann QC, in his letter of 7 April this year to the Attorney-General says:

> It is noted also that 'serious indictable offences', which include serious sex offences and offences against the person, are those where long waiting periods for trial are likely to have the greatest impact on victims. The public interest in early resolution is heightened for these matters, and a scheme which significantly erodes the existing incentives for offenders to plead guilty to serious offences at an early stage does not achieve the appropriate balance between encouraging early pleas and ensuring offenders are appropriately punished.
>
> Further, the Court has always been empowered to reduce the maximum discount from 30%per cent or 40% if it would 'shock the public consciousness'. [The South Australian Bar Association] notes that this test was amended recently as to set the bar lower if the 'percentage contemplated would be so disproportionate to the seriousness of the offence, or so inappropriate in the case of that particular defendant, that it would, or may, affect public confidence in the administration of justice.'
>
> The [South Australian Bar Association] considers that these existing discretions are sufficient to achieve the appropriate balance that the Bill is intended to address.

I know it is taking some time to put these on the agenda, but if we followed the opposition's approach of having the smallest number of speakers speaking for the shortest possible time and asking no questions, none of this material would be on the public record in relation to this legislation that we are debating.

I will conclude, in terms of the submissions, by going to SAPOL—the police. That is probably a submission that members would expect would be one that would be on the harsh side when it comes to sentencing discounts, but interestingly the only police submission that is on the public record is the submission that SAPOL made to Brian Martin. The submission that police made to the Attorney-General has not been made available, and I will have a bit more to say about that in a minute.

What Grant Stevens, Commissioner of Police, told Mr Brian Martin, AO QC, in his submission back on 20 November 2018, nearly two years ago, was:

> All things considered there is the general sense within SAPOL that the present (and former) arrangements for sentencing discounts bring efficiency benefits to SAPOL and, by extension, the courts.
>
> SAPOL, with other stakeholders in the criminal justice system, is attempting to meet the challenges brought by major indictable reform, the foundations of which are built on an assumed continuation of the slightly earlier efficiency reforms, including sentencing discounts. SAPOL has a strong interest in ensuring that this delicate balance should not be upset so early in the implementation of the later reforms.

The submission from SAPOL to the Attorney-General in relation to this bill has not been made available. Again, the Attorney-General cites cabinet confidentiality. It was suggested to me that I was free to approach SAPOL myself if I wanted to get a copy of their submission, but of course that would not have been possible had we been rushing this bill through in a matter of hours in the last sitting week.

In the end, I will just say that I have received assurances from the Attorney-General's advisers that the effect of the SAPOL submission is that they do not have concerns with the current bill. I do not know what the exact words were, whether they were 'support' or 'not object', but anyway they are certainly not hostile is the advice I have been given from the Attorney's advisers, and I am happy to accept those assurances.

But it does highlight the fact that when, for whatever reason, a government declines to provide submissions on law reform, especially submissions on bills that are coming before parliament, it does have us scratching our heads. It should ring alarm bells with members, particularly when, as is often the case, stakeholders have serious concerns. Those submissions I read out earlier would not have been on the public record if we had not had the opportunity to get them and to refer to them and to incorporate them into *Hansard*.

The final issue I want to deal with is in relation to alternatives to this bill. In my briefing with the Attorney-General's advisers, I asked the very simple question that if prosecutors believe that an inappropriately lenient sentence has been delivered, what else can they do about it?

The answer is pretty obvious. One is that we could do what we are doing in this bill, we can adjust the legislated maximum sentencing discount. Other methods? The obvious one is that the prosecution can appeal. The prosecution can go to a higher court and they can claim that the sentence handed down is manifestly inadequate. You hear about that all the time. You see those cases, they are reported on the news—the DPP appealing against sentences on the basis that they are manifestly inadequate.

Whilst that is not as common as an appeal against a guilty verdict by a defendant, prosecution appeals are possible and they are by no means rare. They are guided by the DPP's guideline 14, Prosecution Appeals. I will refer to one paragraph of that guideline:

> The prosecution's right to appeal against sentence should be exercised sparingly and it is the policy of the Director of Public Prosecutions not to institute such an appeal unless it can be asserted with some confidence that the appeal will be successful. In considering a prosecution appeal against sentence it is to be borne in mind that the sentence for a specific offence will vary according to its nature, the circumstances of its commission, the antecedents of the prisoner, and the effect on the victim. Consequently, for any given offence there exists a range of legitimate penalty options. An appellate court will not interfere with the exercise of a Judge's or Magistrate's sentencing discretion unless an error in the exercise of that discretion can be demonstrated. In practical terms, the Court must be satisfied that the sentence imposed falls clearly outside the appropriate penalty range and may consequently be characterised as manifestly inadequate. Mere disagreement with the sentence passed is insufficient. The High Court decisions are clear that there must be a matter of principle to be established by the appeal in relation to the matter of the sentence—

and it refers to the High Court case of Everett and Phillips v The Queen.

I then asked the Attorney-General's advisers: how many of these appeals does the DPP institute against manifestly inadequate sentences? They went away and came back with some figures, and what they advise me is that there have been 81 such appeals since March 2013; that is, over seven years, 81 appeals, or 11 or so year.

When we look at the outcomes of those appeals, more often than not the prosecution is successful. In other words, in more than 50 per cent of cases the appeal court agrees that the sentence is manifestly inadequate and they bump up the sentence. In fact, the figures are (and I will just round the percentages): cases that are abandoned, withdrawn or lapsed, 15 per cent; cases where the appeal was allowed and the sentence was increased, 52 per cent—more than half.

Only 31 per cent of cases were dismissed and 2 per cent were victories for the DPP, but in a slightly different category. What that tells us is that, yes, this bill is one approach, but it is not as if it is the only approach. The prosecutors have always had the ability to go back to court and say that sentence is not quite enough.

It is probably no surprise that my contribution today was a little longer than it would have been had we been forced to debate this bill effectively within 24 hours of it being introduced. I am grateful to the Legislative Council that the council did comply with the long-established precedent that we do not rush important bills through unless there is a particular matter of urgency and that every member and every party agrees. I acknowledge that the government did the right thing in the last sitting week.

I am not happy with the Attorney's press releases naming me as the cause of the problem. I think history will show that this will not be the last time that we look at this. It has been before this chamber every other year, just about, certainly since 2006, when I was elected. This probably will not be the last time we look at it, but I am certainly grateful for the opportunity to consider the bill in a lot more detail, and I am pleased to have been able to put on the record the fact that, despite the apparent unanimity of opinion now between the government and the opposition, there are some other views out there. I think it is important that the record shows that those stakeholders did have an important contribution to make as well.

The Hon. C. BONAROS (16:29): I rise to speak in support of the Statutes Amendment (Sentencing) Bill 2020's second reading and echo some but not all of the sentiments of the Leader of the Opposition, and perhaps more of the sentiments that have just been expressed by the Hon. Mark Parnell. The bill addresses the growing anger in the community in relation to maximum sentence discounts to offenders who enter guilty pleas in cases of serious offending. As we know, it introduces a two-tiered system on the back of the recommendations made by retired Supreme Court Justice Brian Martin, AO QC, in his 2019 report on the scheme.

The scheme itself, as has been highlighted, is a legacy of the former Labor government, introduced in 2013, to save resources and reduce delays within our criminal justice system; in other words, to deal with an entirely inappropriate backlog of cases. Statistics show that the introduction of the scheme had an impact on those things. Before its introduction, early guilty pleas in the Magistrate's Court were about 20 per cent; in the following year that figure rose to about 27 per cent. The criteria for each increment was tweaked as part of the major indictable reforms commencing in March 2018. In the last six months of 2018 guilty pleas reached 44.1 per cent.

But, as Justice Martin found in his inquiry, the balance is not right, and again I give some but not all credit to the opposition for acknowledging that the reforms they introduced went too far. But that is as far as I will go, again for some of the reasons that have been outlined by the Hon. Mark Parnell. I will not comment further on the politics of the debate, mainly because I was not here on the day, so this is not a debate in which I took part when these issues were thrashed out.

