LEGISLATIVE COUNCIL

Wednesday, 2 December 2020

The PRESIDENT (Hon. J.S.L. Dawkins) took the chair at 14:15 and read prayers.

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

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. N.J. CENTOFANTI (14:17): I bring up the 19th report of the committee.

Report received.

The Hon. N.J. CENTOFANTI: I bring up the 20th report of the committee.

Report received and read.

The Hon. N.J. CENTOFANTI: I bring up the report of the committee on House of Assembly petition No.1 2020, Government Retention of Motor Vehicle Registry Functions and Service SA Branches.

Report received and ordered to be published.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports, 2019-20—
- Adelaide Film Festival
- Chief Psychiatrist of South Australia
- Commission on Excellence and Innovation in Health
- Controlled Substances Advisory Council
- Construction Industry Training Board
- Country Health Gift Fund Health Advisory Council Inc.
- Department for Innovation and Skills
- Health Services Charitable Gifts Board
- JamFactory Contemporary Craft and Design Inc.
- Lifetime Support Authority
- Naracoorte Area Health Advisory Council Inc.
- National Education and Care Services—Freedom of Information Commissioner, Privacy Commissioner and Ombudsman
- Northern Yorke Peninsula Health Advisory Council Inc.
- Penola and Districts Health Advisory Council Inc.
- Pharmacy Regulation Authority SA
- Port Augusta, Roxby Downs and Woomera Health Advisory Council
- Port Broughton District Hospital and Health Service Health Advisory Council Inc.
- Port Lincoln Health Advisory Council
- Port Pirie Health Service Advisory Council
- Quorn Health Services Health Advisory Council
- Renmark Paringa District Health Advisory Council Inc.
- South Australian Commissioner for Children and Young People
- South Australian Film Corporation
- South Australian Public Health Council
- South Australian Medical Education and Training Health Advisory Council
- Southern Fleurieu Health Advisory Council Inc.

Southern Flinders Health Advisory Council
Veterans' Health Advisory Council
Waikerie and Districts Health Advisory Council Inc.
Wellbeing SA
Whyalla Hospital and Health Services Health Advisory Council
Yorke Peninsula Health Advisory Council Inc.

Regulations under National Schemes—
Education and Care Services National Law—National Amendment—Miscellaneous
Earning and Learning Research Project—Report to the Department for Education from the Australian Council for Education Research dated 16 September 2020
Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools—The Centre for Inclusive Education Final Report
Report dated November 2020 on actions taken following the Coronial Inquiry into the death in custody of Safar Ali on 10 April 2015
South Australian Commissioner for Children and Young People—The Blame Game Report 2020

Ministerial Statement

EDUCATION SYSTEM REPORTS

The Hon. R.I. LUCAS (Treasurer) (14:23): I lay on the table a copy of a ministerial statement made today in another place by my colleague the Minister for Education, entitled Reports Tabled Today.

Question Time

ADELAIDE REMAND CENTRE

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking a question of the Treasurer regarding privatisation.

Leave granted.

The Hon. K.J. MAHER: During public debates about the privatisation of the Adelaide Remand Centre in September 2018, the Treasurer publicly said:

> We think the public are entitled to expect that their safety will be protected, and that also the safety of prisoners will be protected.

The Treasurer also said, 'It's a commonsense decision, it's in the interests of community safety'. The Treasurer went on to say:

> You don't want to have a situation where there might be, in the worst possible set of circumstances, rioting and escapes, or anything like that.

My question to the Treasurer is: what do you say to those South Australians who can now see how the privatisation—your privatisation—of the Adelaide Remand Centre has compromised community safety, and we have in fact ended up, in your own words, 'in the worst possible set of circumstances'?

The Hon. R.I. LUCAS (Treasurer) (14:25): The outsourcing of the Adelaide Remand Centre is entirely consistent with the statements I have made on behalf of the government previously, and certainly I stand by them. The outsourcing has been in the public interest, as was the outsourcing of the Mount Gambier Prison 25 years ago, which was reindorsed, resubmitted, by Labor correctional services ministers.

I will need to check the record, but I think one of them might actually have been the Leader of the Opposition in another place, when he was given the opportunity to either take it back into the public sector or to continue the outsource provision in the public interest—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —for the people of South Australia. The new government's position is entirely consistent with the former government's position and entirely consistent with the position of the Liberal government back in the 1990s.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley will come to order.

The Hon. R.I. LUCAS: We do not resile in one fact at all.

The Hon. D.W. Ridgway: Show him the door.

The PRESIDENT: And so will the Hon. Mr Ridgway.

The Hon. R.I. LUCAS: We don't resile at all from statements we have made defending that the outsourcing arrangements the government has entered into are in the public interest.

ADELAIDE REMAND CENTRE

The Hon. C.M. SCRIVEN (14:27): My question is to the Treasurer regarding privatisation. As Treasurer and minister for the public sector, what have been the reductions in staff numbers at the Adelaide Remand Centre since its privatisation and what have been the changes in staff to prisoner ratios over the same period?

The Hon. R.I. LUCAS (Treasurer) (14:27): Those questions can best be directed to either the CEO of the department and/or the minister responsible. What I can say is that this government does not resile—

Members interjecting:

The PRESIDENT: Order! Quiet!

The Hon. R.I. LUCAS: —from its defence of the decisions that were taken—

Members interjecting:

The PRESIDENT: Members on my left will be quiet!

The Hon. R.I. LUCAS: —and in the interests of the taxpayers of South Australia—

Members interjecting:

The PRESIDENT: Order! The Treasurer will resume his seat. What is the point of asking a question where no-one in the chamber could hear what the Treasurer was saying then—I certainly couldn't. I call the Treasurer. He will be heard in silence.

The Hon. R.I. LUCAS: I could hear what I was saying, Mr President, even if I was the only one. We don't resile in any particular way. There are very significant savings to the taxpayers of South Australia in terms of many millions of dollars in relation to the outsourcing decision, and under the arrangements with other government correctional services institutions over the last 16 or 20 years under the Labor government there have been the occasional prisoner escapes. One famous occasion—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —when, under the ministerial guidance of the now Leader of the Opposition, Mr Malinauskas, I think the prisoner knocked on the door to try to get back into Yatala and they wouldn't let him in. That is how they ran the system they are talking about.

Members interjecting:

The PRESIDENT: Order!

The Hon. E.S. Bourke interjecting:

The PRESIDENT: Order! The Hon. Emily Bourke is out of order, but the Treasurer does not require any assistance from his ministerial colleagues either.

The Hon. R.I. LUCAS: We don't have a situation where prisoners are knocking on the door trying to get back in and we are refusing them entry, as occurred under the former Labor government. It is unfortunate when the occasional escape from custody occurs, whether it be under an outsourced arrangement or whether it be under the more traditional favoured or preferred course adopted by the former Labor government. This government doesn't resile in any way from the decisions it has taken in relation to—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter, you have been quite quiet recently and I would like you to return to that.

The Hon. R.I. LUCAS: —the outsourced division of the Adelaide Remand Centre being in the public interest.

ADELAIDE REMAND CENTRE

The Hon. E.S. BOURKE (14:30): My question is to the minister for public sector regarding privatisation. Is the minister aware of comments today from Mr David Brown, the head of Correctional Services, and I quote:

> There's no doubt there are fewer staff and different hours of operation at the prison to the hours of operation that we operated as a publicly operated prison.

And, how did the Treasurer balance staff cuts and increased risks to the public's safety with the reported $8 million per year in budget savings arising from the privatisation of the Remand Centre?

The Hon. R.I. LUCAS (Treasurer) (14:30): The answer to the first part of the question is no, I am not aware of any statements made by the CEO of the department today. If the comments are as reported by the honourable member then I am sure the CEO knows what the situation is in his particular department. I have no reason to doubt any information he may have shared on the public record. The answer to the question is no, I am not aware of any statements he has made today.

STATE ECONOMY

The Hon. D.G.E. HOOD (14:31): My question is to the Treasurer. Will the Treasurer outline to the chamber details of the ABS figures released today on the strength of the economic recovery in South Australia?

The Hon. R.I. LUCAS (Treasurer) (14:31): I am sure all honourable members will be very excited at the figures released today by the Australian Bureau of Statistics in terms of economic growth. The figures released today are the state final demand figures for the September quarter. What they show in South Australia is a massive 6.7 per cent rise in the three months to the end of September, which is a very clear indication, as we hopefully start the emergence from COVID-19 and the pandemic and we start our economic recovery, that these are very positive signs from the state's viewpoint.

I think the more encouraging aspect is that massive 6.7 per cent rise is compared with the national figure of 4.5 per cent. From that viewpoint, that massive increase of 6.7 per cent is enormously encouraging for local businesses. As I have said before, one of the key challenges for South Australia as we seek to emerge from the pandemic—and we have embarked upon a two-year economic stimulus package, which has been outlined in the recent budget—is the aspect of confidence in the community.

It is easy for the naysayers to jump on every small hiccup or setback in terms of whether or not you should be wearing masks and what sort of mask it is and all those sorts of details that people want to concentrate on, but the key aspect in relation to this is to try to engender in the community confidence that we are on the road to recovery, that they have a government and a Premier with a clear vision for what we need to do over the coming two years in terms of jobs recovery and economic recovery.

A key aspect of that is confidence for households, for the vast majority of those who still have jobs and who still have the capacity to spend, to be encouraged to return to their old spending

patterns in terms of consumption. One of the enormously encouraging aspects of these most recent figures is that household consumption spending is up a massive 11 per cent in terms of South Australian household consumption spending.

As restrictions are easing, as the economy continues to open up, South Australian spending on dining out, entertainment, tourism, retail and other consumer goods is starting to show important signs of economic recovery. That is important from the household consumption viewpoint, but also we need to see—and this will be tougher understandably from a business viewpoint—a return of confidence so that businesses can be confident about improving business investment figures in the future, and those figures are stickier, to use a colloquial word, in terms of encouraging businesses, understandably to—

Members interjecting:

The PRESIDENT: Order! There is a conversation going on immediately opposite the Treasurer, who is on his feet, and I would ask that that perhaps be taken out of the chamber. The Treasurer has the call.

The Hon. R.I. LUCAS: Business investments—

Members interjecting:

The Hon. R.I. LUCAS: At least you are not throwing a shoe at me; it is only your glasses. We are in Australia, not in Iraq. Business investment is important in terms of the state's economic recovery, and it is important that there is improved confidence from both the household and the business sector as we seek to map the road to recovery in South Australia.

PLANNING AND DESIGN CODE

The Hon. J.A. DARLEY (14:35): I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Planning, a question about the design code.

Leave granted.

The Hon. J.A. DARLEY: I understand the government is in the process of transitioning approved development plan amendments into the new design code. Can the minister provide advice about this transition process and how approved development plan amendments will be strengthened and not weakened within the design code?

The Hon. R.I. LUCAS (Treasurer) (14:36): I would be very pleased to refer that question to the minister and bring back a reply.

REMOTE AREA HOUSING

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

Leave granted.

The Hon. R.P. WORTLEY: The minister's agency revealed in September that a tender was released in February for 26 homes in remote Aboriginal communities. The tender closed in April, but no contracts were awarded until September. This is despite the original tender documents showing that the first six homes were due to be completed by 30 June this year.

The minister's hand-picked board chair publicly revealed that the delay was due to the board wanting housing that was—and I quote—'cheaper'. The chair then revealed that transportable homes were being considered but that nothing came of these considerations because:

> One of the companies that was considered for that went into receivership, so nothing has come of it.

Finally, the minister's agency revealed that the five-year contract would result in no additional homes in remote communities, just replacements. My questions to the minister are:

1. What is the level of housing overcrowding in remote Aboriginal communities?

2. What exact discussions has she had with the minister responsible for Aboriginal affairs about there being no extra homes in the APY lands over the next five years?

3. What has the minister said to the chair of her board after learning that the contracts were delayed because they wanted cheaper transportable homes from a company that then collapsed, or did the minister never bother to ask why?

4. Is the minister concerned that the chair of her board was looking for cheaper solutions rather than better value solutions?

5. Is the minister comfortable that there will be no extra homes for the remote communities?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:38): I thank the honourable member for his question. He may or may not be aware, depending on whether he has done his own research or whether it has been done by one of his staff members, that in relation to the national partnership on remote housing I have stated previously that the funding arrangements which were negotiated with the commonwealth meant for the first time that the South Australian government is actually contributing to this particular program, but in terms of additional properties we were only able to provide for replacement properties.

I note with some disappointment that there has been some focus on the chair of the Housing Trust board, Mr Garry Storkey, who Labor members make disparaging remarks about at times, and I assume from his opening remarks that the Labor Party continues to disparage people who have put themselves forward for service. I think it is worth letting the house know that in order to take up the position as the chair of the board Mr Storkey actually left his previous employment with Community Housing Ltd.

He is the chair of the board; he does an exceptional job and he is worth every cent that he is paid in board fees, given his extensive experience not just with Community Housing, with public housing, but also through his former role with HomeStart. He's an incredibly valuable person in that leadership role in that organisation.

The advice I have received is that clearly the program for remote housing does have significant expenses related to it because of its remote location. There is also a number of design features that come with building on the lands that mean that houses are expensive, particularly compared to metropolitan Adelaide. While that is something that is regrettable, I think to some degree it is to be expected, but we always try to go for value for money. It is probably worth letting the house know, too, that when I—

The Hon. I.K. Hunter: It's certainly not value for money. You have got no houses—zero; no builds.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —attended the APY lands in May last year I went to one of the communities where they were actually removing housing which one of the former Labor ministers had insisted upon placing there. They were converted containers and they had to be subsequently removed because they contained asbestos, so I am not about to be lectured by the Labor Party on value for money in remote housing. We have Wiltja Construction—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter should remain silent! The minister has the call.

Members interjecting:

The PRESIDENT: The minister has the call.

The Hon. S.G. Wade: But how many shipping containers?

The Hon. J.M.A. LENSINK: Yes, my colleague, the Minister for Health and Wellbeing, in an out of order interjection, reminds us about those shipping containers which cost not just a considerable amount to purchase and to place on the lands but also a considerable amount of money to remove. I will take that on notice and provide how much that complete disaster cost the state government.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter!

The Hon. R.P. Wortley: He's outraged.

The PRESIDENT: He's out of order, as is the Hon. Mr Wortley. The minister, I am sure, is bringing her answer to a conclusion but she will be heard in silence.

The Hon. J.M.A. LENSINK: Because clearly Mr Hunter is deeply interested in the failures of his former government in terms of that particular program, so I'm sure he will be interested in that in great detail.

As I was trying to say, Wiltja Construction is an existing SA Housing Authority contractor and it is the company which is engaged to deliver works on the APY lands. The tender covers the capital program for the demolition and replacement of 26 properties in the remote APY lands. There are also constraints in terms of additional sites for new homes to be built in some of those communities because they have effectively reached the end of their sewerage and water capacity, and a range of those issues, which are matters that are outside of this portfolio, but it is something that we are always aware of.

I think it is also worth reminding members that a lot of Aboriginal people can be quite mobile, so there are seasonal fluctuations in terms of overcrowding and those matters, but we are always taking these things into consideration.

The Hon. I.K. Hunter interjecting:

The Hon. J.M.A. LENSINK: We also have an Aboriginal Housing Strategy which is something that we—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —committed to prior to the election, and that group is consulting with Aboriginal people in earnest on what they see as their housing future, not just for remote communities but across South Australia.

REMOTE AREA HOUSING

The Hon. K.J. MAHER (Leader of the Opposition) (14:43): Supplementary arising from the answer given: is the minister able to outline how many new builds of remote Aboriginal housing were completed in the 10 years prior to her becoming minister? Is she able to confirm if it is in excess of 200 new builds?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:43): Yes, apart from the shipping containers, the advice that I have is that—

The Hon. K.J. Maher: It is 256 approximately.

The PRESIDENT: The honourable member asked a question; he's not here to answer it as well.

The Hon. J.M.A. LENSINK: —there were 134 additional properties.

The Hon. K.J. Maher: And how many have you done?

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: Eighty-nine replacement homes.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: And 280 upgraded properties.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: This really isn't news. I'm not sure why the Labor Party continues to ask me questions about things which I have previously responded to. In fact, in terms of the NPARIH program—

Members interjecting:

The PRESIDENT: Order! The minister has the call.

The Hon. J.M.A. LENSINK: —for the first time South Australia is contributing to this program, which the previous government did not do. All of the capital came from the commonwealth—all of the capital.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: The Leader of the Opposition is out of order and will stop shouting.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: All of the capital came from the commonwealth. We are consulting with Aboriginal people across the state, including the lands, as to —

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —their housing futures—

The Hon. K.J. Maher: Not a single one.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —and we will continue to consult.

CORONAVIRUS, FRONTLINE WORKERS

The Hon. N.J. CENTOFANTI (14:45): My question is for the Minister for Health and Wellbeing. Can the minister please update the council on the efforts of our frontline workers during the COVID-19 pandemic?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:45): I thank the honourable member for her question. From the day COVID-19 reached Australia, the Marshall Liberal government has backed our dedicated frontline staff, who have worked tirelessly to stop the spread of the virus. Thanks to their efforts, 548 South Australians have recovered after being infected. Tragically, four people have lost their lives, but when we look around the world we can be grateful that many more have been saved.

Each of the state's 562 COVID-positive patients so far have come in contact with staff from multiple government agencies as they have navigated the testing, contact tracing, treatment and quarantine phases. With almost 730,000 tests taken so far, much of the population has witnessed firsthand the efforts of our frontline workers at testing sites across the state.

The recent Parafield cluster has highlighted the efforts of one particular doctor, whose medical skill and decisive action was critical in identifying and arresting a potentially devastating outbreak in the state. Dr Dharminy Thurairatnam works in the emergency department at the Lyell McEwin Hospital. On Friday 13 November, Dr Dharminy observed a patient in her 80s who presented for other issues, but Dr Dharminy noticed and was concerned about her cough.

Dr Dharminy did not hesitate to order a complete respiratory swab and COVID-19 test. When the test showed that the patient had returned positive results for COVID-19, our public health team, our contact tracers and our entire State Control Centre Health swung into action to stop the spread of the emerging cluster.

Many of the family members related to the woman in her 80s were also COVID-positive but showed no symptoms. Apart from her cough, Dr Dharminy's patient also displayed no obvious COVID symptoms. If left undetected, a family of infectious, asymptomatic people could have had disastrous consequences for the South Australian community, which is why Dr Dharminy's intervention has rightly been labelled as heroic.

After being in contact with a COVID-positive patient, Dr Dharminy herself had to quarantine for 14 days. She returns to work this afternoon a health hero. When asked today how Dr Dharminy feels about being called a hero, she replied that she felt very humbled to be described in that way and that every frontliner was a hero in him or herself. I totally agree.

Dr Dharminy went on to say that the success in dealing with the pandemic would not have been possible without the efforts of all South Australians working together, highlighting the record turnout for testing in the recent extreme heat. Dr Dharminy has made significant sacrifices to be apart from her family during the pandemic. Dr Dharminy obtained her medical degree in Indonesia and gained experience in Singapore and Malaysia prior to taking up her current position at the Lyell McEwin. She is a committed and compassionate doctor and is well liked and respected by her peers and supervisors.

It was my privilege to meet Dr Dharminy today at the Lyell McEwin Hospital, along with Professor Nicola Spurrier, the Chief Public Health Officer. On behalf of the people of South Australia, we conveyed our heartfelt thanks to her for her actions. The Premier has rightly said that you only get one chance to stop a second wave. Dr Dharminy's intervention ensured that one infectious patient was given urgent treatment and care, and her actions have played a vital role in our ongoing efforts to stop a cluster from becoming an outbreak.

In resuming her duties this week, Dr Dharminy rejoins the thousands of frontline workers whose efforts have helped keep South Australians safe. I thank our frontline staff across the state for their work as well as everyone at SA Health, who have worked tirelessly for nearly 10 months now to combat this pandemic.

KINDRED LIVING AGED CARE

The Hon. F. PANGALLO (14:50): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing, as minister for ageing, another question about the Kindred Living Aged Care facility at Whyalla.

Leave granted.

The Hon. F. PANGALLO: As the chamber knows, I attended the facility last month with Mr Peter Strawbridge, the husband of a severely demented woman who lives there and who contracted Norwegian scabies. Mr Strawbridge, other residents and staff at Kindred Living also contracted the contagious infection.

The Nine Network's *A Current Affair* aired a harrowing story on the scabies outbreak. Following that media report, and after previously ignoring a number of complaints from workers at the facility, the Aged Care Quality and Safety Commission finally launched an investigation into the outbreak, which I am told included unannounced visits.

Disturbingly, management at Kindred Living have now embarked on a witch-hunt to try to find the brave whistleblowers who approached me in distress with their concerns after management refused to act on them. Without any evidence, they have already started to bully one staff member, accusing her of breaching patient confidentiality. She is totally innocent of those charges. My question to the minister is:

1. Does the minister have concerns that Kindred Living appears to be ignoring the rights of whistleblowers that have been enshrined by legislation passed last year?

2. Has the minister had further contact with the federal Minister for Aged Care and Senior Australians, Richard Colbeck, and also the Aged Care Quality and Safety Commission?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:51): I thank the honourable member for his question. I'm not sure which legislation he is referring to that might have the whistleblower legislation, whether that is the legislation under which the Aged Care Quality and

Safety Commission is established. However, it certainly wouldn't surprise me that the federal legislation, like many similar state pieces of legislation, has provisions against victimisation.

In terms of good corporate governance, good clinical governance of facilities, I believe all services—public and private health services and public and private aged-care services—need to be open to complaints and that there need to be appropriate mechanisms to escalate issues.

With regard to the member's question in relation to engaging with the federal minister, as I previously advised the house, my office was in contact with the federal minister. I have not had an update in terms of progress on the matter, but I certainly share the honourable member's concern that matters should be appropriately addressed and that people who raise complaints should not be victimised for doing so.

GOVERNMENT BOARDS

The Hon. J.E. HANSON (14:53): My question is to the Minister for Human Services regarding expense claims:

1. Has the minister read the Premier's Circular 16 Remuneration for Government Boards, and has she also read the Commissioner's Determination 3.2 for allowances and reimbursements?

2. Given that the Chair of the South Australian Housing Trust Board is paid about $7,000 per meeting, will she now ask him to repay expense claims for Qantas Club membership and for car parking?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:53): I was asked very similar questions in estimates, and I undertook to look into these matters. I was aware of the expense claims. We are just checking all those details and a response will come back through the usual estimates response process.

GOVERNMENT BOARDS

The Hon. T.A. FRANKS (14:54): Supplementary: to the minister and indeed all government ministers, does that mean anything they were asked at estimates will be deferred until the estimates report, rather than made accountable to this council?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:54): I think that is a determination that each minister will make individually. It is certainly not a directive, but my session was just last week.

Members interjecting:

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

The Hon. J.M.A. LENSINK: It was a specific matter that was raised then, which has been raised again. I will provide that through the estimates process, which is all publicly available to all members of parliament.

GOVERNMENT BOARDS

The Hon. J.E. HANSON (14:55): As a supplementary, I will slightly vary the original question: how is the chair's conduct consistent with section 13.3 of the commissioner's determination, which says:

> …reimbursement of expenses which are clearly the board member's responsibility, such as car parking and child care expenses, are not to be provided.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:55): In relation to childcare expenses, I am not aware that the chair of the board has claimed any; in fact, I would be very surprised if he has. In relation to car parking expenses, my understanding is that he was merely providing some receipts to verify those expenses.

GOVERNMENT BOARDS

The Hon. J.E. HANSON (14:55): A further supplementary: will the minister immediately review all expense claims by her boards and executives to ensure that funds are repaid where they breach government directions?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:56): I already said that I was going to look into these matters, and I will follow that up in due process.

The PRESIDENT: The Hon. Mr Wortley has a supplementary.

GOVERNMENT BOARDS

The Hon. R.P. WORTLEY (14:56): A question of the minister arising out of the answer: how many meetings a year are held; who determines when a meeting is held and how many meetings are held?

The PRESIDENT: It's a bit thin on the ground, but if the minister wishes to answer I will allow her to.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:56): I don't think that's a supplementary.

The PRESIDENT: The Hon. Jing Lee has the call.

Members interjecting:

The PRESIDENT: Order! The Hon. Jing Lee has the call and will be heard in silence.

Members interjecting:

The PRESIDENT: Order!

DOMESTIC AND FAMILY VIOLENCE

The Hon. J.S. LEE (14:56): My question is to the Minister for Human Services regarding domestic violence. Can the minister please provide an update to the council about how the Marshall Liberal government is improving safety for regional South Australians at risk of domestic violence?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:57): I thank the honourable member for showing the opposition how it is done. The Marshall Liberal government invested $11.9 million in our first few budgets for a suite of measures to support women and children at risk and deliver on our election commitments. These are outlined in Committed to Safety, which is our strategy to address domestic and family violence. This is a collaboration with non-government service providers, community members, people with lived experience and the Office for Women.

There has been a range of measures that operate statewide, including the disclosure scheme, which enables people to request information about a partner's criminal history and be provided with support from a specialist women's domestic violence service to manage any of that information, in conjunction with SAPOL.

We are also developing a statewide early support counselling service for perpetrators of domestic violence, which was funded through commonwealth funding. We also have the personal protection app, which links at-risk individuals to South Australia Police through a 24-hour monitored security centre. Prior to COVID, we ran a range of round tables, particularly in regional areas because, as we know, in terms of service provision one size doesn't fit all. We completed our round tables in 2019 and held a range of virtual ones during COVID in 2020.

We have been able to supply new crisis accommodation in regional areas, including 17 beds for the Limestone Coast, Murray Mallee, Eyre and Western. We also have our family safety frameworks, which operate across South Australia, and we have been rolling out the safety hubs into regional South Australia. In addition to the original one, which was opened at Murray Bridge, we also have a safety hub operating from Berri.

I was hoping to have opened the Port Augusta one on Friday but due to the restrictions was unable to attend that in person, but that is now operational. That features a safe drop-in space and phone and computer access. Women and children will receive one-on-one support from Kornar Winmil Yunti (KWY).

Another hub will open in Gawler early this month, which is joining the other existing hubs. These safety hubs are helping to assist people to link into services. The location of these safety hubs in community centres means that people who are in the community who might not be aware of the fact that they are experiencing domestic and family violence can connect with people.

Particularly the Women's Information Service has been training volunteers to assist women in the Barossa, Light and Lower North region. They are key partners in terms of ensuring that services are available for these particular regional areas. We are looking forward to opening new safety hubs across South Australia, on which I will report back to the chamber in due course.

FINANCIAL LITERACY EDUCATION

The Hon. T.A. FRANKS (15:00): I seek leave to make a brief explanation before addressing a question on the topic of industry-run financial education programs in our public schools to the Treasurer.

Leave granted.

The Hon. T.A. FRANKS: During the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry it came to light that children's accounts set up under the Dollarmites program had been used by the Commonwealth Bank to game the system and increase their profits. Similar 'financial education' programs run by other financial institutions as well were slammed in that report. They were also condemned by consumer groups such as Choice and the Australian Education Union.

In 2018, it was revealed that the education department in South Australia has no record of which schools engage in these programs or how much money financial institutions such as the Commonwealth Bank give to public schools to incentivise them to participate.

I note that, according to current websites, these programs are still being run in South Australian schools, yet these schemes have been labelled as 'dishonest' and 'greedy' by the head of the banking royal commission, outed for grooming kids as customers under the guise of education and so-called community service. A report by the Australian Securities and Investments Commission found that there was 'limited evidence' that these programs created any lasting money-saving behaviour by these students.

This past week the Victorian government has banned the banks from running the predatory programs in their public schools in that state, stating, 'Victorian students deserve high-quality financial literacy free from commercial interests.' My questions to the Treasurer are:

1. Since this has been exposed by the royal commission, what measures has the South Australian Marshall Liberal government taken to ensure that there is now a record of which schools are participating in the Dollarmites program and how much money the Commonwealth Bank has given to our public schools to incentivise them? Has anything changed on that front?

2. What steps have been taken to ban the banks from delivering these predatory financial education programs through our public schools?

3. Was any consideration given to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry findings and recommendations to cease this predatory behaviour?

4. Why are we letting these financial institutions use our public schools and our class time as another marketing tool and an opportunity to groom these children?

The Hon. R.I. LUCAS (Treasurer) (15:03): This is appropriately a question for my very hardworking ministerial colleague the Minister for Education. I am happy to refer the details of the question to the minister and officially bring back a reply on his behalf in relation to the education department.

All I can say is that I accept that times have perhaps changed in many respects. I remember fondly my first bank savings book when I was at primary school.

The Hon. J.M.A. Lensink: You've still got it!

The Hon. R.I. LUCAS: As my ministerial colleague says, I've still got it, and that's true. The modest amount of money in there is probably an expired account, but it's still there. I can indicate it did not groom me, because I didn't go on to be a customer of that particular banking institution at the time. Anyway, I do accept that we are in different times now to 100 years ago when I was at primary school.

The only other comment that I would make is, as I said, this rightly is an issue for my colleague and it's not for me to give my personal views on, other than to say, as I have demonstrated before, in my particular portfolio I don't always accept as the Bible—and that is that they are always 100 per cent right—the views of royal commissioners in whatever area they might happen to be.

I certainly give great respect to the views of royal commissioners, but they are not tablets handed down on the mount, they are the views of esteemed bodies that have undertaken esteemed bodies of work and we should give them great regard and respect but, as has occurred in a couple of other areas, I have considered some recommendations from royal commissioners and I have not accepted them all as being a view that I necessarily agree with. As I said, I hasten to say, this is not my area of responsibility; it is an area of responsibility for the Minister for Education and I will bring back a reply.

HOUSING AUTHORITY

The Hon. I. PNEVMATIKOS (15:05): My question is the Minister for Human Services regarding housing. Can the minister confirm public comments by her agency that the government will remove $1.354 billion—that's 'billion' not 'million'—from the South Australian Housing Authority over the five years to June 2023? Can the minister confirm public comments from her agency that, after cutting land tax for wealthy property investors, the Housing Authority will pay more than a billion dollars of land tax over the five years to June 2023?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:06): I thank the honourable member for her question. I am not sure of the context of either of those comments in which she has made those particular suggestions regarding the finances of the authority, so perhaps if she could clarify by way of a supplementary.

The PRESIDENT: I will allow that. The Hon. Ms Pnevmatikos.

HOUSING AUTHORITY

The Hon. I. PNEVMATIKOS (15:07): The source for the questions is from budget and finance.

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): I will need to have a look at those particular remarks and take that on notice. We have also got the Auditor-General tomorrow, so that may well be an opportunity for members to ask those questions.

HOUSING INDUSTRY ASSOCIATION

The Hon. D.W. RIDGWAY (15:07): My question is to the Treasurer. I think this morning the Housing Industry Association had their annual business outlook function, so can the Treasurer please outline to the chamber what the HIA's views are on the state of the South Australian housing market?

The Hon. R.I. LUCAS (Treasurer) (15:07): The Housing Industry Association outlook function annually has Mr Tim Reardon, who is the HIA chief economist, come across from Canberra to provide commentary about the local housing market and the national housing market, and it's always very useful and very informative in terms of the challenges ahead for the sector. I think everyone acknowledges the housing sector is a critical sector in terms of the state's economic recovery and, as I said, Mr Reardon's views and the HIA's views are important indicators in relation to the challenges ahead.

It was a very informative presentation this morning from Mr Reardon, and if I could just share with members some of the takeout from his particular presentation today. What he did indicate was that, from the HIA's viewpoint, for the 12 months to September 2020, for single detached housing approvals in South Australia compared to the 12 months to December 2019, there had been a 5.5 per cent growth in the single detached housing approvals.

That's critical because the challenges of, in particular, the 12 months to September 20 obviously include at least six or seven months since the onset of the COVID-19 pandemic. The mere fact that both commonwealth and state housing policy, but in particular in the latter months there the impacts of HomeBuilder, which Mr Reardon spoke about at length, are apparent in terms of the latter part of that 12-month period.

In terms of total dwelling approvals, the number of units or townhouses has declined over the similar period, but in terms of total dwellings we saw an increase of 2.3 per cent in the building approvals market in South Australia, which is an important indicator in terms of where we are heading.

Secondly, in terms of the other measure of housing activity, which is housing start forecast, the HIA's forecast for the future, Mr Reardon outlined for South Australia that in the financial year 2018-19, just two years ago, we had a total of around 7,300 dwellings commence in South Australia. He and they are predicting for 2019-20, the year just gone, an increase to 7,800, so that takes in the last three months of that financial year, which was impacted by COVID-19, but nevertheless still an increase of 500 in terms of housing start forecasts. He is predicting for this year, 2020-21, a massive increase to a 9,300 housing start forecast, a massive increase of 2,000 housing start forecasts, comparing this financial year, 2020-21, with just two years ago, 2018-19.

As we move beyond the peak of HomeBuilder, he is predicting returning to the 2018-19 level of 7,400 in 2021-22. As we outlined in the budget, the government has allocated $75 million in terms of housing stimulus, which we believe we need to bring to the industry sector as HomeBuilder wanes in terms of its impact on the market, so the $70 million of stimulus the government has allocated in the budget will need to be brought to account in the 2021-22 year as we seek to sustain housing activity in South Australia beyond the impacts of HomeBuilder.

Just quickly in terms of the health of the market, in terms of house price changes in home values in Adelaide in the year to November 2020, year on year, we showed a 5.3 per cent increase in home values in Adelaide compared with negative 0.9 per cent in Melbourne, compared with 3.2 per cent in Brisbane, 3.7 per cent in Sydney and 0.8 per cent in Perth—a massive 5.3 per cent increase in home values in the 12 months to November 2020 compared with the 12 months to 2019.

Finally, in terms of the health of the rental market in South Australia, and the tightness of the rental market, Mr Reardon shared some figures for year on year to September 2020, where rental vacancy rates in Adelaide were only 0.8 per cent compared with 2 per cent in Brisbane, 3.8 per cent in Melbourne and 3.5 per cent in Sydney. That is showing a pretty tight rental market, and that is why it is important in terms of encouraging, in particular, further investment in the housing sector from the private sector viewpoint, but also the government will continue to do its part, in particular as HomeBuilder wanes through its stimulus package towards the end of calendar 2021.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (15:13): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about the Women's and Children's Hospital.

Leave granted.

The Hon. C. BONAROS: South Australians were shocked at the revelation last month publicly that four babies in four weeks had died at the Women's and Children's Hospital due to the lack of a paediatric cardiac surgery unit at the hospital, and various claims were made as to that being the reason for those deaths. These are deaths that those clinicians who have spoken out said could have been prevented at the hospital, had such a device existed there.

The government's response to what it described as a cluster of deaths was to undertake a review of the deaths. At the time, Chief Medical Officer, Dr Mike Cusack, who was to conduct the review, said it would take between two and four weeks to complete and that was some six weeks ago. My question to the minister is: has that review been completed? If so, are we likely to see the findings of that review and will they be made public? If it hasn't been reviewed or completed, why hasn't it been completed? Did the review canvas the issue of how SLSs are dealt with at the hospital, including downgrading of doctors' adverse incident reports by nurses?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:15): Just to clarify, the common factor in relation to the cluster of deaths was whether or not an ECMO machine might have helped. My understanding is one of the cases wasn't related to a cardiac issue, it was related to another issue. My understanding is that clinicians were highlighting the possible benefit of the availability of an ECMO machine.

The honourable member is quite correct that the Chief Medical Officer is undertaking a review. I haven't had an update as to when that review will be available. The Chief Medical Officer, Dr Cusack, who was also a Deputy Chief Public Health Officer and is engaged in the pandemic response, is working with the Australian Commission on Safety and Quality in Health Care in terms of looking at those cases. It is certainly my understanding that the report will look at care issues as well as incident reporting.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (15:16): Supplementary: is the minister aware of the practice of downgrading those sorts of reports by nurses once they are made by doctors?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:16): What I am aware of is that the SLSs are reviewed. That is standard practice and it may well be that the review might lead to a reclassification. I am certainly aware that the SLS system is treated very seriously. All clinical incidents are reviewed by senior clinicians and any change to the rating of an incident that is made by a senior clinician would normally be done in consultation with the safety and quality unit.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (15:17): Supplementary: is it fair to say the downgrading of that system would result in the chief executive not being made aware of an adverse incident report being made?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:17): The point I would make is that a review by a clinician may actually lead to an upgrading of the rating. The point I am making is that within the Safety Learning System we have SAC 1, 2 and 3 and a SAC can be reclassified up or down in response to a whole range of criteria, including clinical and other criteria. I make the point that they can be upgraded as well as downgraded.

In relation to the Women's and Children's Hospital, I am not aware of what triggers a SAC being referred to senior management or the CEO, but I will certainly seek the information for the honourable member.

PUBLIC HOUSING

The Hon. T.T. NGO (15:18): My question is to the Minister for Human Services regarding housing. Can the minister confirm public comments by her agency that the approved maintenance budget for public housing will be less in 2023-24 than it was in 2020-21, and can the minister confirm public comments by her agency that an average of just 170 public housing properties will be built per year in coming years compared with the annual demolition of 300 and annual sales of 150?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:19): I thank the honourable member for his question. In terms of the maintenance budget, we have brought forward funding in our maintenance budget. The annual program is in the order of about $120 million a year. It has been, for the years 2015 to 2018-19, just under $20 million. In 2019-20, the budget was $121.2 million. In 2020-21, that has increased to $141.2 million, and a large part of that is that because of the stimulus funding we brought forward our maintenance budget.

As I think I have outlined in this place before, there is a range of different maintenance programs in terms of the Housing Authority. Some of them relate to when tenants vacate and the property is cleaned and painted and the like in preparation for the next set of tenants. Then we have other tenants who have been longer term tenants who might need particular upgrades, whether they be kitchens or bathrooms, that is considered from another fund. There is the emergency maintenance or responsive maintenance, if somebody has a roof leak or the like. The emergency ones, of course, we attend to within a particular period of time.

What the authority has sought to do and everybody, particularly home owners, would appreciate the fact that a stitch in time saves nine when it comes to housing. If you have a

maintenance issue, particularly to the exterior of your property, the sooner you deal with it the less problems you cause down the track. So the Housing Authority has been embarking on trying to make those more proactive decisions in terms of the maintenance budget.

I have also spoken before in this place about the fact that there was not an asset audit done of the portfolio of some $10 billion worth of properties since 2003, so that is something that we undertook—commenced in 2018—and that is progressing very well, which gives us a much better picture of what the condition of the dwellings is and enables us to make those planned investments sooner rather than later.

As part of stimulus funding we are endeavouring to not just do more in terms of some of the planned maintenance but also trying to make sure that we are addressing those issues in a much more proactive fashion. I think I have forgotten what the second set of questions was; I am sorry.

PUBLIC HOUSING

The Hon. T.T. NGO (15:22): Could the minister confirm public comments by her agency that an average of just 170 public housing properties will be built per year in coming years compared to the annual demolition of 300 and annual sales of 150?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:23): This is one of those glass jaw questions the Labor Party keep asking about where they reached a high in, I think, 2014 of selling somewhere between 500 and 600 properties as part of their budget needs for whoever the Labor Treasurer at the time was, to cannibalise the Housing Trust stock so that they could fund other things in other parts of the budget, and placed the asset viability program in the forward estimates, which we have managed to cut. We have significantly reduced that. In fact, according to our own business plan we are doing 77 per cent better than Labor. We have managed to significantly reduce the number of properties that are needing to be part of the viability sales.

The advice I have received from my agency is that we expect to build 192 new public housing properties in this current financial year, so we have drastically reduced the asset destruction that took place under the Labor Party, where they not only sold houses to prop up their budget, they reduced the maintenance budget and they ran down the cash balance. So I will not be lectured by the Labor Party on the management of the Housing Trust which, if they wish to, they could read—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order, the Hon. Mr Hunter!

The Hon. J.M.A. LENSINK: I will send Mr Hunter a copy of the triennial review and he can read about the destruction—

The PRESIDENT: And pointing is out of order.

The Hon. J.M.A. LENSINK: —of Housing Trust assets under his incompetent government.

Members interjecting:

The PRESIDENT: Order! The time for questions has expired.

Matters of Interest

INTERNATIONAL DAY FOR THE ABOLITION OF SLAVERY

The Hon. I. PNEVMATIKOS (15:25): Today, 2 December, marks the International Day for the Abolition of Slavery. Although modern slavery is not defined in law, we use it as an umbrella term covering practices such as forced labour, debt bondage, forced marriage and human trafficking: essentially, situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception and/or abuse.

More than 40 million people worldwide are victims of modern slavery, and part of that number can be attributed to Australia. There is an assumption by many that South Australia is immune from modern slavery and that practices of exploitation happen somewhere else, only in developing countries. However, the recent release of the federal Modern Slavery report and the continued work

of Professor Marinella Marmo at Flinders University has uncovered that South Australia, and Australia more broadly, has ties with acts of modern slavery.

Under the federal Modern Slavery Act 2018, companies are required to self-report and review their supply chains and check if workers face human trafficking, servitude, forced labour, deceptive recruiting or other poor or substandard work conditions. Under Woolworths' review alone, 332 Australian fruit and vegetable suppliers were identified to have slave-like conditions within their supply chain. Their report found that stone and berry farms were more likely to rely on labour hire firms, which have been highly linked to wrongdoings in the past. Berries and citrus had the most sites classed as at risk of slavery, though grapes had a large number relative to the number of suppliers.

Coles also released their report and identified that some farms at the start of the supply chain were not covered by their ethical sourcing program, leaving many workers without protections. Although the federal Modern Slavery Act alludes to what is happening in Australia, there is still a lot more to be investigated. As Associate Professor in Law at the University of Adelaide, Dr Howe stated:

> …self-reporting is public relations for these large companies unless there is accountability on the claims that they make in their statements.

There are currently no penalties attached to the Modern Slavery Act if a company is found to have slavery-like practices within their supply chain.