Let me focus instead on what our community really cares about, and that is lenient sentences—lenient sentences that have been handed down to offenders who have admitted to committing the worst type of crimes. The community expects that vile sex offenders who have, for example, admitted to abusing children, quite often in their care, receive just sentences for their crimes. A brief perusal of last month's District Court sentencing remarks show just how rife, how disturbingly rife, these types of cases are.

The court handed down a number of sentences on men who had pleaded guilty to maintaining unlawful sexual relationships with children: a 44-year-old man who sexually abused his stepdaughter over a nine-year period received a 20 per cent discount; a 30-year-old man who sexually abused his 12-year-old stepdaughter received a 30 per cent discount; and a man who sexually abused his own sister when she was aged between four and 15, and then abused his own daughter, received a 20 per cent discount. This was part of a broader set of sickening offending for which he received additional penalties.

The maximum discount of 40 per cent was applied to the sentence of a man who, at the age of 40, began a 2½ year relationship with a 13-year-old girl he was living with in a shared house arrangement. He could be out of prison in little over three years. Just last week, a 43-year-old man was handed a 30 per cent discount on a head sentence of 18 months, with five months non-parole, for communicating with the intention of making a child amenable to sexual activity. Thankfully in that case the defendant was actually communicating with a police officer and not an actual child, but the intent was the same.

These discounts are not in line with community expectations. No other Australian jurisdiction offers a defendant the chance of a 40 per cent discount for their early admission of guilt in cases of serious offending. We recognise that it has long been the practice of defence counsel to draw the attention of the court to the fact and timeliness of a guilty plea. As when it operated under common law, the current scheme leaves the discretion to the judge to determine in all of the circumstances the appropriate level of discount to be applied. For the record, SA-Best too supports overwhelmingly judicial discretion. But the discounts on offer for serious offending are too great. In an effort to deal with a judicial system that was severely stretched, this parliament went too far under the opposition's watch. Like the Hon. Mark Parnell said, why else would these offenders plead guilty?

I acknowledge the concerns of the ALRM and Change the Record and agree with many of their concerns in relation to this bill, given the disproportionate incarceration rates of our Aboriginal community members in particular. But the bottom line is what it usually comes down to, and that is one of funding. Unless and until successive governments appropriately fund our judicial systems there is no doubt in my mind that the reasons this bill was introduced all those years ago, the reasons this bill continues to appear on the *Notice Paper* will, as the Hon. Mark Parnell said, continue to resurface time and time again.

Turning to the bill itself, it enshrines the circumstances when a lesser discount can be applied by the court, such as where a defendant has not shown genuine remorse or has intentionally concealed the commission of the offence. The integration of Justice Martin's recommendations also includes circumstances where the defendant has had an adverse finding at a disputed facts hearing before a magistrate, and in circumstances where the prosecution case is so strong it would or may affect public confidence—a modern play on the historical 'shock the public confidence test'. This adds to the discretion the court already has in having regard to any other factors it deems relevant.

One very important provision in this bill, in my view, is that it gives extra time to defendants who have been unable to obtain proper legal advice due to their location, their itinerant lifestyle or communication difficulties, and that flexibility is extremely important given the vulnerability of some accused people.

One final aspect of the bill I want to touch on is the repeal of the option of up to 10 per cent discount for pleading guilty after a trial has commenced but on account of the defendant's compliance with pre-trial disclosure and procedure. If this option was left on the table it might be an incentive for a defendant to roll the dice. In the recent District Court case of R v Dickson the defendant pleaded guilty to raping his 15-year-old niece. That plea was not entered into at his first trial—where the jury was unable to reach a verdict—but just prior to his second trial which was listed a further six months down the track.

In that case he received the benefit of a 10 per cent discount for procedural compliance, albeit with no opposition from the prosecution. There is a very good argument that it does not make sense to keep this incentive on the table when a defendant could potentially only receive a 5 per cent discount just before the commencement of trial within the new regime.

There has been community outrage in recent months over the way the courts have been exercising their sentencing discretion when considering guilty pleas. Take, for example, the recent sentencing of the paedophile Hamzeh Bahrami. Bahrami entered guilty pleas to four counts of aggravated indecent assault, and one count of false imprisonment after sexually assaulting a 10-year-old girl in a toilet block at a Blair Athol playground in 2019. He was sentenced to four years and nine months' imprisonment with a three-year non-parole period. With time served he could be walking the streets again in April 2022.

The DPP is appealing the manifestly inadequate sentence—and so they should. It was offending of the worst kind. There was solid DNA evidence. Bahrami lured the victim into a toilet block and performed unspeakable acts while his own child was on the other side of the toilet door. He then stood back while his brother was arrested. Fortunately, the DNA resulted in his brother being cleared. The only positive to come out of the incentive to plead guilty was that his young victim did not have to relive her traumatic experience in court. That is not something that can be downplayed in terms of its importance in terms of victims being revictimised after the original offending.

This is one aspect of the scheme that I think the media and the general public sometimes overlook when focusing on the punishment above all else, and why some incentives do need to remain in place. Where possible it is important to protect victims of rape or serious sexual offences from the stress of giving evidence at trial, so we must be mindful not to eliminate any incentive at all. We do not want defendants rolling the dice because they feel they have nothing to lose or for victims or their families to endure further suffering because of it.

The sentencing of Matthew McIntyre in the District Court on 14 September is another example of the application of the current sentencing discount scheme rightly sparking community outrage. Following his guilty pleas for communicating with a child for a prurient purpose, with the intention of making a child amenable to sexual activity and unlawful sexual intercourse with a person under the age of 14 years, McIntyre was facing a maximum penalty of 10 years and life imprisonment respectively.

The facts of the case are deeply disturbing. McIntyre was 34 years old when he had sex with and impregnated a child under the care of the Minister for Child Protection after making contact with her via a teenage dating app. The facts, again, were apparently indisputable. The victim had an abortion and the DNA evidence proved the case without a doubt. In her sentencing remarks, Her Honour Judge McIntyre said:

> You entered your pleas at the earliest opportunity and you are entitled to a discount of up to 40 per cent on penalty. I do not, however, consider it appropriate to award the full discount.
>
> Whilst you have avoided the trauma of a trial for the victim, and by doing so you have demonstrated remorse, the case against you on both counts was overwhelming.
>
> It could be argued that your pleas represented no more than a recognition of the inevitability of conviction. In those circumstances, I will discount your penalty by 25 per cent.

I think that goes to the heart of the point the Hon. Mark Parnell has just made in his contribution.

That discount reduced a head sentence of five years to three years nine months' imprisonment, with a non-parole period of a mere one year and 11 months. It beggars belief a man can receive a penalty of less than two years for this type of heinous offending. The community expects more from our justice system, as it should.

We have not been privy to all of the stakeholder submissions considered by the government on this bill, again as highlighted by the Hon. Mark Parnell. We have been told submissions are protected by cabinet-in-confidence, something that we are growing all the more accustomed to hearing from this government, as the bill was provided to stakeholders in draft. As I said, this is becoming a habit of the government: 'If you want stakeholder submissions, go and ask the stakeholders.'

Fortunately, the Martin review did consider a broad range of submissions, which we have been privy to. It is safe to say the legal profession is supportive of keeping 40 per cent on the table. Sufficient particulars are not always provided at the first court date. Sometimes witness statements

trickle through at a snail's pace. They favour a more flexible approach for these, and myriad of other reasons.

We are not entirely confident the judiciary supports the bill in its entirety, but again the cabinet-in-confidence claim has denied us the ability to consider any concerns it may have. One could assume it would prefer to maintain maximum discretion in sentencing, but as we have seen in recent years, judges are also imperfect and do make mistakes in sentencing when they are manifestly inadequate. But again, thankfully the appeals process sits as a safety net and, as articulated by the Hon. Mark Parnell, I think it has been used on at least 81 occasions since 2013.

The expeditious but now well-considered, I think, passage of this bill is paramount given the recent flurry of guilty pleas being entered into in anticipation of the proposed laws, but again I qualify that comment by referring once again to the Hon. Mark Parnell's comments about the sheer number of cases that would have benefited from this legislation over the past eight or 10 years since its introduction.

There are cases that we are seeing now which do not pass the public confidence test. We have had the recent case on 21 September of Pawel Klosowski pleading guilty to the shooting murder of his son and his son's girlfriend. He is now eligible for up to 40 per cent discount on his sentence under the current regime, though any sentence will be subject to a minimum 20-year non-parole period.