Issues of modern slavery have been compounded by the coronavirus pandemic. Professor Marmo, who I have spoken about previously on her report into slavery-like practices in South Australia, has uncovered more cases of worker exploitation during the pandemic through her research and is concerned that the issue has increased. In an article by the ABC she stated:

> We were made aware international students were picking (fruit) for $8 to $10 an hour, forced to live in very basic and crowded accommodation, and paying $100 per person per week [for accommodation].
>
> They lost their job at the beginning of the year in hospitality and commercial cleaning in Adelaide and so they moved into the regional area to fill a market with no competition coming in from either overseas or interstate.
>
> The situation is the pandemic has accelerated the cycle of vulnerability and has expanded to include these people who were less vulnerable before.

This pandemic has made a lot of changes to all of our lifestyles and has cast a shadow of instability and vulnerability over many. We cannot idly sit by and watch these instances of modern slavery happen. We must act.

ENVIRONMENTAL DECISIONS

The Hon. T.A. FRANKS (15:29): I rise to speak today on a concerning pattern that is emerging under this Marshall Liberal government around the decision-making that concerns the environment. As any community that has been affected by an environmental issue will tell you, a lack of government consultation and care for that community input is not a new phenomenon, but this Marshall Liberal government, and Minister David Speirs in particular, is taking this attitude to new heights, or should I say depths.

At this point I would like to be clear that I have worked, and continue to work, with the minister on many important issues around environmental protection and animal welfare. However, I cannot continue to ignore the overwhelming feedback I am currently receiving from the communities that I represent. There is no shortage of issues where the minister and his department have been either missing in action entirely or where they have been present and have chosen to ignore, or even actively avoid, community feedback when it does not suit them. Let's go through a few examples.

Firstly, the new proposed PFAS dump. We have heard quite a bit about it in this place and in the other place already, but community voices and warnings continue to go unheard and unheeded. As we know, PFAS are manufactured toxins found in paint, pesticides and firefighting foam. They do not break down in the environment and they can travel long distances in water and air. Exposure to PFAS has been linked to harmful health effects in humans and animals, including hormone disruption, high blood pressure and cancers.

Southern Waste Resources Company (SWRC) is seeking an approval to receive, store, treat and dispose of waste contaminated with PFAS at the landfill on Tatachilla Road in McLaren Vale, proximate to Maslin Beach. This is near residential areas, and any leakage of PFAS into the soil, aquifers, ocean and surface water could directly threaten the health and wellbeing of residents.

Reputational damage to McLaren Vale's internationally renowned wine region is at stake, as are the residential property prices in surrounding regions, such as Willunga, Maslin Beach and further afield.

Residents are crying out to be heard. To locate this dump so close to grapevines and houses is a ridiculous decision, and the consequences of a leak are dire. In fact, we have recently seen these consequences due to PFAS contamination at the RAAF base in Edinburgh. But is this minister listening? The community are not being heard and are actively being ignored. They are not the only ones convinced that the minister is only interested in those who provide feedback solely in favour of his Marshall Liberal government proposals.

Let's look at the issue of sand mining down at Semaphore and the ongoing sand management of our Adelaide beaches. We are all familiar with the outcry from residents wherever regular sand mining and carting occurs. It is disruptive, it is loud, and of course it is just a bandaid solution. We understand that we must continue to manage our coastlines to preserve our beaches. However, communities feel frozen out of these discussions.

That is not to say that consultation groups do not exist. Indeed, I recognise that the department has three community groups dedicated to this project. However, those community groups have told me that they can only engage within an incredibly narrow frame of reference and that is in terms of discussing a proposed sand pipeline. Residents and local groups have raised concerns that the pipeline is not an effective solution and risks becoming a stranded asset, but their concerns, again, are not listened to, and any engagement that is even slightly opposed to the pipeline is dismissed.

How is this community consultation, when these communities are just as eager as the department, if not more than, to find long-term and workable solutions to the erosion of Adelaide beaches? Locking out these community voices during the decision-making process will have long-term consequences for us all.

Yet another example—I am trying to keep this brief and I could go on—is the minister's fear of listening to the community and indeed listening to other members of parliament when it comes to the current situation and the department's dealing with Adelaide Koala Rescue. I cannot even imagine how the minister has been responding to the members of the community who have raised concerns about Adelaide Koala Rescue's permit situation and premises situation, when he has shut down his Facebook group and has written harsh letters to not only myself but the member for Hurtle Vale, demanding that we not advocate for our constituents.

I think the minister might have another think coming if he thinks that either myself or the member for Hurtle Vale will take kindly to such an approach. If we all put the environment, and indeed animal welfare, first in this place, the way forward is not to ignore communities, is not to shut down your Facebook pages, is not to threaten members of parliament that they cannot advocate for those who come and talk to us; it is to sit down at the table and work with us.

COMMUNITY PHARMACISTS

The Hon. J.A. DARLEY (15:35): I rise today to speak about community pharmacists and the importance of broadening their scope of practice in our healthcare system. Community pharmacists are highly trusted, accessible and the most visible healthcare professionals in Australia. On average, Australians visit a community pharmacy 18 times a year. To put this in perspective, Australians visit their GP on average six times per year.

With over 5,762 pharmacies across Australia and over 461 million individual patient visits annually, it is clear that community pharmacists are health professionals who are highly accessible to the public. Approximately 492 pharmacies exist in South Australia, and many are conveniently open on a walk-in basis to the public, after hours and on weekends.

Compared with other health professionals, community pharmacists have a greater geographical spread across regional Australia. In our capital cities 97 per cent of consumers are no further than 2.5 kilometres from a pharmacy, and in regional areas 65 per cent of the population are within 2.5 kilometres of a pharmacy. These factors place community pharmacists in the best position to be able to serve our community for further health issues.

Pharmacists across Australia are currently limited in the duties they can perform. There would be numerous benefits to both our healthcare system and the consumer if pharmacists were permitted to operate at their full scope. Community pharmacists have the skills and expertise to evolve in their current role of providing general medication supply and advice. Their services could be expanded to include a range of services, including but not limited to administering further vaccinations to a broader scope of the community, personalised medication advice, chronic disease support, disease screening and risk assessment, and general health advice, including preventative health and point-of-care testing.

Our current health system is overworked, and our growing and ageing population will only further exacerbate this issue in the future. Allowing community pharmacists to operate at their full scope will relieve unnecessary strain on our GPs and our emergency departments. This would lead to increased frontline healthcare accessibility, fewer out-of-pocket costs for consumers, less waiting time for GPs and emergency departments, and overall better health outcomes for patients.

Community pharmacists have always played a critical role in our healthcare system, but their importance has been truly highlighted during this unprecedented year. While continuing to serve our local communities during the health pandemic, community pharmacists across Australia have administered over one million doses of flu vaccine.

Their efforts are truly appreciated, and their vital role in keeping our communities safe cannot be underestimated. Their adaptability and dedication to serving the community during this year further highlights that they can be utilised to a further extent in our health system and in relation to the rollout of a possible COVID-19 vaccine, if approved.

CORONAVIRUS, RETAIL WORKERS

The Hon. E.S. BOURKE (15:38): No teacher, nurse, police officer, supermarket worker or any other worker should go to work to be abused, to be spat at, coughed on, punched in the face, have shopping trolleys rammed into them, receive death threats or be called offensive names. However, this is what is happening to supermarket workers.

During the COVID-19 pandemic the government stated that supermarkets were an essential service, a service that would remain open during community lockdowns, a service this state government felt was so essential that they deregulated trading hours, even outside lockdown periods, so that shops could trade 24/7.

For many, retail is the gateway to employment. I am sure many in this parliament started their working life in retail and fast food, as I did at Hungry Jack's, shoulder to shoulder with 14, 16 and 17 year olds, someone's daughter and someone's son. It is staggering to know that over 85 per cent of retail and fast-food workers, many of whom are just teenagers, have reported experiencing customer abuse in some form.

There are retail workers like Katie, who works at Woolworths and has lost count of the number of times she has been verbally abused. Katie feels that, just because she works in a store, customers feel that they can treat her differently with few manners. Morag, who is a customer service manager at Woolworths, has been punched in the face, clawed on the arm, spat at, coughed at and gets abused weekly. Morag has worked at Woolworths for 30 years and feels that abusive behaviour is getting worse.

The pandemic has brought out the very best and the worst in our communities, not only at home but across the country. According to the National Retailers Association, some retailers have seen a 400 per cent increase in customer abuse during the COVID pandemic. The frequency of customer abuse towards retail workers cannot be ignored any longer. This government can and must do more.

I am proud to stand with the SDA and their 25,000 members of retail, warehouse and fast-food workers who are calling on the government to follow the New South Wales Liberal government by introducing spitting and coughing fines in South Australia. During the pandemic, supermarkets have been deemed essential by this government, but the people who work within the very walls of these buildings are yet to be deemed essential.

Workers like Katie and Morag have joined many in taking the time to share their stories of customer abuse. They are not statistics; they are South Australians providing an essential service.

We have seen this government act quickly to deregulate trading hours, based on little to no Health advice. Now they need to act quickly to protect retail workers from abuse and violence.

I will move quickly to a different topic for the closing remarks of my matter of interest in order to remember a very important South Australian. I want to ensure that his story lives in the pages of our state's history book, *Hansard*. I recently received one of those dreaded phone calls that none of us want to receive. A dear family friend was taken too soon. Roger Morgan, of Maitland, wore many hats: a South Australian ambulance trainer, a member of the progress association, Meals on Wheels, church, music and arts club, and the Maitland Show Society. But to me he was just 'coach'.

The ACTING PRESIDENT (Hon. D.G.E. Hood): Take your time, the Hon. Ms Bourke. I will allow you some more time.

The Hon. E.S. BOURKE: Coach Roger, in his full parachute tracksuit and whistle, would stand on the side of the hockey field week in and week out, even if he did look a bit like a dag, yelling words of encouragement. After his children had outgrown junior hockey, Roger did not leave. Roger was a fixture of the Yorke Peninsula hockey league and stayed on the sidelines for many years, throughout my time playing hockey, as well as many others.

For three years, I have coached hockey teams at the Gilles Street Primary School. Only last year, a student asked why I volunteer my time to coach other people's kids. I quite simply said, 'Because of Coach Roger.' Without people like Roger, kids would not take the field, there would not be local shows and meals would not be delivered to the most vulnerable in our community. My thoughts are with Roger's beautiful family, especially Di, Rebecca, Adrian and his grandchildren, and his many proxy grandchildren. May his stories forever be remembered.

INDIA, FARMING LEGISLATION

The Hon. T.T. NGO (15:44): It is an honour to be the first member of parliament in South Australia to formally put on the record in this parliament the escalating situation between Indian farmers and their national government. Last week, I received a community delegation, led by Mr Trimann Gill and Mr Amarjit Grewal, raising concerns about farming-related laws recently passed by India's central government.

The delegation advised me about the situation farmers are facing in India. As I speak, hundreds of thousands of farmers and thousands of tractors are making their way to Delhi from agricultural states across India. Many travellers are walking over hundreds of kilometres to practise their democratic right to peacefully protest in Delhi. Even while police seek to stop protesters reaching India's capital, many of the farmers serve food to these officers along the way. This is in keeping with their practices of feeding others without discriminating on religious or political considerations and is telling of their peaceful nature.

As it has been put to me, the farmers protest their government passing three new laws. They are mainly concerned about the undermining of the minimum support price (MSP). The MSP has existed for decades, providing a safety net or assurance for farmers. This allows farmers to sell produce at government-regulated markets. Currently, the MSP is set by the central government for selected crops, based on recommendations from the Commission for Agricultural Costs and Prices (CACP). The CACP is tasked with setting the MSP.

I understand most farmers in India are concerned about the consequences of deregulation of the agricultural sector, and these new laws do not reference or guarantee the MSP. Without protections, farmers with small landholdings believe they will be exploited by big corporations. This concern is real. We witnessed similar reforms in Australia, and I can testify to the impacts. Those here today who visit our regions will be familiar with the impacts of deregulation on Australia's farming industry. Over recent years we have seen many family farms held at the mercy of big corporations and families forced off their land. Tragically, farms held by generations of families are now owned by multinationals.

If it were not for community leaders like Mr Trimann Gill, Mr Amarjit Grewal and others, raising this issue and mounting a public awareness campaign, we would be ignorant of the situation unfolding in India. I am amazed and disappointed that the mainstream media seems to barely raise the issue. The media attention on other protests around the world starkly contrasts media coverage

given to perhaps the largest protest the world has seen and in the world's largest democracy. It seems peaceful protest does not attract the same media attention as rioting.

In Australia we are free to peacefully protest. We are allowed political expression. Even when mainstream media is quiet, we can share the plight experienced by others, especially those occurring in the homelands of our local multiculturalism community. I recognise the efforts of Mr Gill and Mr Grewal, raising public awareness not only using socials but even billboards, including at the Main North Road and Grand Junction Road intersection.

In closing, in our global community we must help others in their plight against their local perils. We must lend them the benefits of our experiences and lend our voice to their cause. I urge members to join with me and ask the national government of India to continue to allow its citizens to exercise the fundamental right for any democracy; that is, the right to protest peacefully. I also call on the Indian national government to undertake meaningful dialogue with the farmers and to resolve this evolving situation peacefully.

Parliamentary Committees

CRIME AND PUBLIC INTEGRITY POLICY COMMITTEE: MATTERS OF PUBLIC INTEGRITY IN SOUTH AUSTRALIA

The Hon. F. PANGALLO (15:50): I move:

That the report of the committee into matters of public integrity in South Australia, be noted.

On Friday 8 March 2019, the committee resolved of its own motion to commence this inquiry, and it is perhaps fair to say we did not envisage that we would be tabling our report in December 2020. The terms of reference for the inquiry required the committee to inquire into and report on the following:

- The functions, interrelationships between and resources required to support the operations of the Auditor-General, the Independent Commissioner Against Corruption, commonly referred to as ICAC, and the Ombudsman;
- The functions of the committee;
- Anticorruption measures that seek to ensure office holders and institutions remain incorruptible and independent, including the Parliament of South Australia;
- Options that may provide for increased efficiency or effectiveness of the above; and
- Any other relevant matter as the committee sees fit.

The committee received submissions from 16 persons or organisations, four were received in confidence. Fourteen public hearings were held by the committee and three hearings were held in camera. Significant recommendations include proposals to focus the office of the ICAC on matters of corruption and in public administration and for the office of the Ombudsman to be conferred with further functions in respect of matters of misconduct and maladministration in public administration.

These appeared important structural changes and the committee was of the view they are likely to improve the demarcation of responsibilities, particularly by focusing the work of the ICAC on matters of corruption. The public is already likely to understand this to be the primary function of the office and the ICAC already refers a significant number of investigations into potential misconduct or maladministration to the Ombudsman.

Protocols for the sharing of information can be established between the agencies, as appropriate. The establishment of a separate independent commission against corruption is also a matter proposed by the committee for consideration. If the commissioner or a commission was to retain the current functions of the ICAC, the committee further recommended that consideration be given to changing the name of the commissioner or commission to one for public integrity, given the broader current functions that are vested in the office.

It was considered that the Office for Public Integrity might appropriately be established as a separate entity and no longer report to the ICAC. That office would be empowered to assess all complaints and reports made in respect of public administration in the first instance and determine whether or not they should proceed to further consideration by the responsible authority. It is hoped

that such an amendment may increase efficiencies to ensure that agencies are not required to assess matters deemed unnecessary for referral.

The committee also took the view that the confidentiality and publication provisions of the Independent Commissioner Against Corruption Act may benefit from amendment and propose that consideration be given to providing that certain disclosures cannot be prohibited by ICAC. This was, in particular, a concern for the committee in the context of persons managing employment or fiduciary obligations, and to provide for persons to disclose a summons to a close family member or a legal practitioner, medical practitioner or psychologist. These matters appeared to have the potential to address what was seen by the committee as posing a significant risk to mental health.

It was further considered appropriate to provide for ministers to make statements in the context of addressing issues of rumour, of supposition, circulating in respect of a minister's portfolio, and to clarify that the media may publish such statements or those made by the ICAC. The committee also sought to provide a mechanism allowing for persons to apply for authorisation to disclose, and for disclosed information to be published where it no longer has the potential to prejudice an investigation.

The committee was not supportive of provisions affecting permanent confidentiality obligations to be set aside solely at the discretion of the ICAC. It was proposed that the definition of corruption in public administration be amended to address, at least to some extent, concerns raised in respect of the wide net cast by the current definition, which captures in essence any offence committed in the course of, or connected with, the performance of duties as a public officer.

This, for example, could include a speeding offence. The committee considered that it may be appropriate that the catch-all approach of subsection 5(1)(c) of the ICAC Act be amended to refer to offences for which two or more years imprisonment may be imposed. It was also suggested that the definition of 'public officers' be given further consideration.

The committee has recommended that consideration be given to quite substantial amendments to the functions and powers of the office of the reviewer of the ICAC and Office for Public Integrity. It is proposed that the office be renamed the office of the inspector, and to significantly enhance the investigative powers conferred. The conferral of such powers is consistent with powers of equivalent officers in other Australian states. The committee was of the view that the work of the office should be one that is equally as proactive as it is reactive to complaints or reports made in respect of the actions of the officers over which it oversees operations.

The powers conferred upon the ICAC are significant. They should not be exercised other than under the oversight of a body vested with a wide range of tools at its disposal to ensure such powers are exercised appropriately. The committee was also of the view that consideration should be given to introducing measures to further enhance the independence of the office, particularly with regard to appointment, suspension or removal from office, and to provide for the office to report directly to parliament.

Both this committee and the Statutory Officers Committee are proposed to undertake a direct role in the appointment of the inspector. This proposal is unique. The capacity for the office to respond to requests from the committee to investigate matters has also been proposed as a matter for consideration and to ensure that, where requests are made, the office is appropriately funded to respond. Where matters are conferred upon the Ombudsman or Office for Public Integrity, pursuant to the committee's recommendations such functions would also appropriately be subject to the oversight of an inspector. The appointment of a deputy inspector is also proposed.

The committee noted that the Parliamentary Committees Act does not provide for it to investigate a matter relating to particular conduct. It was considered that in order for the committee to gain an understanding of wider policy issues arising from the performance of functions or exercise of powers under the ICAC Act, it would be appropriate for consideration to be given to conferring it with power to inquire into the processes, procedures or practices that the ICAC has applied in the course of an investigation.

Wider patterns may not be understood without understanding individual circumstances. The ICAC would be required to provide the committee with the information that it needs to complete the function. The committee remains aware that it is important to avoid becoming a de facto review body.

However, the current limitations were considered not to provide for the committee to satisfy its responsibilities as set out otherwise in the Parliamentary Committees Act.

Recommendation 14 of the report recommends that consideration be given to the establishment of an integrity standards adviser for the purpose of providing integrity and ethics advice to members or their advisers and other designated senior public officers. It was proposed that such a role may contribute to potential recipients of advice taking a proactive approach in seeking to ensure that their behaviour meets the standards rightfully expected by the South Australian community.

Recommendation 15 of the report is likely to attract some comment. At present, the statements of principles as adopted by the former parliament have not been adopted by the current parliament. However, such principles, in any event, were not and would not, if currently adopted, be codes of conduct for the purposes of the ICAC Act. The committee was of the view that it is important for further consideration to be given to reform to ensure that the conduct of members is subject to an enforceable code. However, this needs to be balanced by the need to ensure the preservation of parliamentary privilege and to ensure that democratic processes and, in particular, robust debate must not be inhibited by such a code.

Of particular importance was to note that both ministers and members have the potential to be exposed to corruptive influences. The information they acquire in the course of their work has the potential to be used in a way that is adverse to the interests of the state and ultimately taxpayers. The introduction, or perhaps reintroduction, of a defined self-funded superannuation scheme, importantly with the potential for members to lose their entitlement to the benefit of the scheme in the event of a breach of post-separation obligations or if convicted of an offence defined as corruption in public administration in the ICAC Act or an equivalent offence elsewhere, was considered a potentially powerful anticorruption incentive.

A 10-year restriction on post-separation activities is recommended. This is a significantly more onerous restrictive period than is imposed in any other Australian jurisdiction and recognises its importance in the eyes of the committee. It is hoped that the proposal will trigger productive debate in respect of the conduct of members of this parliament.

Finally, the committee has recommended reform to provide that the Judicial Conduct Commissioner cannot have been an administrative decision-maker in the six-month period prior to appointment; nor can the office make such decisions during the period of appointment. The appointment of the ICAC to the role was not considered appropriate.

The committee received submissions and heard evidence in relation to a number of issues arising out of the operation of the Police Complaints and Discipline Act. As its name suggests, the act provides for the regulation of police conduct. However, the committee did not consider that its functions provide for it to make recommendations or findings in respect of its operation. The matters addressed were important and the committee has recommended that its functions be amended to provide for it to consider the operation of the act going forward. Perhaps at the time, should the recommendation be implemented, matters raised can be addressed.

It should be noted that although consideration of the functions of the Auditor-General was a matter set out in the terms of reference, the committee did not receive submissions or evidence that led to the making of any recommendations or findings in respect of the functions or powers of the office. That is not in any way to diminish its important role, and the committee thanks Mr Richardson for his contribution to the inquiry.

In brief, section 2 of the report sets out the functions and powers of South Australia's public integrity agencies, section 3 discusses the key issues noted in the submissions and evidence received, section 4 summarises the functions and powers of comparable interstate public integrity agencies and section 5 summarises the functions and powers of comparable interstate parliamentary committees and related entities. These matters contributed to the deliberations of the committee. Its recommendations and findings conclude the report.

In conclusion, the committee would like to thank its executive and research officer, Mr Ben Cranwell, who provided valuable assistance to the committee over the significant period of time during which this inquiry was conducted.

I would also like to thank the other members of the committee for their contributions to the inquiry: firstly, the former presiding member, the Hon. Dennis Hood, whose position I was elected to following his resignation from the committee in September of this year; the Hon. David Ridgway; the Hon. Justin Hanson; and, from the other place, the member for West Torrens, the Hon. Tom Koutsantonis; the member for Kavel, Mr Dan Cregan; the member for Davenport, Mr Steve Murray; and a former member of the committee, the member for Narungga, Mr Fraser Ellis. Each member contributed to deliberations of the committee. I commend the report to the council.

Debate adjourned on motion of Hon. J.E. Hanson.

Motions

ADELAIDE HOLOCAUST MUSEUM AND ANDREW STEINER EDUCATION CENTRE

The Hon. C.M. SCRIVEN (16:07): I move:

That this council—

1. Notes that the Adelaide Holocaust Museum and Andrew Steiner Education Centre were officially launched on Monday 9 November 2020;
2. Congratulates Mr Andrew Steiner, the board, staff and project team on this important achievement;
3. Rejects and condemns all racial discrimination and anti-Semitism; and
4. Endorses the message of ‘Never again’ today and for generations to come.

When the German army marched through Budapest in 1944, a little boy watched the army go past his family's villa. 70 years later, he recalls:

> I had no idea that their mission was to annihilate us. However, the next door neighbour's daughter, whose family were Nazis, said to the German soldiers, pointing at me, 'Oh, he's a dirty, nasty, filthy, rotten Jew!' But of course, the Germans don't understand Hungarian—otherwise, [it's] unlikely that I would be here.

This is the story of Andrew Steiner, Holocaust survivor and local Adelaide artist who, for the last 30 years, has spoken to hundreds of South Australian schoolchildren about his experiences and lessons to be learnt from them. One of those students said:

> For me, the most beneficial thing that Andrew spoke about was the power of one. This concept is that all of us have an innate ability that we are born with and we should use this for the betterment of humanity. To me, this speaks volumes about how we all have the capacity to safeguard our future and to ensure the events of the Holocaust are never repeated and never forgotten.

Mr Steiner's work culminated this year in the foundation of the Adelaide Holocaust Museum and Andrew Steiner Education Centre, located at Fennescey House in the heart of Adelaide's CBD. The museum was launched as part of the St Francis Xavier Cathedral Annual Commemoration of Kristallnacht which claimed the lives and livelihoods of hundreds of Jewish people living in Germany. In particular, one gallery is dedicated to the stories of six holocaust survivors living in Adelaide. One of the most important and unique aspects of the museum is that it shows how the Holocaust has left a legacy everywhere, even in far-off South Australia.

We are fortunate to have such people as Andrew Steiner willing to share their experiences with us, and it is important to realise that we will not have them with us forever. Through this museum we have the opportunity to ensure that neither they nor their work are forgotten. The name of another part of the museum, the Anne Frank Gallery, reminds us not only of the tragedy of what happened to her and her family, but of the courage of the people who harboured her, people who were all too rare and yet teach another vital lesson. According to one of the University of Adelaide historians who worked on the project:

> The history of resistance and collaboration in Nazi Germany reveals the extremes of which human beings are capable. Those who went along with the Nazis were ordinary people but so were those who resisted them. We get to choose what kind of human beings we want to be.

Even among the Resistance, those who stood up directly for the plight of the Jewish people, were rare. Sophie and Hans Scholl, brother and sister among a group of students calling themselves the White Rose, distributed pamphlets in 1942, confronting the German people with the fact that there were '300 thousand Jews…murdered in this country in the most bestial way', and crying for an end to apathy in the face of these 'crimes so unworthy of the human race'.

Back in 1936, Margo Meusel, a Berlin deaconess railed against the indifference and even participation in persecution of the Jews by the churches, demanding:

> What shall we one day answer to the question, 'Where is thy brother Abel?' The only answer that will be left to us…is that of Cain. 'Am I my brother's keeper?'

These people did not speak, as we are able to today, with the right to freedom of conscience. Take the example of Austrian farmer, Franz Jagerstatter, executed for refusing to fight in Hitler's war. Even the simplest acts of defiance are known to us by a Nazi official's report of recent prosecutions for malicious statements. For instance, the case of Elsie W. passing a derogatory poem she had authored about Hitler to her workmates, or Wahlburga, P. sending care packages to her son, a deserter in gaol, and declaring to her landlady upon questioning that, 'You had better believe I'm not buying a swastika flag.'

While we consider all of these people heroes today, they were not only punished by the authorities but rejected by their peers. They were accused of a lack of patriotism and denounced for their failure to uphold Hitler's new code of morality, scorned for their position that contradicted the dominant narrative.

The members of the White Rose were turned in by a university janitor. The people of Franz Jagerstatter's home village of St Radergrund saw not a noble act of protest but an embarrassment, the failure to fight for the Fatherland. They also saw what they considered to be the needless abandonment of his wife whom they called a murderess for not trying to persuade her husband to stand down from his objection to joining the Nazi army.

Even women who slept with or married Jewish men had to bear public shame and humiliation to admit to supposedly dishonouring German women. Resistance against injustice was enforced first and foremost not by the Gestapo but by the social pressure manifested by a population under the sway of this Nazi morality. Nor is this a unique instance of injustice, which is why the message of 'Never again' is so important.

In the United States before the Civil War the Fugitive Slave Act of 1850, for example, granted Southern slaveholders the right to hunt down and recapture runaway slaves who had escaped to the free states of the North. The return of slaves was seen, even by prosecutors who themselves had abolitionist sympathies, as essential to maintaining the Union and upholding the law. The attempts of abolitionists to intervene, to harbour runaway slaves and help them to freedom, frequently brought both they and the fugitives they sought to help under legal trial. Sadly, they were often condemned by their contemporaries because they did not accept that merely because it was the law it must be right.

These moments in human history show us how blind a society can be to the mistakes of its own times and how vital are the voices of those who speak out against an injustice, particularly one which is unseen, unacknowledged or perhaps even accepted by the community around them. If all people are to be cherished, to be accorded equal value and equal respect, then even in times when we believe ourselves to be making progress, even when we dedicate ourselves to working for this principle with the best of intentions, it always pays to listen to those voices and not to dismiss with ridicule or indifference those actions that may seem to some to be unnecessary, counterproductive or even shameful.

The museum reminds us of all these things. It was officially launched by His Excellency the Governor at an event held at the Mary MacKillop Plaza. About 150 people attended, including the temporary Israeli ambassador, representatives of state government and the opposition, the Lord Mayor, representatives from the History Trust of South Australia, the Department for Education, Catholic Education, members of the Jewish Community Council of South Australia, representatives of the Archdiocese of Adelaide (including Archbishop O'Regan), donors and partners, board members, project team and staff.

A number of interstate representatives attended via live stream and, very importantly, the event included Adelaide survivors and their families, including second and third generation descendants. About 240 people, including additional members of the public, attended the Shoah commemoration service at St Francis Xavier's Cathedral on the same day.

I want to thank and congratulate Mr Andrew Steiner, the board, the staff and project team and everyone who has been involved in this important project. The museum is currently open

Tuesdays to Thursdays, 10am to 4pm, and Sundays from 11am to 3pm. Visitors are encouraged to visit the website, which is ahmsec.org.au, to plan their visit and to book.

The Adelaide Holocaust Museum and Andrew Steiner Education Centre will also provide an in-house education program for secondary students in years 10 to 12 and tertiary students across the Adelaide metropolitan area, and this is expected to roll out in early 2021. As the website states:

> The Education Programme draws on lessons from the Holocaust with a focus on human rights. It has been developed to teach about the consequences of prejudice, racism, discrimination and antisemitism, and to support students' understanding of the consequences of apathy and silence; of being a bystander.

I hope we in this chamber will acknowledge that this new museum stands for something important, that even in a place that seems as remote from Nazi Germany as South Australia there still live people who suffered through the horrors of the Holocaust, and we bear equal responsibility with the rest of the world to ensure that these lessons are never forgotten. We too have the responsibility of the message of 'Never Again'. I commend the motion to the council.

Debate adjourned on motion of Hon. N.J. Centofanti.

Bills

STATUTES AMENDMENT (USE OF FACIAL RECOGNITION SYSTEM) BILL

Introduction and First Reading

The Hon. T.A. FRANKS (16:19): Obtained leave and introduced a bill for an act to amend the Casino Act 1997 and the Gaming Machines Act 1992. Read a first time.

Second Reading

The Hon. T.A. FRANKS (16:20): I move:

> That this bill be now read a second time.

I rise on behalf of the Greens to call on this parliament to protect problem gamblers from predatory practices. We have canvassed this issue previously, back when the government and the Labor opposition made a deal behind closed doors to ram through the so-called 'gambling reform legislation' about a year ago.

At that time, as part of this deal the Labor opposition secured provisions that gaming machines are now required to be fitted with facial recognition systems. In theory, this can be used as a tool to help problem gamblers; however, in practice we have ample evidence that, left to their own devices, gaming venues may not necessarily use this technology for such a purpose—or at least, not exclusively for such a purpose. I refer the council to my previous comments on this matter, when I said:

> This bill will decide how we use that facial recognition technology, whether we use it for good or allow it to be used for evil.

The current version of that act does not prohibit the use of facial recognition technology on poker machines to be used only to minimise harm. Indeed, by being silent on that, the act allows it to be used for evil. My quote continues:

> …it certainly leaves this technology wide open to being exploited by those who seek to make money and create more gambling rather than less. Technology cannot be value neutral unless we make sure that it is…

In this case, the parliament can make sure that facial recognition technology is made less harmful when it comes to poker machines in this state. We will have only ourselves to blame should we not act.

At the time that my previous amendments to the original legislation were removed it was seen and agreed by all sides that no-one intended that technology to be used to groom gamblers. However, in the deal made behind closed doors between Labor and Liberal, that issue had not actually been canvassed. When the crossbenchers attempted to make amendments, quite reasonable amendments to minimise gambling harm in this state, every single amendment we sought to put up was rejected.

That legislation soon comes into effect. The Casino extension opens this week, and the regulations have reflected the concerns raised by the Greens and the crossbenchers that the facial recognition technology be used to minimise harm, and that there be prohibitions placed on it being used to groom gamblers. However, those protections are currently only in regulations and not in the letter of the law in the act. We are relying on goodwill and good practice as an article of faith, rather than something this parliament can fix.

Indeed, gambling venues have hailed facial recognition technology as a return to 'the old Vegas days'. I refer the chamber to the words of the Star Casino's surveillance chief regarding facial recognition technology after it was installed in the Casino:

> [it] will also be incorporated into our customer service where we can recognise customers and welcome them back personally, telling them their favourite drink is waiting at the bar.

No doubt with that technology they will know exactly what that favourite drink is. Outside of this being an obvious grooming of gamblers, it is actually downright creepy. We have been told that this technology is supposed to be aimed at enforcing barring orders for problem gamblers, so why have we been reticent to ensure that the technology cannot be used to create new problem gamblers?

The use of facial recognition technology is often used for so-called 'customer service'—and I use that term quite loosely. It has been evidenced in a showcase in Las Vegas and was reported in the *Las Vegas Review-Journal*, by a journalist named Bailey Schulz, who raised quite significant concerns. I again urge members to refer to my previous speeches on this matter. The industry showcase in Las Vegas did outline that 'new Vegas' intention, and the displays in that showcase showed the title of the game easily blending into the background amid the lights and sounds of slot machines.

However, with a press of the button, live camera footage of you as the player could appear on the screen, with digital dots lining your mouth, eyes and face. You would not see it, but the technology behind that would come through with the information of 'existing user found', with all your details attached. Operators are most excited about the money-making potential of facial recognition technology in poker machines.

I have to say, it is quite concerning that this technology has not come into play in this state without the very safeguards that will ensure it is not used to groom problem gambling rather than prevent it. Casinos are already able to gather more data than ever before, but with this facial recognition technology there could be even further intrusion. Indeed, instead of just tracking players with a loyalty card, they may even be able to track players who forget their card or those who are not enrolled in a rewards program.

As another industry figure stated, 'Right now, casinos don't have a way to incentivise an uncarded player,' but facial recognition technology does open it up so that they can start reinvesting in and understanding those players. These reinvestments could keep players coming back for more. When we know that 'coming back for more' often means 'coming back for more losses', we should be doing everything we can in this parliament to reduce that harm.

This type of technology cannot only be used to reduce harm. While this new technology is welcome if it is used to assist with the barring system and to ensure problem gambling does not become worse and is ameliorated, it may well turbocharge the potential for gambling harm. So I urge members to reconsider this particular issue as we roll out the new piece of legislation, to ensure, as we have all agreed in principle and as the current regulations state, that this facial recognition technology be used solely for harm minimisation. We need to ensure that and enshrine that by placing it in the act rather than trusting the regulations. Let's enshrine our good intentions in the actual legislation so it can never be easily circumvented. I commend the bill to the council.

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

Parliamentary Committees

COVID-19 RESPONSE COMMITTEE

The Hon. T.A. FRANKS (16:28): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON HEALTH SERVICES IN SOUTH AUSTRALIA

The Hon. C. BONAROS (16:29): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON MATTERS RELATING TO SA PATHOLOGY AND SA MEDICAL IMAGING

The Hon. I.K. HUNTER (16:29): On behalf of the Hon. Ms Bourke, I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON POVERTY IN SOUTH AUSTRALIA

The Hon. T.A. FRANKS (16:30): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON WAGE THEFT IN SOUTH AUSTRALIA

The Hon. I. PNEVMATIKOS (16:30): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON REDEVELOPMENT OF ADELAIDE OVAL

The Hon. I.K. HUNTER (16:30): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON FINDINGS OF THE MURRAY-DARLING BASIN ROYAL COMMISSION AND PRODUCTIVITY COMMISSION AS THEY RELATE TO THE DECISIONS OF THE SOUTH AUSTRALIAN GOVERNMENT

The Hon. K.J. MAHER (Leader of the Opposition) (16:31): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON MATTERS RELATING TO THE TIMBER INDUSTRY IN THE LIMESTONE COAST

The Hon. C.M. SCRIVEN (16:31): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

SELECT COMMITTEE ON THE EFFECTIVENESS OF THE CURRENT SYSTEM OF PARLIAMENTARY COMMITTEES

The Hon. C. BONAROS (16:32): I move:

That the time for bringing up the committee's report be extended until Wednesday 31 March 2021.

Motion carried.

Motions

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT REGULATIONS

The Hon. M.C. PARNELL (16:32): I move:

That the general regulations under the Planning, Development and Infrastructure Act 2016 concerning Planning and Development Fund (No. 2), made on 12 November 2020 and laid on the table of this council on 17 November 2020, be disallowed.

This is the fourth time we will disallow these regulations. Nothing has changed. Every stakeholder in the development industry, the community sector and local government agrees that these regulations should be disallowed. It is not lost on them that the irony is that, as urban infill increases and the amount of private open space shrinks, the bucket of money to provide for public parks and gardens is more important than ever.

The point is, as private open space shrinks, the need for public open space is greater. Therefore, the planning sector, the local community sector and the local government sector are unhappy that the open space fund, also known as the Planning and Development Fund, is being raided for administration and for the implementation of the new planning reforms. We know from the estimates hearings in the last week that $25.5 million has been taken from the fund for the planning reforms, effectively for administration. So I expect the result today will be the same and I thank members for their indulgence, allowing me to move the motion, debate it today and vote on it today.

The Hon. C.M. SCRIVEN (16:34): Tempted as I am to say, 'Yeah, what he said,' I will just briefly address this. We have been here before. The open space fund should be for open space and Labor supports the disallowance of these regulations.

The Hon. R.I. LUCAS (Treasurer) (16:35): The government opposes the motion, for the same reasons as we have given on a number of previous occasions. However, I am advised that it has not been the intent that the fund be used on an ongoing basis, therefore the current regulation includes a sunset clause of 1 July 2021. Beyond the establishment phase of the new system, it is likely that the new fees and charges for development assessment will primarily cover the maintenance of the e-planning system.

The current round is now open for application for the Open Space and Places for People Grants, funded by the Planning and Development Fund, closing in February 2021. For similar reasons as enunciated before, the government opposes the motion but acknowledges that, at least in this chamber, we do not have the numbers.

The Hon. M.C. PARNELL (16:36): To sum up, I thank the Hon. Clare Scriven and the Hon. Rob Lucas for their contributions. My message to members is simple: you know what this is and you know what to do.

Motion carried.

Bills

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

Introduction and First Reading

The Hon. M.C. PARNELL (16:36): Obtained leave and introduced a bill for an act to protect and promote human rights and to establish the Charter of Human Rights and Responsibilities, and for other purposes. Read a first time.

Second Reading

The Hon. M.C. PARNELL (16:37): I move:

That this bill be now read a second time.

In a time in which political discourse has become increasingly polarised, this bill is a reminder that no matter how much we may argue about the minutiae of issues in this chamber or in the other place, there are some inalienable rights and some self-evident truths which unite us in our democracy. For example:

- all votes should be counted;
- everyone has the right to enjoy the highest attainable standard of physical and mental health;
- everyone deserves to age with dignity and to be free from abuse and mistreatment;

- every child has the right to an education and to be free from abuse;
- imprisonment should be a last resort and only come after a fair hearing in an open court; and
- Australians have the right to live and work in a safe, clean and healthy environment.

Members of parliament and the voters who have elected us may disagree on how best to achieve these goals and sometimes politicians, corporations and individuals will ignore or stray from these ideals. Nevertheless, I believe that the bill that I present to the parliament today is a model, a framework if you like, for the type of community that we would all like to live in; in other words, a socially cohesive harbour where boats of all types are lifted by a rising tide of shared values.

This bill and the bodies created by it can serve as an independent umpire, an impartial but watchful eye over our Public Service and our citizens, as well as an educational tool for our children; that is, the education would be: that is who we are and this is what we believe in. The protection of human rights is a fundamental component of the expansive conception of one of our nation's founding doctrines, that is, the rule of law.

In 2017, former Chief Justice of the High Court, the Hon. Robert French AC, stated that the rule of law provides societal infrastructure that gives shape and definition to Australia as a particular kind of society in the global community of nations. I know that some may think that in this lucky country, this First World nation, we only need to focus on our First World problems and that human rights protections are a concern for people who live 'over there' but not in Australia.

However, whilst many other countries treat their citizens worse than do we, we must remain forever vigilant in protecting our rights and freedoms, because when the veneer of civil society is chipped away, when our divisions are allowed to fester and our cherished shared values are not taught or enshrined in legislation, we can become a community divided. As Abraham Lincoln famously stated, 'A house divided against itself cannot stand.'

So what are these shared values? In this bill, in part 3, I have outlined the rights I hope we should all be able to agree on. These are set out in clauses 9 to 34 of the bill, and with one exception these are all rights that are in alignment with this country's international obligations under the seven core human rights treaties. The only additional right I have included is the right to a healthy and sustainable environment, which I will discuss separately in a while. The international treaties and conventions to which Australia has committed include:

- the Convention on the Elimination of all forms of Racial Discrimination;
- the International Covenant on Civil and Political Rights;
- the International Covenant on Economic, Social and Cultural Rights;
- the Convention on the Elimination of All Forms of Discrimination against Women;
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the Convention on the Rights of the Child; and
- the Convention on the Rights of Persons with Disabilities.

Despite Australia voting against it originally, there is now growing support for the Declaration on the Rights of Indigenous People, including support in corporate Australia. The signing and ratification of human rights treaties is only a first step. Once we have committed to obligations, according to the Law Council of Australia, we must respect, protect and fulfil them. This legislation in its operation will assist in achieving those three goals.

In relation to the right to a clean and healthy environment, this is entrenched in the constitutions of many nations around the world. In fact, according to renowned environmental lawyer, David R. Boyd, in his 2011 Global Study of Constitutions, Human Rights and the Environment, entitled *The Environmental Rights Revolution*, Australia is one of only 15 nations worldwide to not include this right in its constitution.

To paraphrase J.R.R. Tolkien, a healthy environment is the one right that rules all others or, to use Latin legalese, it is the sine qua non, the essential element upon which all other rights depend. Without a healthy environment, there is no healthy life or, at the extreme, no life at all. Without human life there are no human rights. This is logic that has already been accepted by Australian courtrooms, and I will discuss that in a moment.

Part 3 of the bill is where the rights are listed, and it is based on the Victorian Charter of Human Rights and Responsibilities, which was agreed to 14 years ago when Victoria became the first state and the second jurisdiction in Australia, after the ACT, to adopt such a charter. The bulk of this legislation is based on the Victorian legislation. However, there are some important additions to this bill that are not in the Victorian act. These include the right to adequate housing; the right to the enjoyment of the highest attainable standard of physical and mental health; the right to a healthy and sustainable environment; the right to education; and the right to enjoy economic, social, cultural, civil and political rights.