On 24 September, paedophile Dylan McCrossin, a relief teacher at seven South Australian schools, pleaded guilty to possessing child exploitation material. That same day, Mark Anthony Gray pleaded guilty to multiple basic and aggravated counts of possessing and disseminating child exploitation material. Ask the average person on the street if a child sex offender should have the chance of a 40 per cent discount or 40 per cent being shaved off their sentence, I think overwhelmingly the answer would be no.

It is for those reasons that SA-Best expresses its support for the second reading of the bill. I do note the concerns that have been raised so articulately today by the Hon. Mark Parnell in his very thorough contribution, especially as they relate to judicial discretion. I look forward to responses from the government to the questions he has raised in his contribution and the otherwise, hopefully, smooth passage of the bill through parliament.

The Hon. R.I. LUCAS (Treasurer) (16:45): I thank honourable members for their contributions to the second reading. I have to say, I am often stunned at the breathtaking hypocrisy of the Australian Labor Party on issues before this chamber, but today's performance on this particular issue is right up there with the very best from the Labor Party's viewpoint.

In simple terms, South Australians understand that this is a mess of Labor's making. The Labor Party, a party supported by the Leader of the Opposition in this chamber and the Leader of the Opposition in another chamber and, indeed, other prominent members of the Australian Labor Party, supported wholeheartedly, in various roles, the introduction of this particular mess. The people of South Australia will know that it is the Liberal government that has cleaned up or will have cleaned up Labor's mess.

In response to the puerile threats from the Leader of the Opposition in his contribution as to what he intends to do or they intend to do in various electorates, can I respond, albeit much more briefly, that this government is very happy to highlight to the good people of King, the good people of Elder, the good people of Adelaide, the good people of Mawson, the good people of Torrens, the good people of Badcoe, and the other electorates that the honourable member highlighted, that under the former Labor government criminals who were found guilty of grotesque crimes—and we have a list of them—were given 40 per cent discounts by the Australian Labor Party, by the Labor government.

We will highlight those particular individuals that the Labor government wanted to give and did give a 40 per cent discount to. Then, we will highlight the fact that the Liberal government is the government that has introduced the legislation to clean up Labor's mess. We will be willingly highlighting the role of the member for King, the member for Adelaide, the member for Elder, the member for Colton and, indeed, others as being part of a government that has cleaned up Labor's mess.

The individual criminals who committed grotesque crimes against other individuals and against the South Australian community, which we have the details of, the Labor Party happily gave 40 per cent discounts to in terms of their sentences, we will willingly engage in that sort of debate. I am confident that the people of South Australia, when confronted with those facts, will say, 'Thank goodness the new government has fixed up another of Labor's messes, and that will continue for no longer.'

Finally, I note, as I think the Hon. Mr Parnell noted in his contribution, the *Hansard* record does show quite clearly that the Labor Party in this chamber, led by the Leader of the Opposition, actually voted to adjourn the debate on this particular bill from that sitting week to the next sitting week, contrary to the claims that he has made and they have made in this particular chamber. The *Hansard* record makes it quite clear there was no dissent, the Labor Party and all members supported the adjournment to the next day of sitting, which is indeed today, for this particular debate. Any claims from the Leader of the Opposition and members of the Labor Party to the contrary are wrong and the *Hansard* record demonstrates that they are wrong.

With that, and given the Leader of the Opposition has indicated he did not want to see any other members of the government speaking on this bill to delay it, I am sure we will see a speedy passage in the committee stage. I am sure we will not see the usual performance from the Leader of the Opposition in seeking to further delay the speedy passage of this bill by filibustering in the committee stage of the debate.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. M.C. PARNELL: I just have two questions, and they were the two that I incorporated into my second reading contribution, so I know the minister's advisers have heard them. The first one is: why did the government not accept Brian Martin's idea of allowing an extra 5 per cent discount in extraordinary cases; in other words, taking it from a maximum of 25 per cent up to 30 per cent discount? Is there a reason why that particular recommendation was not adopted?

The Hon. R.I. LUCAS: I guess, in part, the response is that the government took a view that ultimately 25 per cent was an appropriate level of discount, as opposed to 40 per cent. I am advised that during the consultation process some of the feedback argued that the notion of the additional 5 per cent to which the honourable member has referred introduced a degree of complexity to the system that those particular stakeholders evidently did not support.

Ultimately, it was the decision of the government, having listened to the stakeholder feedback and to all of the debate and argument, that 25 per cent was what the government believed was an appropriate level of discount, as opposed to the former government's 40 per cent.

The Hon. M.C. PARNELL: I thank the minister for that answer. The second question I have is in relation to the possible effect of this bill on the backlog of criminal cases in the court system. As I tried to explain earlier, one of the main rationales for these discounts has been to encourage people to plead guilty early, which takes pressure off the court system and reduces the delays or the backlog.

My recollection, from the last big debate we had, is that it was particularly a problem in the District Court. Following that through logically: if there are fewer discounts available and fewer people take the opportunity to plead guilty early, there will be more contested cases. What strategy does the government have to manage the backlog of cases in that scenario?

The Hon. R.I. LUCAS: I am advised that the Hon. Brian Martin indicated, in his report, that he did not believe the difference between 40 per cent and 25 per cent, in terms of the sorts of issues the honourable member has raised, would lead to a significant difference in relation to the workload issues the member talks about. There are always going to be ongoing issues, and I do not propose to delay the debate here. We can talk about it on another occasion.

I am sure the Attorney would be happy to wax lyrical with the member on another occasion about her strategy in terms of the judicial system and backlogs, workloads, the appropriate appointment of replacement judges and a variety of other initiatives that I know she has either already introduced or may contemplate introducing. I think that is probably, helpfully, a debate for another day, and we hope the honourable member stays in the parliament long enough to debate, through next year, some of those initiatives from the Attorney-General.

The Hon. M.C. PARNELL: I thank the minister for his answer. I was expecting him to say, 'Wait for the budget,' because I am expecting there will be major announcements for funding the criminal justice system. As other members, I have never had any particular desire to unnecessarily delay these proceedings. They were the two issues I wanted to ask questions on, and I have. I will have no further contributions in committee.

The Hon. C. BONAROS: I have just one question, leading on from the Hon. Mark Parnell's in relation to budgetary measures. I appreciate that the Treasurer has just said that we do not expect an increase, but has there been an allowance for any potential increases, or have we considered, as part of our budget measures, whether there may be a future need for increasing funding to deal with any increases?

The Hon. R.I. LUCAS: Not specifically in relation to this particular bill, but it may well be that in terms of the overall submissions the Courts Administration Authority might have made, via the Attorney-General, their overall judgement about workloads may include their judgements about this legislation, and also may include their judgements about the replacement of judges and a whole variety of other judicial issues that might impact on workloads for the court system.

It may be that this is one factor in their overall judgements to the Attorney, and then to the government, about their budgetary issues. However, there is nothing I, as Treasurer, have specifically received in relation to this particular bill to say, 'Hey, we need an extra $1.4 million,' or something, to manage the additional workload as a result of the possible passage of this particular bill.

Clause passed.

Remaining clauses (2 to 10) and title passed.

Bill reported without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (16:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

EQUAL OPPORTUNITY (PARLIAMENT AND COURTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 2 July 2020.)

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:59): I will be very brief, and that is just to thank everybody who has made a contribution to this particular piece of legislation, which we think is an important reform in this space. I look forward to the committee stage of the debate.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. K.J. MAHER: I am interested in who was consulted in relation to this bill and what the feedback was.

The Hon. J.M.A. LENSINK: I can advise that the government has consulted with the equal opportunity commissioner and the Chief Justice. Following the bill's introduction, a letter was sent to the presiding members.

The Hon. K.J. MAHER: I thank the minister for her response. In relation to the first two mentioned, the people who were consulted, does this bill incorporate all the suggestions they came up with when they were consulted?

The Hon. J.M.A. LENSINK: Opinions in relation to this legislation were sought from both those office-bearers. They both support the bill.

The Hon. K.J. MAHER: Just to make sure that we are talking about the same thing, were those two people consulted on this bill or were they consulted generally on this matter; that is, were they shown the bill and asked for feedback on the bill as it has been presented to this chamber?