It should also be noted, though, that clause 3 of my bill adopts the Queensland phrasing, which resolved statutory interpretation ambiguities that were identified in the 2011 High Court case involving the Victorian charter, and that is the case of Momcilovic v The Queen [2011] HCA 34. Queensland is relevant because, since the passage of the Victorian charter, Queensland has now joined with their own Human Rights Act, and that happened in 2019.

Ideally, we would have a national approach, but this is not happening, which is why states are separately legislating. However, I do support organisations such as the Law Council of Australia and the Human Rights Law Centre, which continue to push for a national charter of rights. In the meantime, state and territory-based legislation is the best way to enshrine these rights in law.

As things stand, only a handful of rights are implicitly enshrined in our federal constitution, with others, such as the freedom of political communication, found to exist implicitly according to the High Court and these rights are not well understood. As Law Council of Australia President Pauline Wright recently noted at the National Press Club, the COVID pandemic has highlighted the importance of basic human rights that many of us have taken for granted. She said:

> Our constitution protects very few rights, and those rights which have been so hotly debated during the pandemic are backed by few constitutional or statutory guarantees.
>
> A human rights charter will assist public acceptance of government decision-making processes—including for decisions which must be made against rapidly unfolding circumstances such as seen during the pandemic.

She further argued that a federal human rights charter would even benefit the government's metaphorical hip pocket or the budget bottom line by, in the words of Public Service journal *The Mandarin*, 'curbing the systemic need' for royal commissions into social justice failures in Australia.

While a national charter is a goal to aspire to and a worthy campaign to get behind, our vulnerable communities cannot wait. South Australia has had the Nyland and the Mullighan royal commissions in the last 20 years into child abuse, as well as the Oakden ICAC inquiry into our aged-care sector and the terrible systemic failures within the disability care sector that were recently made apparent by the appalling death of Ann Marie Smith.

It is time that South Australia, a state that was ahead of its time when granting the right to vote for women, a state that was ahead of its time during the Dunstan era, gets with the times and joins Victoria, the ACT and Queensland in passing a charter of rights. The experiences interstate have demonstrated that a charter of rights does not lead to a 'lawyers' picnic' as many fearmongers often claim.

In 2012, a report by the Human Rights Law Centre into the first five years of the Victorian legislation found that the act's influence was often felt outside the courtroom. The report, according to the Law Council of Australia, found that much of its impact was 'through government policies, local council projects or the affording of protected rights to vulnerable individuals and groups.'

Some examples of vulnerable individuals protected by the Victorian charter include a 40-year-old man with a disability living in an aged-care home who was able to assert his right to live in more suitable accommodation, or a 96-year-old woman who was granted extra time to find a new residence after receiving an eviction notice, or children in custody who had previously been transferred to adult facilities.

Meanwhile, the five-yearly review in the ACT, conducted by the Australian National University, similarly touted the extrajudicial impact of the legislation, stating:

> …impact on policy-making and legislative processes has been more extensive and arguably more important than its impact in the courts. Its main effects have been on the legislature and the executive, fostering a lively, if sometimes fragile, human rights culture within government. While it has not attracted extensive public attention, and its workings have not always been apparent to the broader community, the [ACT Act] has operated in subtle ways to enhance the standing of human rights in the ACT.
>
> One of the clearest effects of the [ACT Act] has been to improve the quality of law-making in the Territory, to ensure that human rights concerns are given due consideration in the framing of new legislation and policy.
>
> These improved laws are likely to have tangible benefits over the longer term, particularly in the form of additional safeguards for vulnerable individuals in the community.

This bill, under part 4, clause 29, will similarly require every member who introduces new legislation before this house to prepare a statement which details whether the bill is compatible with the rights contained within the charter and if they are not compatible, the extent of the incompatibility. Provisions similar to clause 29 exist in Victoria, the ACT, New Zealand and the UK.

Under clause 31, every new bill will be referred to the Legislative Review Committee, which will then report to each house whether the bill is incompatible with human rights. While some human rights are absolute and no degree of incompatibility is accepted, others may be limited when there is just cause.

Part 4 of the bill will ensure that we have the discussions about how far we are willing to go to restrict or curtail our rights and freedoms from the outset, and in the event that the parliament believes there is sufficient cause to override this charter there is the power to do so under division 2, clause 32.

When introducing the bill upon which this bill is based into the Victorian parliament, the then Attorney-General Rob Hulls stated the override provision should only be exercised in:

> …exceptional circumstances that may include threats to national security or a state of emergency which threatens the safety, security and welfare of people in Victoria.

We have just lived through a time, for example, where our rights to assemble and move freely have been curtailed because of the coronavirus pandemic. There are times where exceptions must be made, but it is incumbent on us to be transparent about the justifications.

This override cannot be permanent, though under clause 32 of the bill any such declaration expires on its fifth anniversary of the day on which it came into operation or such earlier date as has been specified in the act. Exceptional circumstances are exceptional because they do not generally last forever. Normality resumes, at least for a while. If the exceptional times return, a declaration can be re-enacted under clause 32.

While the interstate experience has been that the legislation's predominant impact has been outside the courtroom, part 4, division 3 does provide that courts should, as far as possible, interpret statutory provisions in a way that is compatible with human rights under clause 33 and for the referral to the Supreme Court of questions of law regarding the application of the charter compatibility of statutory provisions to the charter under clause 34.

In Queensland, judicial statutory interpretation of compatibility with human rights has recently occurred in the case of Youth Verdict and Waratah Coal, with the Land Court of Queensland accepting that it is obliged to consider human rights, such as the right to life, when assessing mining lease applications.

It must be noted that this bill will not allow the courts to rule that legislation is invalid because it is incompatible with human rights. The courts may, however, issue a declaration of inconsistency under clause 37, which will give the parliament the opportunity to reconsider and amend the legislation in question. The parliament, however, remains sovereign.

Under clause 38, within six months of any declaration of inconsistent interpretation, the minister responsible for the inconsistent legislation must prepare a statement responding to the declaration, which must be tabled before both houses and published in the *Gazette*. This aligns with the Westminster system of responsible government.

The use of international law obligations to aid in statutory interpretation is not a new phenomenon. The Teoh case in the High Court was a landmark example 25 years ago. This bill simply formalises and provides guidance for our courts and our public servants. Part 5 of the bill clarifies the role of the equal opportunity and human rights commissioners' functions and powers and the circumstances in which they can intervene, while part 6 of the bill provides for the charter's review after four and eight years.

As experiences interstate have shown, although we are a prosperous nation with a transparent democracy, it took a charter of rights to prevent the elderly from being turfed out onto the street with nowhere to go. It took a charter of rights to force the prison system to find age-appropriate facilities for young offenders and to force the disability services sector to find age-appropriate accommodation for a young man living with a disability. It took a charter of rights to allow the Land Court to consider the existential threat of climate change when assessing mining leases.

This bill is about preventing the vulnerable and the voiceless from falling through the cracks. I commend the bill to the council.

Debate adjourned on motion of Hon. C. Bonaros.

STATUTES AMENDMENT (HATE CRIMES) BILL

Introduction and First Reading

The Hon. T.A. FRANKS (16:54): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and the Sentencing Act 2017. Read a first time.

Second Reading

The Hon. T.A. FRANKS (16:55): I move:

That this bill be now read a second time.

I note that this is a bill that comes from the debate that we recently had in this place on provocation laws and, indeed, the long debate that I have brought to this place about ending the gay panic defence in our courts. I am very pleased that in the other place they have accorded with the council's view of the gay panic defence and that this parliament will soon dump that gay panic defence.

In the course of the consultation on that bill, the South Australian Rainbow Advocacy Alliance came to me with many thousands of signatures—so with the strong support of their constituency—and raised the issue of hate crimes. I sought to make an amendment to the provocation bill with regard to sentencing and being able to acknowledge hatred of people by virtue of their race, their religion, their sex, their sexual orientation, their gender identity, their age, their intersex variations or particular disabilities.

At that time, just a few short weeks ago, many positive words were said and that there was in-principle support for such a hate crimes bill to be introduced into this place should I bring it back as a private member's bill, so that is what I do today. I now seek leave to conclude my comments because I intend to come back with a full speech having released the bill out for proper consultation over the summer break.

Leave granted; debate adjourned.

VOLUNTARY ASSISTED DYING BILL

Introduction and First Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:57): Obtained leave and introduced a bill for an act to provide and regulate access to voluntary assisted dying, to establish the Voluntary Assisted Dying Review Board, to make amendments to other acts and for other purposes. Read a first time.

Second Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:58): I move:

That this bill be now read a second time.

Voluntary euthanasia, dying with dignity, voluntary assisted dying—it is an issue that affects so many of us. How our lives are lived and, ultimately, how those lives end is something we will all experience. It is a common and necessary part of our shared humanity. Our views on all topics, including and in particular this one, are heavily influenced by our life experience. It is an issue that has challenged the conscience of members of this parliament before.

It is, I believe, the 17th time over the last quarter of a century that the issue of voluntary assisted dying has come before this parliament. Members of this chamber, particularly the Hon. Mark Parnell, have been instrumental in a number of those bills, and I pay tribute to his commitment and determination. The most recent attempt at legislating was thanks to the work of then members for Morphett and Ashford, Dr Duncan McFetridge and Steph Key, which ended in a tied vote on the floor of the House of Assembly and only failed on the casting vote of the then Speaker.

I particularly wish to pay tribute to another former member of this parliament, the late Dr Bob Such, who was responsible for, I believe, five of the previous attempts at legislating dying with dignity. I also want to thank Dr Such's widow, Lyn, who has provided much advice and support on this topic. Dr Such's memory and legacy have been invoked a number of times in this chamber in the last few weeks, and it is surely a lesser place for his passing.

A common theme from the Hon. Mark Parnell, the late Dr Such and others has been compassion for those who are in unbearable pain and suffering. It does not have to, and it should not, be this way. In April 2019, this parliament established a joint committee to examine end-of-life choices. Choices, what options we have and how we can make them was central to the committee's work.

The committee focused particularly on the Victorian model of voluntary assisted dying, as well as palliative care and advance care directives. The committee received some 126 written submissions and took evidence from many witnesses. Some of the most informative but difficult evidence to hear was from the Coroner and the written submission from South Australia Police. We heard that more than 10 per cent of suicides in South Australia are attributed to those with a terminal illness. I will quote from the SAPOL submission, where they talk about such suicides. They say:

> Many deaths in those circumstances are undignified, violent and often committed in isolation, which on occasion results in the death not becoming known to others for some time. There may also be a degree of pain and suffering depending on the method and the level of expertise of the person when they take their own life.

The SAPOL submission concludes:

> SAPOL is supportive of a legislated scheme that would allow for a person, under certain and prescribed circumstances, to die with dignity and under proper medical supervision.

It is highly unusual, in my experience, that SAPOL would be so unequivocally supportive of a matter such as this. I think it is reflective of where the South Australian public and society sit in general on voluntary assisted dying.

The police submission also reflects the absence of a legal, humane and dignified system for end-of-life choices that itself creates an impossible decision. People are placed in an untenable situation, and the result is often traumatic for family members and first responders. It does not have to, and it should not, be this way.

Another factor that became apparent from the examination of the voluntary assisted dying schemes in other jurisdictions is that many people who are approved and receive medication then choose not to use it. Just having it there as an option, just having the choice, can be a massive relief and can provide tremendous peace of mind.

It is not surprising that many in the end do not avail themselves of the voluntary assisted dying option. There is often still a strong desire to cling to whatever life exists, no matter how precarious, a desire to be part of what happens next on this planet, to see what happens in your life, to take part in the life of the next generation, to see that kid get married, to walk that next grandchild to school for the first time.

Evidence from around the world and personal experience tells us that the desire to live is often so strong, and often the fear of death is overwhelmingly compelling. Ending for good the combined total of your memories, your consciousness, your unfulfilled potential is a terribly difficult

decision and it is not one that is often taken lightly. To be in such pain with a terminal illness to make the rational decision not to go on is a difficult and dramatic one. The lack of a legal, protected and supported system does not mean that the choices do not get made, just that they are even more difficult, more traumatic and even riskier. It does not have to be this way, and it should not be this way.

People, including members of parliament, have legitimate concerns about how a voluntary assisted dying scheme might work. One of the most common concerns is that people, particularly older people, might be exploited or unduly influenced, perhaps by relatives who stand to gain something, to use a voluntary assisted dying scheme. Former Victorian Supreme Court judge Betty King is the chair of the 13-member Voluntary Assisted Dying Review Board in Victoria. She specifically addressed this issue after the report of the first six months of the operation of the scheme and found there was no evidence of such coercion. Justice King said:

> I have not seen—and I have been looking, believe me—I have seen no indication of any type of coercion.
>
> The feedback has been predominantly about how peaceful it was, how it was fabulous for my parent or my loved one to be able to choose, to be surrounded by family, to play music and to just quietly go to sleep, and we all sat there and rejoiced at the end at the fact that they've had a wonderful life.
>
> The Board can confirm that all reviewed cases within the first six months of the Act were compliant with the law.

After the most recent report, now on 18 months of operation of the Victorian scheme, Justice King further explained this issue. She said:

> All those concerns about children trying to kill their parents to gain an inheritance, it just hasn't been an issue…
>
> First of all, it simply can't be done under this legislation, the safeguards are too rigorous and there are criminal penalties for any coercion.
>
> And secondly, we consistently see that the children are initially pushing more the other way, keen to talk their parent out of going down the path allowed by these laws.
>
> But the parent is saying to them, 'I love you, and I hear what you are saying, but it's my life and I want to control it.' And by the end of the process so many of the children have been turned around in their thinking.

Another concern that is occasionally raised is that the introduction of a voluntary assisted dying scheme might be at the expense of palliative care, that it will create an incentive not to properly fund palliative care. That is not what the evidence in this country shows. The introduction of voluntary assisted dying in Victoria coincided with an immediate increase in palliative care funding of $19 million and an increase of $62 million over five years.

In Western Australia, at the passing of their voluntary assisted dying scheme, we saw an increase of almost $20 million for palliative care, and in Queensland, which is soon to debate voluntary assisted dying, we have seen a commitment of an extra $171 million over six years for palliative care. So in fact we are seeing the opposite occur: further and quite dramatic increases in investment in palliative care services in those jurisdictions that have or that are likely to pass voluntary assisted dying legislation.

Informed by the work of the committee, we now have the bill being introduced today. Voluntary assisted dying is an issue on which reasonable people disagree. As members of parliament we have different views; our views, like everyone else's, are a product of our life experience and outlook on the world. Witnesses to the committee noted that, as a society, we do not speak openly or deal with end-of-life matters particularly well. It is hard and difficult to do so, and considering legalising a scheme for voluntary assisted dying forces us to do that.

There are a number of things in Australia that have changed significantly since this parliament last debated voluntary assisted dying legislation. Victoria has now passed legislation and their scheme has been in operation for 18 months; WA has also passed that legislation; recently the upper house of the Tasmanian parliament unanimously passed legislation that next year it will be debated in the lower house: and the recently re-elected Queensland government has promised to put legislation before the parliament early next year. Where once we would have been the first jurisdiction in Australia to have a scheme, we will now be following in the footsteps of most other states around Australia.

I know there are a number of my colleagues who support the concept of a person's right or ability to choose to die with dignity under certain circumstances but who are concerned that a voluntary assisted dying scheme should have appropriate and rigorous safeguards in place. It will give members significant comfort that this bill is a direct translation of the Victorian model, which has been described as the safest and most conservative scheme in the world by the Victorian Premier, with some 68 safeguards in place.

The essential elements, as described by the Victorian health department, for someone seeking access to the Victorian scheme include:

- they must have an advanced disease that will cause their death, and is likely to cause that within six months, or 12 months if a neurodegenerative disease, that is causing that person suffering that is unacceptable to them;
- they must have the ability to make and communicate a decision about voluntary assisted dying through the formal request process; and
- they must be an adult over 18 years, have been living in the state for at least 12 months, and be an Australian citizen or permanent resident.

There are numerous steps that must then be taken to access the scheme. First, you must ask your doctor for information about voluntary assisted dying. This is followed by the first request; the person must tell their doctor that they want help to go through the steps that allow access to voluntary assisted dying. A first assessment is then performed, during which a doctor assesses the person to see if they meet the requirements. A second assessment is then required by a different doctor, who also determines that the person meets the requirements. A written declaration is then required. A final request is then required at least 10 days after the first one.

After the initial six steps a contact person must be appointed. This is a person who will return any unused medication to a pharmacy if the person dies before taking the medication or chooses not to take it. The person's doctor must then apply for a permit to prescribe the medication. The final step is the person receives the medication after the doctor has provided the written prescription.

Both the doctors involved in the first and second assessment stages must have completed approved training courses in assessing people for voluntary assisted dying. In making the assessments, each doctor must make sure the person is fully informed about their disease and their treatment and palliative care options, make sure that voluntary assisted dying is the person's own choice, and make sure the person knows they can change their mind at any time.

A doctor is not permitted to raise the issue of voluntary assisted dying with a patient, it has to be suggested by the patient. It is also important to note that doctors and other health practitioners, such as nurses and pharmacists, who have a conscientious objection do not have to participate in a voluntary assisted dying system. To make sure the decision is not rushed, the process cannot be completed in less than 10 days, unless the person is expected to die within that time frame.

This bill ensures that those essential elements that make Victoria's such a safe and protected scheme are replicated in South Australia. If you support the concept and if you look around Australia and see it is highly likely a scheme will eventually be passed here, but you want the best possible protections, then this bill is the one that you want. This is the bill that ensures those protections will be enshrined in the laws of South Australia.

There are passionate and strong views about voluntary assisted dying. As I have said, reasonable people can and do disagree on these matters. Other states in Australia are already moving towards schemes or have them running. Surveys have consistently found that community support runs close to 90 per cent. I am quite sure it is not a question of if we see voluntary assisted dying legislated in this state but a question of when and how it occurs.

I wish to acknowledge the many people who have been pushing for a change in this law for many, many years. These include the committed folk from SAVES and other organisations, who again today, like so many other days, have been on the steps of Parliament House agitating for change. I wish to thank the many South Australians who I have had the good fortune to have contact with in recent times, people who have shared their personal stories and encouraged change.

It has been a rare privilege to share in some of the most difficult and intimate life experiences of people who have cared for a dying loved one. To people like Deb, Joanne, Susan, Jacqui, Knit, Bill, Angie, Dawn, Matthew and Chloe, who have shared their experiences of a dying parent, I know what you mean. Barrie was recently diagnosed with stage 4 cancer. Fern recently experienced and had to deal with someone in incredible pain taking their own life. Gary has lived through the slow and horrific deaths of not one but two partners.

I spoke with Liz from Wudinna this week. Liz's son Rhys was diagnosed five years ago with the rare bone cancer Ewing Sarcoma. As the cancer took over more and more of Rhys's body, he became more and more certain that he wanted control over his own death, and he got hold of drugs to help him do this. Each time Rhys' family left him at home they were not sure if they would come back to find him still alive.

Rhys took his own life, but the drugs he had sourced did not work quickly or easily and that gave rise to an 18-month police investigation into his death. The whole process of suffering, dying, death and investigation has understandably left his family traumatised. It does not have to and it should not be this way. Liz, like for so many, your loss and pain has given you strength to become an advocate, and I thank you.

Like Liz and like so many others I have spoken to, my resolve to see change has been firmed by my own experience. When my mum was diagnosed with pancreatic cancer, I immediately remembered the gut-wrenching way the disease played out in the end with the guy who used to be the boss of me, the late Hon. Terry Roberts. Terry was a dear friend to many in this chamber, and many would remember his family's battle in 2005 and 2006. Pancreatic cancer is so often an excruciating, painful and certain way to die.

I have spoken before about my mum, Viv. She was a proud, fierce, strong woman. She was an advocate and fighter for other women, for the marginalised and for her Aboriginal community. She was a social worker and spent her life helping others. She ran the women's shelter in Mount Gambier, worked as a social worker at Centrelink and dedicated her final working years to Pangula Mannamurna, the Aboriginal health service in Mount Gambier.

For her work and dedication, Viv was awarded life membership of the Labor Party, life membership of the Australian Association of Social Workers and the South-East's NAIDOC lifetime achievement award for service to her Aboriginal community. I know that for Viv the mental anguish of knowing she would no longer be helping others was heartbreaking; it went against everything she stood for and how she had lived her entire life.

If one thing summed up how she lived her life, it was making sure others were able to live their lives with dignity. Viv lived her own life with great dignity and she ought to have had the right to choose to die with the same dignity. After many chemotherapy treatments, Viv was increasingly suffering from infections and the other side effects from her cancer and her treatment. Much of her last couple of months were spent in significant pain under the compassionate care of nurses and medical staff at Flinders and Ashford hospitals.

At about 4pm on the afternoon of Wednesday 9 August 2017, Viv called in her husband of 46 years, myself and her two other sons and told us the pain had become too much. She told us that going on each day was harder and she wanted to stop all her treatments—a difficult decision that we all supported. She made this decision with absolute clarity in the presence of her treating specialist. Although she had been thinking about this for a while, the doctor wisely told her to think it over for the night. The next day she said goodbye to her eight grandsons for the last time and stopped all her treatment.

It was, however, far from the peaceful, dignified end of life she or any other person deserves. She literally starved and wasted away with no medication, food or water over six painful, tortuous days. Viv was often in half-aware states of panic as her body finally did what her mind had decided so long to do. It does not have to and it should not be this way.

To all the people who have attended public meetings, called talkback radio, sent emails or commented on social media, thank you. I have heard you, I have shared and shed a bunch of tears about your experiences, and will, as you have implored, do all I can to make voluntary assisted dying a reality in South Australia. It is time to change this law. It is time to let terminally ill South Australians safely and legally choose how to end their life. People deserve to die with the same dignity that they

lived their life. This is so very important to so many South Australians. I commend the bill to this chamber. Let's finally get this done.

The Hon. M.C. PARNELL (17:17): I thank the council for allowing me to take the unusual step of speaking to the bill immediately following the mover. Our parliamentary standing orders do not normally recognise the concept of joint sponsorship of bills or motions, because it does require each item of business to be attached or under the control of a specified member of parliament. Speaking immediately following the mover is how we can indicate that this bill is indeed sponsored or supported by more than one member.

In fact, I know that a number of members in this place strongly support the bill; however, the Hon. Kyam Maher and I both served together on the Joint Committee on End Of Life Choices and we are both committed to the bill passing. I thank him for the collegial approach he has taken in allowing joint sponsorship.

I am not going to speak at great length today. I associate myself with the remarks of the Hon. Kyam Maher. As he has pointed out, I have twice moved voluntary euthanasia bills, both of which only very narrowly failed. Like the honourable member, I have been working closely over many years with the members of the South Australian Voluntary Euthanasia Society and other key stakeholders. Like the honourable member, on each occasion that I have introduced bills, I have accepted that we stand on the shoulders of those who have gone before. The honourable member named many of them—those many members of both houses of parliament over many years who have moved bills to provide for voluntary euthanasia or dying with dignity.

As the honourable member said, there have been 17 bills at last count. Without at all wanting to appear frivolous or flippant, my view has often been that this issue is a little bit like a game of pass the parcel at a child's birthday party; that is, I have every confidence that the bill will pass one day, and it is a question of which member of parliament in which chamber happens to be holding the bill when the music stops.

The reason I say it is inevitable is that we know from public opinion surveys that a massive majority and an increasing majority of citizens in South Australia and elsewhere in Australia support law reform that allows people suffering intolerably from incurable conditions to die with dignity. Those surveys have been asked continually for I think now 30 years and the number increases every year. It is now over 80 per cent and that includes the adherence to various faiths; the various Christian denominations and other faiths are in the majority as well.

Most of our citizens, most of the people who put us here, want us to support legislation that compassionately allows for people to die with dignity. That is why I say it is only a matter of time. I hope that it is this bill. I hoped it was the last. Before that, I hoped it was that bill as well. I had hoped that South Australia would regain the mantle of the most progressive state when it comes to social reforms. That is not going to happen now.

We have had other states—and good on them—who have managed to pass this legislation: Victoria and Queensland. We are probably around the middle of the pack at the moment. Those other jurisdictions have recognised what their citizens want and I think it is time that this parliament recognises what our citizens want as well.

I said I was not going to make a long speech because, like the Hon. Kyam Maher, I have now nearly 15 years of stories of people who have written to me about what has happened to their loved ones, their family, their friends and what they fear might happen to them. It is impossible to go through the stories without your heart breaking for these people and their fairly simple request, which is that they want to exercise some control over their dying days, and they cannot understand why the parliament would stand in the way of them exercising that choice.

I am not here today with a litany of stories. I have done that in the past. People can go back and look at what I have said before. We all know that these people are out there, they write to us and we have to pay close attention to what they are telling us and what they need.

The Hon. Kyam Maher mentioned that this bill is based on the Victorian bill and I, too, was part of the meeting with Justice Betty King, a most impressive person who has had the responsibility of oversight for the Victorian legislation. As the Hon. Kyam Maher said, she has looked very hard to

try to find where things have gone wrong and they have not gone wrong because, as members would know, a common feature of this debate in the last 17 times that we have had in this chamber has been the fear that things will go wrong.

A state now has finally legislated, their law is in operation, they have one of their most experienced and recognised former judges overseeing it and things are not going wrong; it is going exactly as planned. My feeling is that we could probably have better legislation, but I accept that, another state having passed a bill, the most likely chance of us succeeding is to simply take what they have done and to put it into a South Australian context.

There is always argument about detail, 'We could make this a bit stronger, make this a bit more relaxed or easier,' but let's stick with something that we know is working, the Victorian model. If future parliaments want to look at whether the administration can be changed slightly, well let's leave that to future generations to deal with, but for now let's take a working model and implement it in South Australia.

I am very pleased to be co-sponsoring this bill. I understand the other house will also be considering legislation. I guess we will see which of the chambers votes first. My guess is that if the other place votes first then this bill will probably be abandoned and we will get a message from the other house or vice versa, but my understanding is (and I think it is good reasoning) that the honourable member has been keen to table this bill now so that when we get to next year no-one can say, 'Oh, we have been taken by surprise. This is not a bill we have seen before.' Well, yes, it is. It is being tabled today, just as members of the lower house will also have this bill to consider as well.

So it does not mean that both will be voted on, but all members of parliament, all 69 of us, now know what it is that is before us to vote on. I just hope that this time, time No. 18, this parliament will do what the people of this state have been consistently asking us to do for many years, and that is to legislate for dying with dignity.

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

ENVIRONMENT PROTECTION (DISPOSAL OF PFAS CONTAMINATED SUBSTANCES) AMENDMENT BILL

Introduction and First Reading

The Hon. C.M. SCRIVEN (17:25): Obtained leave and introduced a bill for an act to amend the Environment Protection Act 1993. Read a first time.

Second Reading

The Hon. C.M. SCRIVEN (17:26): I move:

That this bill be now read a second time.

Earlier this year, the McLaren Vale food, wine and tourism industry received the devastating news that the region is being considered as a dumping ground for PFAS toxic waste. There is a proposal by Southern Waste ResourceCo to dispose of contaminated waste from all over Australia in the world-class wine region of McLaren Vale.

Members may be aware that PFAS is a group of synthetic chemicals that have been used extensively in consumer and industrial projects since the 1950s. They were used to manufacture non-stick coatings on products that require resistance to water, heat, fire, stain and weather, and in some types of firefighting foam.

This proposal has caused widespread outrage amongst the community that will be directly impacted. More than 6,000 people have signed a petition to prevent the dumping from being approved, which has gained the support of the McLaren Vale Grape Wine and Tourism Association and many other local winemakers and business owners. The food and wine production industries in McLaren Vale employ thousands of people and export premium produce to the rest of Australia and the world daily.

The proposed dump site is surrounded by vineyards, and is only a couple of kilometres from Tatachilla Lutheran College, which has 1,100 students, and it is less than a five-minute drive from the new Aldinga birth to year 12 school, where 1,650 students will attend. Local residents consider their health is at risk, along with the entire McLaren Vale winemaking and tourism industry.

People do not want these sort of substances in these concentrations anywhere near the people, the schools, food manufacturing and production areas. This legislation, championed by the member for Mawson in the other place, will not only protect the primary producers, residents and business owners in McLaren Vale but everyone in South Australia. The bill proposes to ban the dumping of PFAS-contaminated material in the Greater Adelaide planning region, within 50 kilometres of land used for the business of primary production, or within a township or within five kilometres of the boundaries of a township.

No-one should be exposed to the dangers of PFAS. It is important that we protect our land, food bowls and water tables for future generations. I commend this bill to the chamber and seek the support of all parties in ensuring the disposal of this toxic substance is done in areas where it is least likely to cause harm to the environment, businesses and, most importantly, to South Australian communities. I commend the bill.

Debate adjourned on motion of Hon. R. P. Wortley.

Motions

INDEPENDENT COMMISSION AGAINST CORRUPTION INVESTIGATIONS

Adjourned debate on motion of Hon. F. Pangallo:

1. That a select committee of the Legislative Council be established to inquire into and report on—

   (a) any damage, harm or adverse outcomes to any party/s resulting from investigations undertaken pursuant to the ICAC Act (other than adverse findings resulting from the conduct of persons investigated);

   (b) any damage, harm or adverse outcomes to any party/s resulting from prosecutions which follow investigations undertaken pursuant to the ICAC Act (other than adverse findings resulting from the conduct of persons prosecuted);

   (c) options that may prevent or reduce the likelihood of, or any harm or damage resulting from, such outcomes and whether exoneration protocols need to be developed; and

   (d) any other related matter; however, the committee shall not receive submissions or evidence in relation to any current investigation or current prosecution arising from such an investigation or any matter that is currently the subject of referral by the ICAC for further investigation and potential prosecution.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That, during the period of any declaration of a major emergency made under section 23 of the Emergency Services Act 2004 or any declaration of a public health emergency made under section 87 of the South Australian Public Health Act 2011, members of the committee may participate in the proceedings by way of telephone or videoconference or other electronic means and shall be deemed to be present and counted for purposes of a quorum, subject to such means of participation remaining effective and not disadvantaging any member.

4. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

5. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 14 October 2020.)

The Hon. F. PANGALLO (17:31): I rise to speak on the motion in my name to establish a select committee of inquiry into investigations by the integrity agency, the Independent Commissioner Against Corruption (ICAC), that have caused harm, damage or adverse outcomes to individuals and whether there needs to be exoneration protocols in place to help restore the reputational damage caused by such investigations.

The select committee, if my motion is successful, will examine damage, harm or adverse outcomes to individuals and whether there need to be remedies to restore damaged reputations. The committee will not accept submissions or evidence from any current investigation, pending

prosecution or matters the subject of referral by the ICAC for further investigation and potential prosecution.

I have a saying: corruption is the mortar that binds the walls of society. It is around us every day, it lurks in every dark corner of the community and it takes many forms, from low-level misdemeanours and wilful blindness to blatant subversive criminal behaviour. A former legal wag put it this way, 'corruption is the oil that greases the wheel'. Corruption of any sort cannot be tolerated. In order to defeat this activity, it is essential that governments do have powerful weapons like anticorruption agencies at the ready as deterrents and enforcers. But we also need our anticorruption agencies to be authorities we can trust, have confidence in its ability to carry out its job responsibly, work within the law and be accountable.

In South Australia, ICAC has been operating for the past seven years. It has enormous clout and resources at its disposal. However, the jury is out on its performance. Over the past year, several very serious matters concerning the conduct and standard of investigations by ICAC, OPI and joint SAPOL-ICAC investigations have come to my attention. I have been appalled and troubled by this and so should the public of South Australia, if they knew the facts. So should the media, had it taken the time to fully scrutinise the agency's conduct in some of its more high profile cases and failures. However, to my disappointment they chose not to, perhaps out of fear of raising the ire of the agency by questioning and evaluating the model that follows.

Some cases I will refer to in this address have fallen well short of the organisation's six core values. This is a brief summary of those values:

Independence

Our conduct and decisions will be made according to law and will be free of influence…

Impartiality

We will be fair and unbiased in all our dealings. Our decisions will be evidence based and made without fear or favour.

Accountability

We will be responsible for our conduct and decisions.

Integrity

We will conduct ourselves with complete integrity.

Respect

…everyone will be treated respectfully, fairly and courteously.

Excellence

We will embrace excellence, team work and professionalism…

In some of the cases I will outline, I found it difficult to tick any of those boxes. The agency's highly secretive cloak allows it to avoid the same kind of independent scrutiny applying in other states like Victoria and Western Australia. That needs urgent attention. The push for my inquiry comes at a time when corruption-busting bodies around the nation are under intense examination at the same time the federal government considers a commonwealth integrity commission.

There is a perception that these bodies are infallible untouchables and not answerable for their actions, particularly when they have crossed the line and there is ample evidence where corrupt conduct has occurred. Following the public humiliation in an ICAC public hearing of New South Wales Premier Gladys Berejiklian, Queen's Counsel Peter R. Graham, a former justice of the Federal Court, wrote a letter to *The Australian* newspaper on 19 October under the heading 'ICAC a star chamber without safeguards of the common law'. It read:

Adversarial litigation endeavours to guarantee fairness. Inquiries, commissions against corruption and royal commissions are but poor relations of court proceedings.

Affected persons are not free to issue subpoenas, call witnesses or lead evidence. Under the New South Wales ICAC Act the commission is not bound by the rules or practice of evidence and investigations are to be conducted with as little emphasis on the adversarial approach as is possible. In other words, these non-judicial investigations are star chambers, where safeguards that common law procedures provide for the protection of the liberty of subjects are lacking.

Mr Graham questions the need for a federal corruption commission and wonders whether it exists for the benefit of their staff rather than the protection of the public interest, which should be its sole raison d'être.

Our previous ICAC, the Hon. Bruce Lander, scoffed at similar criticism by eminent QC Michael Abbott at a Crime and Public Integrity Policy Committee hearing in 2018, where he accused the agency of operating like a Star Chamber. It is a common belief based on its performance over the past seven years.

There have long been concerns that ICACs can also threaten the independence of the judiciary. Those concerns are held to this day, including in South Australia. Former judge Tony Fitzgerald QC in his 1989 report into corruption within the Queensland government said:

> There is the risk that any autonomous body, particularly one infused by its own inevitable sense of importance and crusading zeal, may become increasingly insensitive to the delicate balance between conflicting public and private interests, which is traditionally and best struck by judges.

Anti-corruption bodies seem to assume that it is their role to determine guilt or innocence. A High Court judgement on the role of the New South Wales ICAC determined that it was:

> …an investigative body; that it wasn't a law-enforcement agency and it exercises no judicial or quasi-judicial function.

Yet that distinction seems to be somewhat blurred here in this state as we have seen it played out currently in our courts. South Australia's ICAC does see itself as a law-enforcement agency. We have seen instances where matters have not been referred on to South Australia Police to carry on the process of investigation and laying charges, but directly to the Office of the Director of Public Prosecutions, where it has used its coercive powers to question defence witnesses even before they have even given evidence in trials.

There has been a lacuna of oversight in our own agency by the South Australian parliament for the seven years of its existence—and that needs to change. We need to look beyond the veil of secrecy and protection that this limited oversight provides. In the ICAC Act of 2012 there was no provision for the agency's own conduct to be independently scrutinised. Its annual reports are bland, perfunctory documents, while the ICAC's reviewer has limited powers and resources to do the job that is actually needed.

So has there been corrupt conduct in the very agency established to confront and investigate it? The answer to that is perhaps, yes. However, we will never really know because of the ICAC's secretive nature, and that no outside authority like parliament has gone looking. As New South Wales senior prosecutor Margaret Cunneen warned, after the New South Wales watchdog crashed and burned when it went after her with baseless allegations in 2015, and again, I quote:

> We must be very careful about these bodies that bind everyone to secrecy. What have they got to hide?

ICAC's modest successes have been overshadowed by some spectacular failures, none more so than the scandalous and flawed six-year investigation and prosecution of innocent police officers from Sturt Mantle, who were acquitted of criminal charges. This wasted operation alone, codenamed Bandicoot, is estimated to have cost South Australian taxpayers tens of millions of dollars. I am trying to get the full cost of this operation but to no avail. I will further address this and other troublesome cases shortly.

The public stain of corruption is one of the most severe penalties you can inflict on an innocent person. Reputations, careers, marriages and lives can and have been destroyed. Tragically, there have been suicides and attempted suicides. There is no comeback. Even after someone walks free from court or an investigation falls over for lack of evidence or, for that matter, the absence of any evidence at all, the fallout is enormous, yet it rarely gets the same attention as being publicly named and shamed. There is no exoneration and no apologies. Innocent until proven guilty? If it only turned out that way.

Everybody is expected to just move on with their lives but we know that is not possible. Mud sticks. Reprisals continue even though the investigations must cease after a matter is dealt with by the courts. Former ICAC, the Hon. Bruce Lander, expressed his dismay that proposed legislation for

him to conduct public hearings fell over. Parliament decided there were good and valid legal reasons for that.

If you take the New South Wales ICAC as an example, think of them more as a 21st century kangaroo court with public hangings. Take the public humiliation of Premier Gladys Berejiklian, where her most personal and intimate details were made public over her relationship with former MP and boyfriend Daryl Maguire and his dodgy business affairs. While the investigation and a secret compulsory examination of Ms Berejiklian was appropriate in trying to determine whether she may have turned a blind eye to Maguire's conduct, which she vehemently denies, was it really necessary to have details of their affair provided at a public hearing as well, after this was canvassed in a private hearing?

In New South Wales there is a provision to force their ICAC to consider privacy and reputational damage before deciding to hold a public hearing. In the proposed South Australian legislation, there was a similar measure for those facing corruption charges to seek a judicial review. However, this was opposed on the grounds that it could be used as a deliberate ploy to delay and subvert proceedings.

I will refer to an article published on 16 October in *The Australian*, written by the Vice President of the Rule of Law Institute of Australia, Chris Merritt, who condemns the New South Wales ICAC's zeal for publicity, something that has not been lost in our own agency of late. Mr Merritt writes:

> One of the curious aspects of this affair is that ICAC decided to subject Berejiklian to this while the NSW parliament's ICAC oversight committee is considering a reform strongly opposed by the commission.
>
> That committee recently conducted an inquiry into whether to introduce an 'exoneration protocol' that would provide a remedy for those who have been accused by ICAC of wrongdoing but have been acquitted in court or had the case against them thrown out by the DPP.
>
> The Rule of Law Institute made a submission to that inquiry supporting such an initiative and arguing that it should be followed next year by the abolition of public hearings.
>
> If the factors in s31 (of the NSW ICAC Act) were not sufficient to save Berejiklian from the immense harm to her privacy and reputation, it seems clear that ICAC is determined to pursue publicity regardless of what the law says.
>
> Self-righteous zeal blinded it in the past when it engaged in activities that had no basis in law, inflicting damage on innocent people who remain without a remedy until parliament enacts an exoneration protocol.
>
> The decision to subject Berejiklian to a public hearing shows it has still not learned its lesson. Parliament tried and failed to reform public hearings. They now need to be abolished, leaving ICAC to investigate, produce reports and provide briefs of evidence to the DPP.
>
> Berejiklian might be finished. But parliament should never again allow this agency to indulge in its thirst for publicity.

This brings me back to Operation Bandicoot, the South Australian ICAC's first big collar operation, announced in a blaze of publicity in October 2014 by the former ICAC, the Hon. Bruce Lander, and the previous police commissioner, Gary Burns. This was on the eve of ICAC's first report to the parliament, which really did not have that much to report. Ironically, in his first annual report, Mr Lander expressed misgivings about the quality of some investigations. He stated:

> As I said last year, where I refer a matter to a public authority for investigation, the investigation should be undertaken to determine the facts; to identify wrongdoing (if any); and to detect shortcomings in practice, policy and procedure. An investigation should have the overarching purpose of determining the truth and minimising opportunities for future misconduct or maladministration.

This is going to be the first time the public of South Australia will know what really took place and what a farce this turned out to be.

Operation Bandicoot is the lowest point for ICAC in its seven years. Operation Bandicoot was a joint ICAC investigation with SAPOL's Anti-Corruption Branch, led by Detectives Selina Dinning and Christine Baulderstone, and headed by Commissioner Lander, as was required by statute, and overseen by former policeman Mr Grant Moyle as director of operations.

It began in January 2014 on the hearsay and assumptions of a disgruntled police officer who had reported that several officers based at Operation Mantle at Sturt, which deals with property confiscated from crime scenes, may have been involved in a cabal of theft and abuse of office. There

was no evidence to substantiate any of the allegations of serious criminal conduct. More of that shortly.

First, let's begin with the very public hangings of those policemen and women I call the 'unlucky eight' in the media storm that erupted on 13 October 2014, when six officers were arrested. Looking at transcripts from several media interviews given on the day of the arrests and subsequent days after that by both the then police commissioner, Mr Burns, and Commissioner Lander, nowhere could I find them making reference that those charged should be accorded the privilege of a presumption of innocence until proven guilty.

The only ones who did, to their credit, were the then police minister, the Hon. Tony Piccolo, the then Premier, the Hon. Jay Weatherill, Police Association President Mark Carroll, and just two media identities: Matthew Abraham on ABC and Mike Smithson on Mix 102. In everyone else's eyes, the police officers were denounced as guilty or, as one put it, having 'sticky fingers'. There were prejudicial and egregious comments like this one on 14 October by Commissioner Burns:

> We'll be looking at what opportunities they had that helped form this little subculture that saw them operate in this manner.

That is a direct accusation, not an allegation. Another comment was:

> It was a ten out of ten on a scale of seriousness—

And:

> My emotions range from anger to extreme disappointment to bewilderment, officers—some very respected officers—to be involved in something like this.

On FIVEaa on 14 October, host David Penberthy said to Commissioner Burns:

> It sort of presumes what will happen when it gets to court but, in any case, like this where police are charged, that's it, that's the end of their career isn't it?

Commissioner Burns replied:

> Yeah, pretty much so far charges that relate to integrity and honesty and ethical behaviour of this nature.

On 14 October, Commissioner Lander said:

> I am satisfied with the integrity of the Anti Corruption Branch.