The Hon. J.M.A. LENSINK: The advice I have received is that both of those office-holders were presented with a version of the bill which has subsequently changed, but they are supportive of the current position.

The Hon. K.J. MAHER: What changed between what was consulted on and what ended up here?

The Hon. J.M.A. LENSINK: The change to the legislation has been the inclusion of judges within the current version.

The Hon. C. BONAROS: Perhaps for the benefit of members, I will ask the minister to confirm that I will be moving the amendments in set one, not set two, on the basis that the amendments in set two, which relate to councils, have been incorporated into the local government reform bill that is not yet before us, I think—

The Hon. K.J. Maher: It's being debated as we speak.

The Hon. C. BONAROS: It is being debated in the lower house as we speak. So there are two sets of amendments on file. Set two seeks to include into this bill the judiciary and councils. Set one only seeks to incorporate the judiciary. I am proposing that I move forward with set one but on the understanding—and the minister will have to confirm this—that the local government reform bill currently being debated in the lower house addresses the concerns that we have and incorporates the same provisions in relation to councils.

The Hon. J.M.A. LENSINK: I am happy to confirm that what the honourable member has just stated—that we will be including provisions within the local government reform bill—is correct. She can be assured that her assumptions on the way to proceed concur with the government.

The Hon. C. BONAROS: Thank you to the minister. On that basis I move:

Amendment No 1 [Bonaros–1]—

Page 2, line 4—After 'Parliament' insert 'and Courts'

This amendment seeks to insert the words 'and Courts' after 'Parliament'. The intent of the amendment should by now be clear to all members; that is, to remove the exemption that currently applies to our courts from the scope of the equal opportunity bill. Amendment No. 2 is almost a consequential amendment in that regard. I do this because, as members will probably recall, during my second reading contribution it was certainly SA-Best's view that there was absolutely no reason or logic to any exemption applying to the judiciary, to the courts and to councils from the reach of the Equal Opportunity (Parliament) Amendment Bill.

I do want to ask for your indulgence a little, Chair, and just reflect back on why it is that we propose these amendments in the first place and reflect on one issue that has not been addressed by the amendments, but I think is important to clarify for the record because of the contribution I made in relation to proceedings of this place—that is, parliamentary proceedings—and place on the record the response I received from the Attorney regarding a number of scenarios. They do not fall under this particular amendment—I am seeking your indulgence, Chair—but are at the heart of the debate we are having in relation to the inclusion of these provisions in this bill.

Those questions that I asked were specifically around parliamentary proceedings and what they mean in this place. I am happy to do it now; I am happy to do it in a subsequent clause—wherever you consider appropriate, Chair. I thought I would incorporate it into my contribution on this particular provision.

Members will recall that during that second reading contribution I listed a number of outstanding scenarios that I think do warrant further consideration. I have to agree with the Attorney that they are not easy problems to remedy, because of the way we define parliamentary proceedings in this jurisdiction—if they were, I would have drafted amendments to deal with them—but they are worthy of comment.

I am not sure that the government intended to do this, but in her response to me about very specific scenarios that I put about parliamentary proceedings the Attorney provided some responses. She qualified that by saying that the interpretation of whether the specific scenarios that I raised fall under the definition of parliamentary proceedings is a legal question and a matter of statutory interpretation. While she would not provide legal advice, she did provide comments as follows.

The first scenario was, if one member was to walk past another member while in the chamber and call him or her a name that is derogatory, insulting, racist or sexually charged, but not while on their feet, would that constitute parliamentary proceedings and therefore still be exempt from the reach of the equal opportunity bill? The response from the Attorney was that it would constitute parliamentary proceedings and therefore be exempt from the reach of the bill.

The second scenario was, if a member was to walk past another member during a sitting and verbally harass them or grope them, would that constitute parliamentary proceedings? The response was, if not in the chamber then it would not be parliamentary proceedings. If it occurred in the chamber, it would be deemed an exemption because it would be within a parliamentary proceeding session.

If one and two, as explained above, happened during committee proceedings, then the exemption that applies to parliamentary proceedings would be applicable. If a member walked up to a person and placed their hands on him or her in an unwelcome way, sexually harassed or racially vilified them during a tea break of a committee, according to the Attorney this would not constitute parliamentary proceedings and therefore somebody could make a complaint to the commissioner.

If a member texted or called a person after work and sent them inappropriate messages, according to the Attorney this would not constitute parliamentary proceedings and therefore would be subject to the equal opportunities complaint mechanism.

If sexual harassment occurred at a briefing, then, according to the Attorney, it would not constitute parliamentary proceedings. At an information session organised by the government, it would not constitute parliamentary proceedings. At a parliamentary function in the dining room, it would not constitute parliamentary proceedings. During parliamentary proceedings that see members visit Government House or during estimates, not parliamentary proceedings; at a library information session, not parliamentary proceedings.

I seek to table this response from the Attorney, because I think it is important that we keep this in mind in the broader context of this debate. I therefore seek leave to table the letter.

Leave granted.

The Hon. C. BONAROS: I do so because there are exemptions that apply in the bill that I do not think are warranted. I do not know what the solution is, but I am highlighting them because as with the judiciary, as with councils, I think there are exceptions that apply now that we need to address because they do not pass the pub test; they are not considered appropriate.

Nobody in their right mind would consider something along the lines of what I have just read out onto the record occurring in this place, or in our judiciary or in our local councils, being able to be exempted from the reach of the equal opportunity bill purely because it has taken place during proceedings of this place or one of those places. It is absolutely unacceptable that I could walk up to a member in this place now, while I am not on my feet, and racially vilify them, sexually harass them or anything else, and there would be no repercussions for my actions purely because we have

exemptions that apply for parliamentary proceedings and exemptions that apply in the legislation for other proceedings in other areas.

I make those comments just to place them on the record, and indicate that this is something that I have said to the Attorney that I am hoping we will be able to address further, but I do not want to hold up the passage of this bill.

The amendments that I now move deal purely with the judiciary and seek to incorporate the judiciary into the reach of the Equal Opportunity Act and ensure that they are covered by the same standards that apply to everybody else, and that is that we are all covered by the same standards that would apply in any other workplace in this jurisdiction.

The Hon. J.M.A. LENSINK: The government supports these amendments, and I will make a slightly less short contribution on the next amendment.

The Hon. K.J. MAHER: The opposition supports it.

Amendment carried; clause as amended passed.

Clause 2 passed.

Clause 3.

The Hon. C. BONAROS: I move:

Amendment No 2 [Bonaros–1]—

Page 2, after line 9—Before the current contents of clause 3 (now to be designated as subclause (2)) insert:

(1) Section 87(6a)—after 'sexual harassment a' insert 'judicial or '

This amendment relates specifically to section 87 of the Equal Opportunity Act, which deals with sexual harassment. The government's bill includes sexual harassment by another member of parliament. This amendment is consequential in some respects in that it seeks to also extend that scope to the judiciary, and through the local government reform bill we will see that also extended to councils.

If I can just, for the benefit of members, clarify the point I was making earlier: while I think this is a good first step, I think it is absolutely important that we read section 87 in its entirety because, even though we are addressing part of the problem, we are not by any means addressing all of the problem and the same sorts of issues I have just outlined in relation to parliamentary proceedings certainly apply still in relation to the judiciary, and that is why further work is needed in this area.

Section 87, which will now extend to judicial officers, like the provision that relates to parliamentary proceedings, has exemptions for conduct that occurs in chambers in the exercise or purported exercise of judicial powers or functions or in the discharge or purported discharge of judicial duties. Again, this is a consequential amendment in some respects, but I think it is absolutely important for members to appreciate that we have only gone part of the way in addressing what SA-Best believes needs to be addressed through these amendments.

It is certainly my hope that the Attorney will see through the undertakings she has given to me in terms of trying somehow in the future to address the other issues that I have raised around parliamentary proceedings or anything that may occur between judicial officers that happens in chambers, and certainly anything of that sort that may apply to councils. With those words, I commend this amendment to the chamber and hope that it is supported.