And this:

> They had let the force down. The truth is there are still people that engage in opportunistic episodes of corruption and we are seeing that revealed. I am confident that it is an isolated case.

Their comments could only imply to any reader, listener or viewer that these officers were all guilty of criminal offences of stealing from crime scenes.

I now seek to table a letter from Mark Carroll, President of the South Australian Police Association.

Leave granted.

The Hon. F. PANGALLO: The letter to the Assistant Crown Solicitor states:

> This was egregious and quite unprecedented conduct from two senior public officers charged with investigating crime and upholding the law. It was especially appalling in respect to the then Police Commissioner (Burns) who was also our members' employer.
>
> It is disturbing that these two individuals completely disregarded the presumption of innocence and placed SA Police and the ICAC in a position from the outset where the matter needed to be prosecution to its conclusion whatever the evidence was. It is a reasonable possibility that these media appearances played a role in the decision to continue to prosecute the matter notwithstanding the strength of the prosecution case.

In other words, there needed to be a massive arse-covering exercise if it did not stack up. The truth is it did not. There was no hard evidence against them that could reasonably result in a prosecution and that it was time to grab headlines to coincide with the tabling of ICAC's first report to parliament which lauded Bandicoot as a successful investigation.

One needs to question how the Anti-Corruption Branch had the time to prepare a case for Mr Lander and Commissioner Burns for them to make those public statements when a second totally flawed and illegal integrity test, a bogus crime scene that had been set up by SAPOL, was completed only days before their arrests. There was some extremely shoddy, sloppy and, as it turns out, unlawful detective work in Operation Bandicoot. This was like slapstick *Keystone Kops* material.

After reviewing court transcripts, associated documentation and statements made in the media, when it comes to the conduct and quality of the investigation in Operation Bandicoot, I would put heavy crosses through ICAC's six organisational values. I shall give some glaring examples that emerged in this torturous five-year process that virtually destroyed the lives and career prospects of eight innocent good men and women serving in SAPOL.

The Anti-Corruption Branch, with the blessing of ICAC, had conducted two integrity tests that were found to be unlawful or invalid because the applications, prepared by the Anti-Corruption Branch officer heading the investigation for the covert operation, failed to get the necessary approvals from the then director of operations, Mr Moyle, as required under the Criminal Investigation (Covert Operations) Act. The officer had also breached SAPOL's own policy in regard to these.

Further, a relevant section 34 notice, issued by ICAC, had expired on 31 August 2014 yet was not renewed. Bear in mind those integrity tests were conducted soon after in September and October and could have placed those tests in legal jeopardy. New police officers, not under any suspicion of corruption, were assigned to Sturt Mantle during the investigation. How was this allowed to happen when contrary to section 4(2) of the Criminal Investigation (Covert Operations) Act 2009, they were put at undue risk to criminal conduct? Who approved this and were Mr Moyle or Commissioner Lander made aware of it?

The integrity tests carried out at two bogus crime scenes turned up nothing to implicate these officers in any wrongdoing. In other words, there was no theft of any items or any evidence of abuse of public office. I will refer to a SAPOL audit of the Sturt local service area finalised in December 2014 where supposedly stolen items from those operations were still in the Mantle office that the ACB missed in its own search.

In an example of the sloppy detective work, Chief Inspector Selina Dinning, who had relocated from ACB to Officer in Charge of Sturt CIB, misidentified a TV in the Mantle office as being from a crime scene. She had questioned the senior officer in charge of Mantle, Sergeant Iain Mott, about it. He told her it was purchased. Dinning later secretly inspected the TV but failed to check the serial number or make inquiries as to whether Sergeant Mott had told her the truth that it had been legitimately purchased. It turned out to be a legitimate purchase, and a receipt was later discovered in a search of the Mantle office.

As Police Association president Mark Carroll describes it, 'This incompetence was a hallmark of the joint ACB/ICAC investigation.' I gather we have struck six, Mr President, so I will continue my remarks after the dinner break.

Sitting suspended from18:00 to 19:45.

The Hon. F. PANGALLO: Before the dinner break I was describing the inept investigation of a joint ICAC and ACB investigation, known as Operation Bandicoot, and I will continue with that. The timing and existence of that SAPOL audit branch report and its contents is quite significant. It found numerous and serious breaches of protocols and policy, and poor bookkeeping and record-keeping in the property section of Sturt Local Service Area, far worse than was found at Sturt Mantle or what its members were accused of doing. In fact, the report noted that items destined and recorded for destruction were kept for personal use by other members at Sturt but not by Mantle officers. However, no officers were charged. That alone should have set off an early alarm about the direction the investigation was taking.

The audit branch report, for still unexplained reasons, was conducted separately under general orders and not part of Operation Bandicoot. It was finalised months after the arrests, yet it was not voluntarily disclosed to the prosecution and the defence by the ACB or ICAC under the Director of Public Prosecutions Act. It would have been integral to the outcome of proceedings but was kept a secret from defence lawyers for five years. There has been no explanation for that glaring failure of procedure in breach of the DPP Act. Had it been disclosed from the outset, it would have blown the investigation to smithereens because, as one officer stated, and I quote:

…there was no evidence of offending but only what 99 per cent of other officers were doing that were accepted practices.

In conducting those covert operations, which I remind the chamber were found to be illegal because of the invalidity of approvals, Mr Moyle could not recall signing any document authorising the integrity tests. So police, being party to this, were breaking the law in that they had rented premises under assumed names, had hydroponic equipment contrary to the Controlled Substances Act and made false reports to Crime Stoppers. My understanding and reading of the comments by Judge Lovell—and I stand to be corrected if I am wrong—is that those ACB officers who mounted that operation were not indemnified from breaking the law and could have themselves been charged with criminal conduct.

In an extraordinary if not bewildering move, and even though in 2017 the court ruled the approvals were unlawful, the matter still proceeded and the evidence, insufficient as it was, was not excluded. There were serious issues of a lack of proper disclosures, including vital video footage of the faked crime scenes, which also allege to show anticorruption branch detectives handling items during the searching in a less scrupulous manner than the accused and a failure to record items for almost eight months.

The prosecution and the defence were unaware of the video footage, which was only disclosed inadvertently by an ICAC employee to defence lawyers. In haste to avert a mistrial, the footage was shown to a jury in the middle of the prosecutor's closing address. This should not be happening.

It surely must have been concerning that the case was so flawed from the beginning to the very end, particularly after Mr Moyle recommended the file be closed in August 2015, seemingly satisfied all was in order for SAPOL to complete the task. From my reading of various documents, the only thing these officers were guilty of was a very minor breach of internal procedures, in that they failed to book in property in a timely manner. Not one item was found to be missing or stolen from crime scenes, even the bogus ones.

To be clear, this operation was a massively expensive undertaking. Dozens of police were assigned to it for months, conducting thousands of hours of phone taps that had to be heard and transcribed, of which not one second was tendered as evidence. If the public only knew the entire circumstances of this case, they would be justifiably enraged. Senior lawyers I have spoken with say it is one of the most shameful chapters in our criminal justice history, worthy of a royal commission.

As a former investigative journalist, this ranks right up there as one of the worst miscarriages of justice I have seen. I do not say this lightly—on the contrary, in fact—but what happened to the unlucky eight could be likened to a South Australian version of Victoria's Lawyer X, such is the breadth of this largely unreported scandal.

It is my understanding that recriminations against some of these officers continued well after the case was thrown out of court. There has been no exoneration, no apology, no admission of mistakes and no follow-ups from the media who participated in their 2014 crucifixion. These officers have suffered enormous mental anguish, reputational harm and severe economic loss for something they did not do. How do you reconcile that?

Fighting for your reputation does not come cheap. While ICAC has the resources to go into court or carry out its investigations using the very best counsel assisting, defendants have to sell or get another mortgage on their homes just to afford some quality representation. The Police Association is still seeking reimbursement of its costs, in excess of $2 million, along with costs of its prosecuted members, one of whom self-funded to the tune of almost $1 million.

The police commissioner still refuses to pay the allowances, up to $120,000 for each officer. They would have received that amount had they not been suspended, and it turns out there were no grounds for suspension. Had there not been this forum in parliament, the public would be none the wiser of how badly bungled and mismanaged Operation Bandicoot was.

With your indulgence, Mr President, I wish to detail another matter. You can get gaol time if you hold up a servo with a knife, yet if you use a pen to steal there is a perception you can get away with it. It is still a criminal offence, yet it is often treated differently and dismissed as a civil action

because it requires specialised expert detective work, usually involving forensic financial skills. The next matter I raise is an intriguing essay of alleged fraud, lies, deceit and cover-up, starting with SAPOL and winding up in the Office for Public Integrity.

The dogged persistence of the two people at the centre of this matter is proving to be an unwanted nuisance because they are far from satisfied with the level of investigations carried out and they have the courage and integrity to call this behaviour out. They have located and compiled all the documents to prove their case and their allegations of inappropriate conduct that followed. I seek leave to table those documents, contained in two folders.

Leave granted.

The Hon. F. PANGALLO: These two men could have given up a long time ago, but they refused to go away. In doing so, they have pinned these integrity bodies into a very difficult and potentially scandalous corner.

When a serious fraud complaint to police was suddenly and inexplicably dropped, pastoralist Ian Lawton and his business partner, Michael Fuller, a retired lawyer, rightfully sought answers via the police complaint process under the Police Complaints and Discipline Act. They followed the prescribed process, but what they got in response was a tangled web of distorted facts, untruths and misleading information, which made them even more suspicious about the motives behind the original decision to drop their complaint.

Here is what happened. In 2012, Ian Lawton purchased a 48 per cent interest—in an existing partnership with his accountant, Andrew Cleland, a senior partner at Cleland McFarlane Selth—in a livestock property, Mount Lyndhurst, in the state's Far North for $4.5 million. Cleland facilitated the legal and financial obligations and transactions. Lawton, a farmer, took responsibility for the property and its stockholding. He set about getting the station into running order.

The deal included the purchase of almost 16,000 sheep. As is the usual practice in pastoral acquisitions, this was an approximate number. If there were more sheep after an official count, the purchasers would need to reimburse the sellers of the partnership interest, the Marston family, around $79 per head. If there were found to be fewer sheep than the tally given at the point of sale, the purchasers would be reimbursed at that same figure—fair enough so far.

For taxation scheme purposes, the sellers (the Marstons) had maintained a 20 per cent stake in livestock on the books until the end of that relevant financial year. Following a formal headcount during shearing time and after settlement, it was revealed that the actual headcount of sheep had been dramatically overstated. The purchasers were entitled to a significant reimbursement going by the agreed price per head of $79. Under the purchase agreement, Lawton would need to be notified and was required to give any consents and authority to amend this figure.

Lawton later discovered the purchase agreement had been amended by another agreement entered into on his behalf by Cleland, which he alleged was done without his knowledge or consent, where the price per head of sheep had been reduced from $79 to $50 per head, a 60 per cent discount. This reduced the financial liability on the lower headcount by the sellers to the purchasers by a significant sum, estimated to be in the region of $120,000. Lawton claimed to be $120,000 out of pocket on the amended deal done, as he claims, without his knowledge or consent, as required.

Lawton refused to accept the new arrangement. Suspecting he had been defrauded, Lawton filed a complaint with SAPOL. His complaint was accompanied by a full brief of documents—his comprehensive sworn declaration and a written advice from his counsel, Ms Joana Fuller (now Judge Fuller of the District Court), in which she states:

> I summarised below the important features that have led me to the view that there is a prima facie case of deception and dishonestly dealing with documents.

I seek leave to table that document dated 10 May 2018, along with an attached statement from Mr Lawton.

The PRESIDENT: Is the nature of that a single document? I think the previous one you tabled was a significant number of documents.

The Hon. F. PANGALLO: I believe this one is a significant one, Mr President. I will challenge that.

The PRESIDENT: Sorry?

The Hon. F. PANGALLO: I believe the document I wish to table here is a significant document. Rather than me going through it, I would prefer to table it.

The PRESIDENT: The volume I think is what we are talking about. The previous one seemed to be of significant volume. Is this one more concise?

The Hon. F. PANGALLO: It is a smaller one, yes.

Leave granted.

The Hon. F. PANGALLO: Ms Fuller's carefully crafted brief contains 12 features which must have given Detective Senior Sergeant Andrew Bolingbroke, who is now deceased, a clear indication that something was legally amiss and afoot. Lawton's complaint was subsequently given police incident report number PIR 18/E 17253 by Detective Bolingbroke for dishonestly dealing with documents and unlawful bias in a commercial relationship.

SAPOL dropped the case 2½ months later, expressly citing advice allegedly received from the DPP that there were no reasonable prospects of conviction, that it was a civil matter and the reason for that was that Lawton had given Cleland an informal verbal authority to carry out various transactions he would not have been able to do because Cleland had the expertise in that area.

However, it makes no sense. Why would Mr Lawton give Mr Cleland authority if he knew, or he was to know, Mr Cleland would later do a dodgy deal without telling him of any implications that would have short-changed him? Mr Lawton was unhappy, and eminent barrister Joana Fuller—who, as I said earlier, is now a respected District Court judge—complied and sent to SAPOL a critique of the alleged advice from the Office of the DPP. SAPOL rejected it and continued to claim to have received advice on three occasions with a full brief to that effect from the DPP.

Ms Fuller contacted the DPP and made inquiries herself. She ultimately was directed to a solicitor at the DPP, Gary Phillips. Mr Phillips confirmed for Ms Fuller that he was the only officer of the DPP to speak to SAPOL's Commercial and Electronic Crime Branch, that the contact from another detective, Della Sala, was informal with no brief and that he, Phillips, was only provided with Joana Fuller's written advice.

According to Ms Fuller, Gary Phillips additionally confirmed to her—he advised that having regard to Ms Fuller's covering advice with the delivery of the brief—that the complaint should be investigated. In December 2018 a DPP prosecutor confirmed to Ms Fuller the DPP did not receive a formal brief from SAPOL, nor did it provide formal advice to SAPOL that he, Mr Phillips, had tried to do the right thing but had got himself into trouble and could provide no further information. The first alarm bells started to ring.

In the meantime, an unhappy Mr Lawton had gone back to SAPOL. In a letter to the police commissioner, Grant Stevens, dated 3 December 2018, he alleged his complaint had been corruptly terminated and requested that the circumstances of the termination be referred to the Anti-Corruption Branch of SAPOL for investigation. Commissioner Stevens acknowledged receipt of Lawton's letter of 3 December, and a follow-up letter of 6 December by email to Lawton on 10 December, and said he would provide a response when he had considered the matter.

Lawton heard nothing further from the commissioner. Lawton then filed a complaint in person with the OPI on 29 January 2019 against the commissioner, acting assistant commissioner Tom Osborn and three officers of the crime and electronic branch for involvement in the alleged corrupt termination of his original complaint to SAPOL. Even though the complaint to OPI alleged corruption, OPI referred the complaint made to it not to ICAC but back to SAPOL's internal investigation service.

What was not known by Lawton or Mr Fuller (co-director of Lawton Trustee Company and assisting Mr Lawton) at the time and not conveyed to them by OPI was that Commissioner Stevens had apparently referred Mr Lawton's letter of 3 December 2018 to the IIS and had subsequently, with the active cooperation of the IIS, determined that Lawton's letter of complaint date, 3 December 2018, be resolved by 'management resolution' under part 3 of the Police Complaints and Discipline Act (PCDA).

IIS did not contact either Lawton or Fuller, and in the face of email requests from Fuller for contact and input, Lawton next received a report from the IIS chief superintendent, Tim Curtis, dated 19 February 2019 that there was a previous management resolution of Lawton's complaint to Commissioner Stevens by chief superintendent acting assistant commissioner, Tom Osborn, under part 3 of the PCDA, and that there were no conduct issues regarding any members of SAPOL, and noted that OPI had oversight of the PCDA.

The problem with this report is that neither the commissioner, nor anybody on his behalf, had advised Lawton of the commissioner's determination or that Osborn had been appointed the resolution officer for that purpose. OPI has, and had at the time, oversight of management resolution processes and direct real-time access to the complaints management system maintained by IIS under the PCDA.

OPI did not advise Lawton or Fuller at the time of what Curtis reported to Lawton in his letter of 19 February 2019, and only confirmed that knowledge in a roundabout way when deputy ICAC, Mr Michael Riches, responded to the allegations by Fuller against OPI assessors and the director of OPI, Mr Stroud, in Mr Riches' email to Mr Fuller on 3 July 2019. I seek leave to table that letter.

Leave granted.

The Hon. F. PANGALLO: Fuller then emailed the then ICAC commissioner, the Hon. Bruce Lander, and made the allegation that Mr Lander was complicit in a cover-up of OPI involvement. Mr Lander denied that OPI had been complicit in any wrongdoing, and asserted the investigation conducted under the supervision of OPI was dealt with appropriately.

Under the Police Complaints and Discipline Act, the police commissioner must inform the police minister, the Hon. Corey Wingard at the time, within 15 sitting days of making such resolutions, and these resolutions need to be tabled in parliament by the minister. There is no record of this being tabled. Here is where questions need answers to resolve the impasse of this dispute and subsequent complaints.

There are serious penalties for breaches of the Police Complaints and Discipline Act. Did the police commissioner breach this by the inadequate management resolution investigation? Release of the complaints management system entries would reveal the trail of complaints and the veracity of a management resolution if it exists and which is disputed by Lawton and Fuller. Access to these documents and others would probably settle the dispute once and for all.

Lawton and Fuller are alleging a cover-up has been put in place to suppress any disclosure of OPI involvement in the initial reasons for the failure by SAPOL to act on the criminal allegations by Lawton in his original complaint to SAPOL. All the comprehensive material referred to above and tabled is contained in a submission requesting a further review of the original decisions and was delivered to the new ICAC, the Hon. Ann Vanstone. As Mr Lawton and Mr Fuller fully expected, it was flatly rejected, although it is not known if the material provided was scrutinised.

In a postscript to this ongoing saga, in 2016 Mount Lyndhurst was sold for $8 million, realising a profit of $3.5 million from the original investment. Mr Lawton is claiming that, on top of the initial loss—$120,000, incurred after the questionable fraudulent document was drawn up, reducing the value of each head of sheep and thereby significantly reducing the financial liability by the sellers under the original contract of sale—he is now around $1.4 million out of pocket.

Mr Cleland denies the claims made against him and others. Mr Lawton and Mr Fuller, meanwhile, are sticking to their guns. Mr Lawton is refusing to accept some of the moneys still owed to him and will not sign taxation documents that could implicate him in a dodgy transaction.

Imagine waking up one Saturday morning and seeing your picture prominently plastered on the front page of the paper, accused with four others of credit card misuse after a 16-month ICAC investigation. This was part of the nightmare experience at the hands of ICAC that enveloped senior Department of Planning, Transport and Infrastructure Director of Transport Safety Regulation, Trent Rusby, four years ago. The exclusive story was clearly what the media referred to as a 'drop', a selective tip-off.

Considering the nature of the investigation, which was described as intensive auditing by the department and ICAC officers, it could only have originated from one source and it came after Commissioner Lander granted a release under section 56 of the ICAC Act, which allows publication,

and a month or so after Mr Rusby and the others were charged with over 30 offences and summonsed to appear in court. Allow me to read excerpts from that story.

> Five Transport Department officers, including two senior managers, are accused of using government credit cards to buy and misappropriate an Aladdin's Cave of electrical and consumer goods. Goods worth tens of thousands of dollars—electrical items, four-wheel drive accessories, computer and camera equipment and outdoor clothing to building materials, tools and equipment and even a pool carpet—

I point out that, unlike Aladdin's, this was not a magic one—

> were allegedly bought using government credit cards and then misappropriated.

Synonyms for the word 'misappropriated' include stolen, pocketed and embezzled. They were thieves and, of course, using the Aladdin's cave analogy, this was a veritable treasure trove. It would not surprise me if the staff at ICAC had a decent chuckle over their Saturday morning latte. Mr Rusby, because of his seniority at the time, received the most prominence in the article that appeared to paint him in a bad light. He was charged with four counts of failing to act honestly, and dishonestly taking property on a work-related trip to Kangaroo Island, although that is not how the ICAC investigator saw it.

Up until then, Mr Rusby had an impeccable work record—he was held in high regard—but in October 2014, he was advised to go on gardening leave as an audit was underway at his worksite. He knew little else. Unsure, and feeling insecure, it weighed heavily on Mr Rusby and his family. It affected his mental state and he was placed on anti-depressants. Rumours started flying that it was initiated by a jealous and ambitious work colleague with an axe to grind.

An ICAC investigator named Miroslav Petkovich contacted Rusby in April 2015 to inform him he would be interviewed for abuse of public office. That was the first and last time Mr Rusby heard from ICAC. Concerned about his health and that he could no longer bear being on gardening leave, Mr Rusby decided to resign from his contracted position a few weeks later to await his fate.

Mr Rusby rejected all those charges levelled against him and said he could easily have proven they were false, including a trip to Kangaroo Island where he was required to inspect berthing facilities for cruise ships. But those charges were never pursued, he was never interviewed and he was never provided any evidence. On 22 July, the charges were dismissed: four years and four months of hell was over. The pain and economic loss remain in defending nothing. He wants and deserves an apology from the government for putting him through that ordeal and placing a stain on his reputation. So what became of that Aladdin's cave witch-hunt?