The Hon. J.M.A. LENSINK: The government supports this amendment which expands the sexual harassment provisions in section 87(6a) to make it unlawful for a judicial officer to subject to sexual harassment another judicial officer. Currently, section 87(6a) covers sexual harassment by a judicial officer towards a non-judicial officer or a member of the staff of a court of which the judicial officer is a member.

The Hon. T.A. FRANKS: I have a question, more probably of the government than the mover. Given it seems likely that we are going to be expanding the scope under which the EO Act will enable people to make complaints, will those complaints be able to be made retrospectively, as currently there is a certain period of time—and I cannot for the life of me right now recall if it is

one year or two years, but I suspect it is probably one—that one can make a complaint after an incident or series of incidents have occurred, depending on the definition being complied with? If we pass this bill will that retrospectivity apply from the assent of the bill or from some other date?

The Hon. J.M.A. LENSINK: I will answer the honourable member's question in two parts: in the existing act, section 93(2), the complaint must be lodged within 12 months of the contravention. However, in relation to these particular amendments to the act, the government is of the view that in line with the general prohibition on retrospective criminal laws we cannot seek to sanction a person for conduct that was not contrary to law at the time the conduct was undertaken. The advice that I have received is that the new clauses will come into effect on assent.

The Hon. T.A. FRANKS: Noting that, particularly with sexual harassment, it can be a series of events over a long period of time rather than an individual act of a sexual harassment nature, should there be one last event after assent will the other actions be taken into consideration for the purposes of making a complaint to the EO commissioner?

The Hon. J.M.A. LENSINK: That is a good question. In relation to there being a series of events and the final event takes place after the new clauses have been assented to, the commissioner would have some discretion to look at prior events as part of establishing a pattern of behaviour. That would be part of the discretion in managing a situation.

The Hon. C. BONAROS: The further contribution I have on this particular amendment is to ask the minister to confirm the undertaking that we will be looking at these provisions further in relation to the concerns I have raised that apply equally to judicial conduct that occurs in the purported exercise of judicial powers or functions, and that is effectively the same issue that we have with parliamentary proceedings. I do want it placed on the record that this is an issue that we will be considering further outside this debate.

The Hon. J.M.A. LENSINK: I thank the honourable member for those questions. The advice I have is that the Attorney is very open to continuing the discussions as the honourable member has relayed in her contribution, and we look forward to these matters being further progressed.

Amendment carried; clause as amended passed.

Remaining clauses (4 and 5) and title passed.

Bill reported with amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (17:29): I move:

That this bill be now read a third time.

Bill read a third time and passed.

TRAINING AND SKILLS DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 22 September 2020.)

The Hon. C.M. SCRIVEN (17:30): I indicate that I am the lead speaker on this bill. The Minister for Innovation and Skills undertook a review of the Training and Skills Development Act 2008 in 2019 and released the report 'Future-proofing the South Australian Apprenticeship and Traineeship System'.

On 2 July 2020, Minister Pisoni introduced the bill into the House of Assembly. However, consultation was open on the YourSAy website until 20 August. That in itself was interesting, that Minister Pisoni introduced a bill but had not actually completed consultation prior to doing so. Certainly, a number of stakeholders indicated to me and to the Labor opposition their disappointment with that because it appeared to indicate a lack of goodwill in terms of actually hearing from all relevant stakeholders—and in that I would include representatives of employees, apprentices and trainees—and was instead trying to railroad something through.

Indeed, we know that he did try to get it through the lower house in a very short period of time. If he had been successful it would have come to the upper house before the consultation period was complete. I am glad to say that did not occur and he did not get it through the other place in time to do that.

This is an incredibly important bill because it relates to training and skills development in our state. We have a multitude of pieces of evidence about some of the problems in our training and skills sector. There is a lack of certainty in what the VET system is producing. We see that completions are continuing to decline. What we have had a great deal from this government is a wonderful amount of spin about how wonderfully, supposedly, this government and Minister Pisoni are doing in this space.

Members will recall that Skilling South Australia, an agreement with the commonwealth, at roughly $200 million was designed, supposedly, to produce 20,800 new training places. I say 'new training places' because that is the accurate term, whereas the minister talked about 20,800 new apprentices and traineeships. That 20,800 was on top of what is called the baseline figure or a benchmark of 2016.

In 2016, there were 9,975 new commencements in traineeships and apprenticeships. The 20,800 was to be on top of that, so we could have expected roughly 30,000. We hear Minister Pisoni telling us that he is actually 'leading the nation', that the Marshall Liberal government is apparently 'leading the nation' in training and skills because they had, according to the NCVER figures, an 11.9 per cent increase in commencements from the previous year.

What the minister has failed to say and what the Treasurer obviously is unaware of is that that was an increase, because the previous year, under the Marshall Liberal government, was so bad.

The Hon. J.E. Hanson: How bad was it?

The Hon. C.M. SCRIVEN: It was very bad indeed. The figures are such that this government has not even reached the benchmark figure. The NCVER figures show 9,265 commencements for the most recent figures ending in March, which is less than the benchmark of 9,975 that was achieved in 2016.

So, far from leading the nation, Minister Pisoni and the Marshall Liberal government have been going backwards in terms of their commencements for traineeships and apprenticeships from even the 2016 figures. And as I mentioned, completions continue to decline.

This is a very important bill because it does have an impact on training and skills development as we go forward. Of course, as we emerge from COVID, it is incredibly important—perhaps more important than any of us have seen in our lifetimes—that we do have a skilled workforce, that we are able rebuild the economy, and that we are able to fill the jobs of the future, as well as create the jobs of the future and the circumstances by which businesses will be able to do so.

Some of the criticisms from stakeholders that have been given to the opposition include the following, and I think they are worth reading out. I will mention that this is not a political statement from this stakeholder. This is simply an assessment of the bill as it was provided at that time. Of course, there have been some changes.

I will mention that in the lower house there were 43 amendments to this bill—43. So the government introduces their own bill and then makes 43 amendments to it. I cannot complain about all of those because some of them are very good amendments and they actually reflect the feedback from stakeholders, including feedback that I think came about because we asked the questions of stakeholders, who had been encouraged to write to various members of this place saying that they supported to bill, only to find that they were not actually apprised of all of the details.

Once we were able to ask those questions, stakeholders expressed some concerns about some details and they presumably gave those concerns to the minister. I am glad to see that he did make some changes, but it is somewhat embarrassing for the minister to have to make 43 amendments to his own bill in the other place.

Mind you, I think he has now been outdone. I think someone mentioned that another bill—which of course I cannot mention because that would be against parliamentary proceedings—had something like 140 amendments made to it by the government, that the government has made that number of amendments to its own bill. But that is another question for another day.

A comment made by one of the stakeholders was that the amendments in the bill, if supported:

> …would result in too much of the management of training and skills development in South Australia being done through regulation, regulation subject to transactional political cycles rather than encouraging proper long-term planning and investment in capability building through legislation.

Other concerns were that:

> The objects proposed for the new act ignore the role of vocational education and training in furthering the social development of South Australians in favour of economic development.

So it is a narrow object that is being proposed. It should be about social development as well as economic development. This stakeholder mentioned that:

> The original bill preferenced the needs of industry, government and the community but made no reference to the needs of students or workers.

I note that there have been some slight changes that do address that to an extent, but again, the bill as received in this place certainly has a very strong bias towards industry, government and community. Obviously, we do need to have industry, government and community involved, but not to the exclusion of students or workers. We are, after all, talking about apprentices and trainees, so one would think that students and workers should be central to that. Further feedback was that:

> It constitutes a repudiation of longstanding intergovernmental commitments to participation in the national training system and mutual recognition.

In addition, that:

> It constitutes a repudiation of 30 years of commitment to bipartite industry leadership of a competency-based vocational education and training system, and that it encourages further fragmentation of vocational skills at a time when greater certainty and coherence is what is required.

Also, that:

> It constrains the utility of apprenticeships and traineeships to mere employment programs at the expense of opportunities to build a skilled and resilient workforce that can confront the future.

I think that is a very, very valid point. We need to have a skilled and resilient workforce. They need to be able to confront the future and they need to be able to develop. Despite the rhetoric around this being about flexibility, this bill is more about flexibility for one side of the equation rather than flexibility for our entire training and skills community as we go forward.

Further, the feedback is that this bill encourages further fragmentation of the apprenticeship system through ill-considered approaches that preference flexibility over certainty. Again, ambiguity can be a great disincentive, both to people considering an apprenticeship, traineeship or training contract as well as to employers in taking that on. Invariably, ambiguity ends up costing the community and costing industry, workers and students because ambiguity causes disputes.

The original bill removed all registration requirements for employers. What the original bill did was only mention employers in terms of whether they were able to take on apprentices as employees after the fact. If an employer did something that was seriously wrong they would become a prohibited employer, and be unable to take on apprentices or trainees in the future. So it removed all the current requirements for registration as an employer.

It is a very welcome backflip that we have seen in terms of the government in the lower house introducing an amendment to put in a registration process; however, it is still very ambiguous, and it is not clear why that will be in regulations rather than in legislation. I will speak to that more when we get into the committee stage.

The key changes introduced by the bill include establishing the South Australian Skills Commission, with all members to be appointed by the minister. This involves rebranding the Training and Skills Commission and abolishing the position of Training Advocate. It establishes a South

Australian Skills Commissioner to be appointed by the minister, and it enables the minister to expand the scope of trades and declared vocations. As mentioned, it changes the employer registration process but, as also mentioned, it does include a registration process. I will comment more about that when we get into the committee stage.

It increases the probation period for both apprentices and trainees to six months or 25 per cent of the training contract. It enables a training contract to be ended without reason within that probation period simply by giving written notice, and introduces a fee for employers on transfer of a trainee or apprentice—apparently to combat poaching. Again, employers and training organisations have raised concerns with that. It would also permit the South Australian Skills Commission, upon being satisfied of a person's competency in a trade or declared vocation, to issue a certificate of proficiency in relation to the trade or declared vocation.

In terms of the Training Advocate, the key function of the Office of the Training Advocate is to promote and provide independent advice about the training system in South Australia to students, apprentices and trainees, employers and training providers. The services the Training Advocate currently provides include a confidential and independent advice and support service, dedicated services to international students, speaking out and negotiating on behalf of individuals towards the resolution of an issue or dispute, independent complaints handling, presentations to businesses, student orientation sessions, making submissions to inquiries, and relevant key stakeholder consultations.

The Training Advocate is an independent statutory office that, by all accounts, would seem to have been relatively uncontroversial. This is despite the fact that when coming into government the Marshall Liberal government, or Minister Pisoni in particular, appointed a former Liberal staffer to the role. The only criticism I have heard of her is that people have not seen her very much, but she certainly has not provided anything that is particularly controversial.

Concerns have been raised about rolling these functions into the SA Skills Commission, because it removes the independence of that office. Minister Pisoni has argued that there has been industry feedback regarding confusion and duplication of roles between the Training Advocate and the current Training and Skills Commission. If that is correct, we would welcome the minister better defining the new skills commission and the role of the Training Advocate. That is what would be needed to clear up confusion while maintaining the important independent role for advocacy.

Something for members to consider: under this new system where there is not an independent advocate, if an electorate office trainee or a trainee in the office of a member of the Legislative Council who works directly under the minister and whose EO had concerns with the on-the-job training they were receiving, instead of going to the independent Training Advocate they would have to go to the Skills Commission, which is appointed by the minister and is under the direction of the minister—the very same minister who has set it up.

The difficulties around not having an independent person whom someone could go to should be obvious to all members. The question would arise whether the commission really would adequately investigate the issues. This could be expanded to any other state government agency or department that undertakes training. Removing the independent role raises questions as to how their complaints will be handled. The opposition will be moving amendments to reinstate the Training Advocate, due to those concerns.

Regarding the make-up of the South Australian Skills Commission, the bill would provide the minister with the power to appoint all 10 members of the commission without consultation from unions or employer groups, whereas at the moment there must at least be consultation with a representative of employers (Business SA is the designated representative) or with representatives of employees (SA Unions is the designated representative).

We do know that Minister Pisoni has a bit of history in terms of making appointments to boards—turning boards that have been working quite well into political nightmares. Members may recall the appointment of Nicholas Handley, who of course did not qualify to be appointed to the role he was appointed to on the CITB, yet the minister went ahead and did it and then changed the act so that he would not have to worry about having any particular skill, any particular experience or any particular abilities on that board.

The Hon. J.E. Hanson: Bingo.

The Hon. C.M. SCRIVEN: 'Bingo', as the Hon. Mr Hanson says. So, under this bill, Minister Pisoni is able to appoint members to the commission without reference to either employer groups or employee groups. We will be moving an amendment to ensure that one person is appointed from each of those two bodies, still leaving the minister to appoint the remaining eight. Two out of ten does not seem a particularly onerous requirement, yet we know that the minister hates unions, so it is not surprising that he wanted to take the requirement to consult with them out of this bill.

But what does the minister have against Business SA? I would have thought that Business SA would have been quite pleased to contribute and has quite a lot of relevant expertise. Indeed, I would argue that SA Unions also has a lot of relevant expertise, but I do not expect to get past the blind spot of the minister on that. But really, what does he have against Business SA? I would indeed have thought there would be a strong argument to increase the requirement to ensure that there is additional representation of different views. For example, Master Builders would probably make a fine addition to the South Australian Skills Commission, and it would not be a problem to see that body included as well.

However, as we know from past history, the minister does not like to consult. The minister wants to be able to appoint whomever he wishes, and that of course means that there is not continuity or confidence that those who are being appointed are actually appointed for the right reasons: to get the best for South Australia in terms of training and skills. Therefore, we think it would be a retrograde step.

The bill also introduces a new section that would allow for trainees and apprentices to be faced with a six-month probationary period. Currently, anyone on a training contract that is less than 24 months (two years) will be subject to a two-month probationary period, and those on a training contract of more than 24 months will be subject to a three-month probationary period. We do not support the changes and we will be moving an amendment.

The opposition will be moving further amendments, minor ones mainly, to ensure that if the minister gives any directions to the commission they should be public, they should be transparent, and therefore should be tabled in both houses of parliament within three sitting days. We will also be moving some other minor amendments that have been filed, and which members would have seen, in reference to the South Australian Employment Tribunal. We will also be moving a more important amendment. We certainly will have some questions during the committee stage in regard to the recognition of other trade training. Those amendments, as I mentioned, have been filed.

In summary, there is a great opportunity to improve the training and skills in South Australia, and the commission could be an important part of that; however, the many changes that have been made to a bill which was ill-conceived—the minister did not even have the courtesy to wait for consultation before lodging it, resulting in, as I mentioned, over 40 amendments to his own bill—do not bode well.

But I hope, and the opposition hopes, that we will be able to get through some of the very obviously useful amendments, such as those around transparency, and have some other questions answered during the course of the committee stage.

The Hon. T.A. FRANKS (17:50): I rise today on behalf of the Greens to speak on this bill. We recognise that this particular bill is a product of many years of review and consultation. The current Training and Skills Development Act has been in operation for more than a decade, and a review of the act did commence in 2016, but it was not concluded. Since that time the Marshall government has undertaken consultation through YourSAy, and that was set to conclude on 20 August. Indeed, I note that in the other place the bill was partially debated prior to that date.

While we appreciate many of the stated goals of the government in bringing about this particular amendment bill in terms of the Training and Skills Development Act, such as streamlining of processes and simplification, we do actually have significant concerns about some portions of this legislation and indeed will struggle to support it at the third reading without amendment.

Of significant concern is the amalgamation of the functions of the South Australian Training Advocate and the Training and Skills Commission into the newly established South Australian Skills Commission. The government has stated in the other place and in briefings, which I thank them for, that the reason for this amalgamation is to provide clarity, as at present industry would struggle to know who to contact.

We are assured that neither of these roles or functions of either the South Australian Training Advocate or the Training and Skills Commission are lost; however, that is not actually entirely the case. Through this amalgamation, while the functions and services remain, what we are losing is the independent voice and advocate for trainees and apprentices. That is hugely concerning.

This is not the first time we have seen this government through amalgamation of roles remove that independent oversight in specific fields. Indeed, it seems to be forming a quite disturbing pattern. We have seen this with the Public Trustee in a guardian amendment bill recently, where it was planned by the Marshall government that the Public Trustee and the Public Advocate were to be amalgamated.

Again, we were told that this would be simplification, yet they had very different and critical roles. Certainly, in that situation the parliament prevailed, and the attempt to amalgamate and lose that independent oversight and that absolute integrity that was required was indeed defeated by democracy. Democracy upheld the very vital and different roles of those bodies.

To a lesser extent we have also seen this approach as part of the Health Care (Governance) Amendment Bill 2019 and 2020 debates, where again the bill sought to remove and disempower independent oversight and advocacy bodies. Again, while I will not mention that bill too much because it is currently before this place, the previous debate saw this council uphold the roles, such as that of the Health Performance Council and Mental Health Commissioner, both bodies worthy of the support that this council has given them.

The Greens are quite concerned that employee and employer voices are not required to be represented on the South Australian Skills Commission. We do understand that the government seeks to appoint people based on a skills matrix, and they have certainly countenanced that and outlined it in the other place; however, we are not convinced that the South Australian Skills Commission is best served by being made up solely of those hand-picked by the minister.

To that end, it is my understanding that the opposition will be moving amendments, and those amendments would see both an employee and an employer voice, that being SA Unions and Business SA, which would have representatives as members of the commission. The Greens will be supporting those amendments.

We do have further concerns about this bill in terms of the extension of the probation periods for those undertaking traineeships. This means that we often have young and inexperienced workers who face great uncertainty about their training contract. While this has been amended in the other place already, we understand that some apprentices could still spend as much as six months of their traineeship under probation. Trainees and apprentices are already some of the most vulnerable members of our workforce. They deserve our protection. There is already a significant power imbalance that exists between trainees and their employers and, again, that is where the parliament can protect those most vulnerable in our workforce.

On the surface, it does seem reasonable that a probationary period is extended to be as long as 25 per cent of the total traineeship or apprenticeship, especially as this is unlikely to affect most traineeships significantly, due to their length. However, for some undertaking an apprenticeship, which can take two years, this means that they could be spending six months under probation—six months of uncertainty. That is not a viable proposition to put our most vulnerable workers in, to sign away those current rights that they have, placing them into quite a precarious position.

The Greens certainly do not think the way to achieve flexibility and to streamline and simplify should be about watering down protections for apprentices and trainees. Again, I will therefore flag that we will be supporting amendments to keep the current 60 days' probationary period for a training contract that lasts less than 24 months and to ensure that the maximum probationary period for a training contract lasting longer than 24 months is 90 days.

Finally, I would like to add that the Greens do share the concerns of the Labor opposition in regard to the rather odd way in which ministerial directions are being handled under this bill. It is genuinely bizarre that under the bill as it currently stands any directions from the minister are to be published in an annual report. This means a direction from the minister might not be published for up to a year. The Greens do not think this is acceptable, and so we will again be supporting those Labor amendments to ensure that the directions are laid before both houses of parliament within three sitting days.

I will be seeking to move that this bill be referred for proper scrutiny. We have seen two stages of the YourSAy consultation put out, but it is a bill that in fact came back before the parliament, before those consultations were concluded. As the Hon. Clare Scriven has raised, there have been 43 amendments from the government to their own bill already, and certainly lots of constituents have contacted the Greens. I do not think the Greens have been told the actual bill that we are here debating in the Legislative Council. They cannot possibly have been told in terms of extending their quite enthusiastic support for its passage, and yet they do not necessarily know the exact detail of the bill that they have been told that they are supporting.

It does demand further scrutiny. Vulnerable workers and apprentices demand our protection as a parliament, and that is why I move:

Leave out all words after 'That' and insert:

> the Bill be withdrawn and referred to the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation for inquiry and report.

I do so because this bill deserves more scrutiny than it has been given so far. It has been put out for consultation half baked and brought before this parliament in a form that is not the form we are now debating here. It is quite concerning to me as well—and I certainly ask the government to respond to this in second reading summary—as to whether the provisions in this bill leave us out of step with the Education Services for Overseas Students (ESOS) Act 2000 requirements legislatively in terms the role of the Training Advocate.

I have some concerns that we are not only leaving young vulnerable apprentices and trainees in the lurch, but we potentially are thumbing our nose at the federal law. With that, the Greens look forward to the referral of this bill for proper consultation to a committee, and we reserve our rights, should the bill go through committee stage, to have many more questions as it progresses, and certainly we will not support it without the Labor opposition amendments being supported at that third reading stage.

The Hon. F. PANGALLO (18:00): I rise on behalf of SA-Best in support of the government's Training and Skills Development (Miscellaneous) Amendment Bill. Our economy is officially in its first recession for almost three decades, and it will probably be the deepest and harshest we have ever experienced.

Debt is expected to surpass $1 trillion, which is unprecedented and unlikely to be paid off in decades. The June quarter GDP results show the worst fall on record—worse than the global financial crisis and worse than most economists predicted. We have the highest unemployment rate in the nation at 7.9 per cent, and also the worst youth unemployment rate at 15.5 per cent. That translates to 20,300 young people currently looking for work, and there will be a new influx of year 12 graduates in a few weeks' time.

South Australia is particularly vulnerable, given our limited GST revenue, our recent losses of manufacturing and an over-reliance on large federally-funded road and defence projects. Our mining and agricultural industries are not on the scale of, say, Western Australia, so we have not been able to weather the storm like Western Australia has. Pre and post COVID-19, South Australia needs to accelerate its ability to respond to the changing nature of industry by adopting new technologies. We need a modern training regime, a system that is flexible and agile, to support and reskill South Australians for the opportunities from growing and emerging industries such as space, defence technology, manufacturing and health care.

At this critical point in South Australia's economic recovery from the impacts of a COVID-19 induced recession, governments need to provide as much help as they possibly can. Now more than ever we need to focus on a sustainable, long-term economic rebuild of South Australia. A

skilled workforce is the key to the economic growth, and industry diversification is crucial to this. This bill is a step in the right direction and particularly timely, given the federal government's budget announcement last week of $1.2 billion funding for apprenticeship training.

Under the new federal wage subsidy program, businesses that hire a new Australian apprentice or trainee will qualify for a 50 per cent wage subsidy. These boosting apprenticeship commencement subsidies, effective from 5 October, are available to businesses of all sizes in all industries and locations until a cap of 100,000 is reached.

Apprenticeship training, unlike many university degrees, is a guarantee of top quality training and an occupation as a qualified tradesperson on completion. Apprentices and traineeships equip mature age and young people with lifelong skills to share in South Australia's economic wealth through gainful secure employment. Additionally, there is no HECS payable and trainees are paid and work on the job throughout. Apprenticeships and traineeships are a real win-win.

On the weekend, media showed that COVID-19 has hit all South Australians hard but it has hit our youth are hardest. Young people are often employed in the gig economy, in hospitality and retail roles with no annual leave or other entitlements or resources to fall back on. The number of entry-level jobs was already in decline and youth unemployment has remained high since the GFC. The federal government apprenticeship subsidy and this bill should be a huge boost to South Australian employers and together are very positive initiatives to address our current horrendous adult and youth unemployment rate.

It is incumbent on governments to facilitate retention and recruitment of apprentices and provide as many incentives and as much support as it can to employers and employees alike to create and support jobs in the sectors showing signs of recovery and future growth. A flexible apprenticeship and trainee system is increasingly important in supporting new and emerging industries that find it difficult to recruit and retain skilled employees in South Australia.

It was pleasing pre COVID-19 to see that national training data released by the National Centre for Vocational Education Research showed South Australia was exceeding the national apprenticeship commencement rate and that this was trending upwards.

The Hon. C.M. Scriven: Because last week was so bad.

The PRESIDENT: Order!

The Hon. F. PANGALLO: Well, at least it is going in the right direction.

The Hon. C.M. Scriven interjecting:

The PRESIDENT: Order! The Hon. Mr Pangallo is on his feet and should be heard in silence.

The Hon. C.M. Scriven: I'm sorry, I was overcome with the absurdity of the government's—

The PRESIDENT: Order!

The Hon. F. PANGALLO: Thank you, Mr President. I will repeat that again, Mr President, in case you may have missed it. It was pleasing pre COVID-19 to see national training data released by the National Centre for Vocational Education Research showed that South Australia was exceeding the national apprenticeship commencement rate, and that this was trending upwards. It was also great to see there was a 90 per cent increase in apprentice and trainee commencements from existing workers, showing an upskilling and retraining mindset of South Australian businesses.

The Born to Build schools program conducted by the Master Builders Association was well on the way with 20 participants and 15 training contract outcomes before COVID hit. I would urge the government to continue to support this great initiative. It is important that we continually adapt to build strong partnerships between industry, the secondary and post-school education system, and the contemporary environment in which apprenticeships and traineeships operate.

This bill introduces an expanded scope of trades and declared vocations to better accommodate new and emerging occupational pathways in South Australia, and I look forward to seeing graduates take up those professions that did not even exist when the apprenticeship system was first introduced into Australia from Britain.

I welcome the establishment of a South Australian Skills Commission headed up by a new statutory appointment, the South Australian Skills Commissioner. This new dedicated role will advise and assist the minister in relation to the training and skills portfolio and report each year on the performance of his or her functions, and provide a better balance between the obligations of employers and employees.

The commissioner will have the power to declare an employer a prohibited employer and preclude him or her from employing apprentices or trainees where it is demonstrable that the employer is unfit for prescribed reasons. This is a welcome addition which will increase the accountability of employers and provide new safeguards to protect apprentices and trainees from unscrupulous practices that have been evident in this sector in the past.

I support the transfer of VET regulatory powers and international student compliant handling services to the commonwealth, and the streamlining of training contract and training plan approvals for quicker turnaround on applications. It is also sensible to permit the parties to a training contract to seek an extension of the term of the probation period for the apprenticeship or traineeship up to a maximum of six months.

I note the government has consulted widely on this bill, which has its origins in Labor’s 2016 review of the Training and Skills Development Act 2008 and draws on the Training and Skills Commission's 'Future-proofing the South Australian apprenticeship and traineeship system' report and accompanying recommendations. I, too, have consulted widely to ensure there are no intended or unintended negative consequences from this legislation and that industry and employee groups see this bill as a constructive and positive reform. I am particularly grateful to the candid advice of David Nagy from Apprentice Employment Network SA, which supports the bill, as it is often difficult to gauge what employees think of such changes.

Although I had concerns about there being no specific industries or peak bodies represented on the commission, I am advised the membership is advised by the eight Industry Skills Councils, comprising over 100 members, and that stakeholders support this structure. Bodies such as Business SA, the Motor Trade Association and the Master Builders Association are on the respective Industry Skills Councils, and I am satisfied the minister's responsibility to appoint suitably skilled and qualified board members will draw on the expertise of the Industry Skills Council members.

I look forward to monitoring the contribution this bill makes to the apprenticeship and traineeship sector in South Australia as a vital element in South Australia's post COVID-19 economic recovery. As such, SA-Best commends the bill to the council.

The Hon. R.I. LUCAS (Treasurer) (18:11): I thank honourable members for their contributions to the debate. Given the very eloquent contribution of the Hon. Mr Pangallo, I thank him in particular for his contribution to the debate. There were a number of questions that the Hon. Ms Franks raised which I will be better prepared to respond to during the committee stage of the debate, which I look forward to.

The council divided on the motion:

Ayes 11
Noes..... 10
Majority..... 1

AYES

Bonaros, C.	Centofanti, N.J.	Darley, J.A.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Pangallo, F.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Bourke, E.S.	Franks, T.A. (teller)	Hanson, J.E.
Hunter, I.K.	Maher, K.J.	Ngo, T.T.
Parnell, M.C.	Pnevmatikos, I.	Scriven, C.M.

NOES

Wortley, R.P.

Motion thus negatived; bill read a second time.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

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

At 18:18 the council adjourned until 14 October 2020 at 14:15.

Answers to Questions

DISABILITY SERVICES

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (9 September 2020).

The Hon. J.M.A. LENSINK (Minister for Human Services):

As the matter is a criminal matter and before the courts, I cannot provide any further details.

DISABILITY SERVICES

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (9 September 2020).

The Hon. J.M.A. LENSINK (Minister for Human Services):

As the matter is a criminal matter and before the courts, I cannot provide any further details.

AFFORDABLE HOUSING

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (9 September 2020).

The Hon. J.M.A. LENSINK (Minister for Human Services): I have been advised:

As at 21 September 2020, construction on all 100 homes was underway. Sixty-one of the 100 homes were listed for sale.

RETIREMENT VILLAGES

In reply to **the Hon. J.A. DARLEY** (9 September 2020).

The Hon. R.I. LUCAS (Treasurer): The Attorney-General has advised:

In anticipation of the joint committee's report and with regard to budget and time line requirements, the Valuer-General engaged with the service provider, Land Services SA (LSSA), to undertake preliminary work required for implementation, noting that such works would be required regardless of what recommendations were tabled by the joint committee.

Since the joint committee's recommendations were tabled in late 2019, the Valuer-General has been progressing the relevant work to implement her preferred valuation approach as adopted by the joint committee.

In order to implement the preferred approach, a new Valuer-General's policy is being formulated. To assist in formulating this policy and the necessary work required for implementation, the Valuer-General has:

- been consulting with SA Water and SA Health;
- been working with an independent subject matter expert to define valuation methodologies;
- undertaken preparatory work to formulate the policy for implementation of the preferred approach;
- analysed registered retirement villages and operator information, including liaising with SA Health to confirm accurate data is sourced from their database, and to ensure retirement villages not previously on SA Health's database are identified;
- undertaken preliminary analysis of all independent living units;
- prepared communications to registered owners and operators; and
- sourced relevant information by way of landowner returns.

The Valuer-General has further instructed LSSA to commence a body of work including, but not limited to, consultation with registered owner/operators, detailed property data collection, identification of relevant assessment information, (e.g. mixed use properties and common/communal facilities for the purposes of apportionment, and other components such as undeveloped land), and identification of assessments that need creating, rebuilding or removal.

With work well underway, the Valuer-General is aiming to have the valuation adjustments in place for 2021-22. The work to implement the preferred approach is being delivered within the scope of the $15.45 million revaluation initiative project which is on schedule for completion with the 2021-22 general valuation.

The Treasurer has advised the Valuer-General that his office is taking carriage of the response to the joint committee's recommendations and will consult with the Valuer-General accordingly. In the meantime, the Valuer-General continues to progress the relevant work and consultation processes required to ensure implementation in 2021-22.

PUBLIC HOUSING ENERGY POLICY

In reply to **the Hon. M.C. PARNELL** (10 September 2020).

The Hon. J.M.A. LENSINK (Minister for Human Services): I have been advised:

Just over 6,000 properties have been provided to Tesla for assessment for suitability.

Under Phase 1 and 2 of the Virtual Power Plant (VPP) project, 1,100 properties have had a solar PV system and Tesla powerwall installed.

Phase 3 announced on 4 September 2020 encompasses a further 3,000 solar PV system and Tesla powerwall systems on public housing properties. Phase 3 is proposed to be completed by the end of December 2022.

Outside of the SA VPP, SA Housing Authority are installing solar PV and batteries on several new and existing apartments during upgrade work, for example after the removal of asbestos roofs. To date solar PV and batteries have been installed on four new and existing apartment buildings and are proposed for an additional eight buildings over the current (2020-21) and next financial year (2021-22). In total, this will provide an additional 355 units with access to solar panels.

PUBLIC HOUSING ENERGY POLICY

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (10 September 2020).

The Hon. J.M.A. LENSINK (Minister for Human Services): The Department for Energy and Mining has provided the following advice:

All solar and battery systems installed on public housing in South Australia are required to meet the required technical standards at the time of installation to ensure that the power system remains secure and that the benefits of solar power can be extended to more households in South Australia.

ADELAIDE FOOTBALL CLUB

In reply to **the Hon. T.A. FRANKS** (10 September 2020).

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

SafeWork SA is continuing to make inquiries with the Adelaide Football Club and the Adelaide Football Club is cooperating with those inquiries. SafeWork SA is also currently undertaking an assessment of the responses received by the Adelaide Football Club in relation to this matter.

SafeWork SA has further advised that the AFL industry rules have not come under scrutiny in relation to the inquiries being conducted with the Adelaide Football Club.