Just one of the five, Michael King, was put through the wringer in a court case dogged in controversy over the validity of ICAC search warrants, which at the time rankled the former commissioner. Fearing he was going to be deep-pocketed by ICAC's legal muscle if he fought on, and wanting to bring it to an end to save his sanity, marriage and family home, Mr King opted to plead guilty to two charges. The sum total of the misappropriated Aladdin's cave goods was a little over $2,000. What was the sum total of ICAC's investigation? Well, to hazard a guess, it would have run into a few million. Was it all worth it? As the Treasurer once said of ICAC: it would scare the bejesus out of public servants.

Another ICAC victim who came to see me expressing his disgust at the treatment he received is Dr Jurgen Michaelis. Dr Michaelis has a very impressive CV. He has worked in the international life sciences industry, served on many company boards, has extensive experience in venture capital funding, and he has listed companies—so impressive that he was appointed CEO of BioSA, the South Australian government's industry development organisation, where he secured funding for more than 90 bioscience companies.

However, a couple of his underperforming employees earmarked for the axe went to ICAC as whistleblowers, accusing Dr Michaelis of having conflicts of interest where he stood to gain a benefit from his job. It was not based on any credible evidence, just what they believed was going on, which is what happened in Operation Bandicoot. ICAC investigators seized thousands of documents—almost all of them irrelevant to the investigation—and trawled through his enormous files and forensically analysed bank accounts, credit card statements, tax returns, travel claims, grants paid to companies by BioSA and entertainment expenses going back 10 years.

ICAC investigators were unable to identify a single cent that was not properly accounted for. He maintains ICAC based all its investigations on hearsay. There was no case to answer and it should have been dropped. Dr Michaelis says even the DPP's senior prosecutor wanted the matter dropped as there was no reasonable prospect of finding him guilty of anything. They pressed on. Dr Michaelis wonders whether any influence was put on the reluctant prosecutor. The trial by judge alone lasted five hours, three witnesses were called and not guilty of all charges.

Dr Michaelis says if Commissioner Lander had taken the time to meet him in his office with the chair of BioSA in 2015 to seek an explanation, it would have been put to bed in minutes. Who knows what this bungle cost taxpayers? Dr Michaelis applied to have his legal costs of $215,000 refunded. It took a year and he only received $170,000. He still has not had all the items taken from his office at BioSA returned.

Shortly before his arrest in 2015, he was on the verge of a $100 million investment deal that would have generated a further $300 million for the state. His skills and experience have now been lost. The stain remains.

There is a Wikipedia entry about South Australia's ICAC. I am unsure who moderates this site; however, it has been updated as recently as the middle of this year to show the Hon. Ann Vanstone is now the new commissioner. It also makes mention of Dr Michaelis' case, and it reads:

> In August 2015 an unnamed Chief Executive from a South Australian government agency was charged with two counts of abuse of public office. Attorney-General John Rau told the media that 'the commissioner has made it clear on many occasions that he has not encountered in his investigations any evidence of systemic or institutional corruption in South Australia.' In October 2015, it was revealed to be BioSA chief executive, Dr Jurgen Michaelis. In April 2016 it was announced that he would face corruption charges. It was alleged that he 'improperly exercised a power or influence' on two occasions in 2012 while working on the development of the biotechnology sector within South Australia. No proof or charges had been made public at that time. In December 2016, Dr Michaelis pleaded 'not guilty' to the charges.

That is the end of the Wikipedia reference. No attempt has been made to correct or update the entry that he was actually found not guilty on all counts. I quote Margaret Cunneen about her 'frightful ordeal':

> But for people to have all these powers exercised against them for something that's at best extremely trivial—and as we know there was no evidence at all, nothing of any cogency which would even warrant any kind of charge at all, what on earth was it all about?

In Mr Michaelis' case, what on earth was it all about? In Operation Bandicoot, what on earth was it all about? In Mr Rusby's case, what on earth was it all about?

Last month, I read an excellent opinion piece in InDaily by lawyer Morry Bailes, who says he has lost his enthusiasm for our ICAC—the model of course, which he believes may have problems. He is not at all comfortable with public hearings in the wake of the Berejiklian episode, pointing out the situation where a number of New South Wales police officers suicided—suicided, Mr President—when they were publicly named and shamed by the Police Integrity Commission. He wrote:

> Is the public interest, rather than the public curiosity, really served by exposing someone who may be innocent of any wrongdoing to a process that seems to have more in common with the old Star Chamber than a contemporary justice system?

He continues:

> As to our state parliaments, the time may have come to reconsider what model and type of anti-corruption commission is required. It must have teeth but should it be destroying lives on a high road of moral certitude?

There have been suicides, attempted suicides and mental breakdowns in South Australia. A former New South Wales ICAC commissioner, Megan Latham, once said, 'Examining witnesses at public hearings was like pulling the wings off butterflies'. I will read that again just to make that emphasis: 'Examining witnesses at public hearings was like pulling the wings off butterflies and it is a lot of fun.'

She must have a warped sense of humour. The Rule of Law Institute made a submission to the New South Wales parliamentary inquiry into whether to introduce an exoneration protocol that would provide a remedy for those who have been accused by ICAC of wrongdoing but have been acquitted in court or have had the case against them thrown out by the DPP, people like those unlucky eight Mantle police officers, Trent Rusby, Jurgen Michaelis.

The institute's vice-president Chris Merritt now intends filing another submission to the New South Wales inquiry. I shall invite him to make a submission to my inquiry, should it proceed. In his perspective on the first 12 months of the New South Wales ICAC in 1990, jurist Peter McClellan wrote:

> The ICAC will ultimately be effective only if its performance justified its extraordinary powers. If the commission is to justify those powers, it must be scrupulously fair, value the rights of individuals and accept that persons should only be convicted after due process in the relevant court. The experience of the first 12 months is that as a result of ICAC's actions, some of which are the direct result of legislation, great harm has been done to many innocent people.

I ask you: has anything changed in 30 years? I will begin to wind up with these sage words by one of our pre-eminent QCs, Michael Abbott, when he appeared before the Crime and Public Integrity Policy Committee in 2018 and addressed the extraordinary powers given to ICAC:

> With that great power goes great responsibilities. My concern is that some of the responsibilities need to be legislatively enshrined.

Regarding the separation of powers, Mr Bailes puts it very succinctly in his opinion piece:

> What we do not need are unelected, sometimes overzealous corruption fighters, making a mockery of centuries of common law principles, causing elected people to fall from public favour when they may have done nothing wrong except to have the misfortune to be obliged to appear before or be investigated by an anti-corruption commission.

On the subject of reputational damage, what about the humble Woodville pizza guy and how the Premier and police commissioner demonised him by blaming him for the statewide lockdown and being part of the Parafield cluster, not to mention the deployment of what I refer to as the 'lying squad', as opposed to flying squad, of 20 detectives in 'Operation Supreme', I guess I can call it, in which SAPOL threw the lot at it.

They probably had better things to do. It turns out today that no charges will be laid against the pizza worker. In what appears to be a face-saving exercise, SA Health has claimed it is exercising its obligation to claim privilege in not providing information to the investigators. Whether he lied out of fear is one thing. It is the reputational and mental health damage from the publication and the pile-on done in conflating that embellishment with the lockdown that cost the state hundreds of millions of dollars. I can only call on the on the police commissioner and the Premier to do the right thing and follow the class act of Professor Nicola Spurrier and offer this poor fellow a personal apology for his premature public execution.

I will not make any apologies for speaking this long to my motion because I firmly believe that the subject of this inquiry is an extremely important issue that goes to the heart of our modern system of democracy and justice, built on the values of today and not those of a mediaeval era. I thank those on the opposition and Greens' crossbench who have indicated their support for my inquiry.

The Hon. T.A. FRANKS (20:30): I rise on behalf of the Greens to support this motion for a select committee and note also that I am willing to serve on it. The Greens wish to see transparency for a genuine ICAC, a strong ICAC and a fair ICAC, which I think everyone in this council would agree with, and also to ensure that a secret ICAC—that was designed to protect people's reputations, their careers, their relationships and their lives—does not, by that very secrecy, actually ruin their careers, their reputations and their lives. I commend the motion.

The Hon. C. BONAROS (20:31): There is a technical amendment that needs to be made to the motion. The motion should refer to the Emergency Management Act, but I understand that it refers to the Emergency Services Act. As such, I move:

> Leave out 'Services' in paragraph 3 and insert 'Management'.

The Hon. K.J. MAHER (Leader of the Opposition) (20:32): I rise, on behalf of the opposition, to indicate that we will be supporting the Hon. Frank Pangallo's motion to establish a select committee. He has raised some issues that, at the very least, deserve a proper and thorough investigation. We think that a select committee is the best and proper way to do this.

The Hon. R.I. LUCAS (Treasurer) (20:32): I rise on behalf of government members to oppose the motion, but acknowledge that, from the members who have spoken so far, the majority of members are intending to support the motion. The government's very strong view, and certainly my view as well, is that this parliament has constructed an appropriate body which is in essence meant to tackle the issues that the Hon. Mr Pangallo has ventilated at quite some length during his extensive contribution to this particular select committee motion.

This parliament—I think unanimously, but I cannot recall the exact numbers—established the Crime and Public Integrity Policy Committee, whose responsibility is to provide oversight over the operations of the ICAC. Frankly, it is also there to look at the Independent Commission Against Corruption, the Commissioner of Police and the Ombudsman in relation to their annual reports and various other functions that are outlined in section 15O of the Parliamentary Committees Act. That body—and we have had a recent debate: the Hon. Mr Pangallo is newly installed as the Chair of that particular Crime and Public Integrity Policy Committee—is quite clear that it is there to, in essence, provide the oversight of the operations of the ICAC.

It is modelled on similar oversight committees. I am not saying it is exactly the same, but I recall the debates and it was modelled on similar oversight committees in some other jurisdictions in terms of ensuring that there was some accountability through the parliament for the operations of the Independent Commissioner Against Corruption.

In 15O(1)(a) the committee is allowed to examine 'each annual and other report laid before both Houses', each separate report on a review under section 46 of the ICAC Act and, under subparagraph (iii), various other reports as well. Under paragraph (b) it can inquire into and consider the operations of various other acts, which are outlined in the subparagraphs. Paragraph (c), which is the one I want to refer to, provides that the functions of the committee are to:

> (c) inquire into and consider the operation of the Independent Commissioner Against Corruption Act 2012 and, in particular—
>
> (i) the performance of functions and exercise of powers by the Independent Commissioner Against Corruption and the Office for Public Integrity; and
>
> (ii) whether the operation of the Act has made an appreciable difference to the prevention or minimisation of corruption, misconduct or maladministration in public administration; and
>
> (iii) whether the operation of the Act has adversely affected persons not involved in corruption, misconduct or maladministration in public administration to an unreasonable extent…

It continues:

> (d) to inquire into and consider the performance of functions and exercise of powers by the Ombudsman under the Ombudsman Act…
>
> (e) to report to both Houses on any matter public policy arising out of an examination of a report or an inquiry (including any recommendation for change) as the Committee considers appropriate; and
>
> (f) to perform other functions assigned to the Committee under this or any other Act or by resolution of both Houses.

So it is possible that this currently constructed committee can—under paragraph (f), for example, if there were a resolution of both houses—assign additional functions to the committee, if there were an argument to be made about the very wide-ranging functions. It was explained to me by some people in terms of what the Hon. Mr Pangallo was seeking to do, which is that there were people who I think would be covered by paragraph (c)(iii), which provides 'whether the operation of the Act has adversely affected persons not involved in corruption, misconduct or maladministration in public administration to an unreasonable extent'.

I am assuming that the Hon. Mr Pangallo, as he has sought to outline in his contribution this evening, is outlining persons who in his view are in that particular category; that is, they have broadly been unfairly treated by an ICAC investigation or operations of the ICAC. As I said, if that is not broad enough, it is possible by resolution of both houses to perform such other functions assigned to the committee if there is a resolution of both houses.

The ICAC and I have made comments that have expressed some concerns in the past in relation to some of the operations of the ICAC. When we do, I think we need to bear in mind that, whatever we think of the current operations of the ICAC—and a number of us may well have concerns about particular aspects of particular investigations, and they are the subject of ongoing

discussions between interested parties in terms of how we might resolve some of these issues in the future—they are issues in relation to the role and functions of the ICAC and various other integrity bodies.

As I have personally expressed in the past, my view was that the ICAC, as originally constructed, ought to have been about allegations of corruption, and my personal views are on the public record in relation to that particular issue. Broader issues of maladministration and the like may well be considered by other integrity bodies.

All those issues I think are sensible and reasonable issues, which can be debated and discussed without having to publicly tear down the confidence in what should be an important integrity institution in this state. I think that is the danger; that is the dilemma and the challenge from those who are going to support this particular committee and this particular inquiry.

If I can offer a personal reflection, as someone who has been in this chamber for much longer than anybody else, the statements put on the public record by the Hon. Mr Pangallo today are essentially statements of people he would appear to support who are concerned about the operations of the ICAC. My experience, for what it is worth, is that there are always two sides to a story.

We have publicly ventilated one particular version of events. I guess I will be very surprised if an alternative version of some of the events does not find its way onto the public record at some stage, perhaps challenging some of the statements that have been made this evening. I do not know that because I do not know the details of the case to the degree that the complainants have put to the Hon. Mr Pangallo.

I accept, however, that all institutions, including integrity bodies—not just ours but in other states—have made, and I am sure in the future will make, mistakes or errors of judgement in terms of how they go about their task. They therefore need to be in some way held to account in our processes as a parliament or an oversight committee, or if there are to be reviewers of the operations. What some of the other jurisdictions are looking at are tougher or tighter procedures in terms of the oversight institutions or bodies that oversee the operations of these integrity bodies.

All those things are worthwhile grounds for exploration. That is a debate about how we can improve the oversight and the operations of the committee. I think the challenge is how you do that without trashing, or potentially trashing in the public mind, confidence in what should be an important integrity body in the state. As I said, my experience is that there are always two sides to a story. We have heard one side this evening.

The other cautionary note I want to place on the record—and this is, I think, for those who are going to be in this chamber for longer than I—is that the Hon. Mr Pangallo this evening tabled a significant volume of documents. In my experience in this chamber, there have been occasions when we were in opposition when the then Labor government put a position that what might be of concern to the then Labor government was what was actually being tabled and attracting privilege in this particular chamber.

Did it include, for example, a series of defamatory claims made against individuals? On one occasion, I think the then leader of the government and the then Labor attorney-general, sought to consider the documents before agreeing to have them tabled in the parliament, attracting privilege. I think in terms of standing order or debate, it is a useful discussion point to say: are we all going to have an unlimited power to table whatever document we want in the chamber and attract privilege in that particular way?

The alternative argument is that the Hon. Mr Pangallo, instead of speaking for an hour and a half, could have rivalled the Hon. Mr Parnell and spoken for eight hours on WorkCover legislation and read every element of the document onto the record. I do not know what is in the documents that have been tabled this evening. The only person who does is the Hon. Mr Pangallo.

But I think it is something that, outside of this particular debate, ought to have discussion in terms of what our processes ought to be regarding the capacity of members to table documents, without perhaps even giving to the chamber some sort of detailed explanation as to what is in the documents, if someone does want to disagree with the tabling or ask that they be deferred until someone has had a chance to have a look at them before agreeing to the tabling of documents.

Anyway, I think it is a useful discussion point that perhaps the Standing Orders Committee or interested members in this chamber might want to have a debate about at some particular stage.

In relation to the functions of the current Crime and Public Integrity Policy Committee, one reason for the select committee is that the current function of the Crime and Public Integrity Policy Committee says that it cannot reconsider a decision of the Independent Commissioner Against Corruption or any other person or body in relation to a particular matter. The Hon. Mr Pangallo was concerned about that and was wanting the select committee to be able to reconsider past decisions of the ICAC in relation to issues.

I guess the considerable material the Hon. Mr Pangallo placed on the public record would seem to indicate possibly that that is where the Hon. Mr Pangallo wants this particular committee to head, and that is that he saw a problem with the current committee because it specifically prevents going back and reconsidering individual decisions of the commissioner in particular cases.

As I said, the oversight committee was there to consider the overall body of work and, in the end, to provide recommendations, we hope, in relation to how processes can be improved, if legislation needs to be changed. I think the honourable member referred to proposals for exoneration procedures in other jurisdictions. I have raised the issue that other jurisdictions have talked about tighter and tougher oversight bodies and powers of the reviewer, for example.

These are all sensible suggestions for debate in terms of how we might improve oversight and accountability bodies, if we accept they either have made or will make mistakes in relation to their processes and procedures. But when one looks at the select committee drafting, it is clear that the Hon. Mr Pangallo is quite explicit in terms of wanting to investigate past investigations because he makes it clear in paragraph (d) that the select committee can inquire into and report on:

> Any other related matter, however, the committee shall not receive submissions or evidence in relation to any current investigation, or current prosecution arising from such an investigation, or any matter that is currently the subject of referral by the ICAC for further investigation and potential prosecution.

They are obviously sensible exclusions because they are current processes, but by a clear inference the honourable member wants this committee, and wants him as the chair, to have the power to investigate, revisit and reconsider past decisions of the ICAC. In essence, we have the potential of a retrying in a public forum of past investigations.

That is, aggrieved parties would be able to come before the select committee and make their claims before the select committee in relation to all of these past cases, a number of which the Hon. Mr Pangallo has already placed on the public record. How the integrity bodies approach that, in terms of whether they will want to present evidence or not, I have no idea. I suspect probably not, but I do not know; I cannot place myself in the position of either the past commissioner or the current commission in relation to this.

However, I do express concern that this is a dangerous precedent. I said so in an earlier debate; I think it is a dangerous precedent for the chamber to be heading down. There has been, broadly, bipartisan support for the establishment of the ICAC, of the need for oversight. I can assure the Hon. Mr Pangallo that there have been ongoing discussions and broad agreement about the need to improve the current legislative arrangements in relation to the ICAC, all from a viewpoint of learning from the lessons we have seen and accepting that there have been some inadequacies. Some may describe them in stronger terms than that, but let me use an understated phrase.

We will accept, and I am included in that group, that there is a need for change and there is a need for improvement in terms of our current arrangements in relation to the ICAC, but I firmly believe this is not the appropriate way for us to go about it. Nevertheless, given that the Leader of the Opposition, the leader of the Labor Party, has indicated his support and that the Greens have also indicated their support, there is clearly a majority in this chamber that will support the establishment of a select committee.

I urge those members who are on the committee to exercise their functions with caution. I hope that at the end of this what we get are proposals for improved operation of the ICAC, and that it is not just used as a vehicle for aggrieved parties to ventilate their concerns on an ongoing basis without, as I said, some useful purpose coming from them in terms of sensible reform of the current arrangements of the ICAC in our state.

The PRESIDENT: I call the Hon. Mr Pangallo to conclude the debate.

An honourable member: Briefly.

The Hon. F. PANGALLO (20:52): Thank you very much—and yes, I will.

Members interjecting:

The Hon. F. PANGALLO: It will be brief, and I thank you, Mr President. I thank the honourable Leader of the Opposition and the Labor Party, and the Greens, the Hon. Tammy Franks and the Hon. Mark Parnell, for supporting this important committee. I pointed that out in my lengthy speech.

I want to address some points the Treasurer made. He refers to the fact that the Crime and Public Integrity Policy Committee would be the appropriate avenue for this type of investigation. As it turns out I actually sought advice about that before coming to the motion for this inquiry. I am not sure whether the Treasurer was in the chamber today when I read my summary of the report of the Crime and Public Integrity Policy Committee, where I pointed out that unfortunately the committee does not have investigative powers.

Unlike many other committees it cannot look at individual matters. It is a policy committee and, as the Treasurer points out, it looks at the operation of acts and public policy. That that is it. It cannot go any further. It is important that we do have a mechanism in South Australia, an independent mechanism, like they have in other states, that looks at the operations and conduct of their anticorruption bodies.

We made a recommendation for that to be considered in the Crime and Public Integrity Policy Committee report that was tabled and noted today, that we do need what they have in other states. We do not have that in South Australia. His argument that the Crime and Public Integrity Policy Committee can carry out the same functions of this committee is just totally wrong, and we have looked at that.

This committee is important because what it looks at is exoneration protocols and possible remedies for people who have been wronged by the integrity agencies. There is one in New South Wales currently underway. I point out that the New South Wales ICAC has been going for 30 years. I mentioned that in my speech. There have been a number of reviews of their ICAC, and there certainly have been a number of instances where their ICAC has made significant errors, mistakes.

When the Treasurer refers to mistakes being made, what should we do, just shrug our shoulders and say, 'Oh well, bad luck'? What shall we say to these people who have lost their homes, lost their jobs, probably lost their families, their marriages, lost virtually everything? What shall we say to them? 'Bad luck, get on with your life. They made a mistake, but we don't want to hear any more about it.' That is not how it should be. When I read the act, to me it was incredulous that it was able to get through in 2012 in the format that it is in. That is why there have been recommendations for changes to it.

When the Treasurer starts talking about mistakes being made, I will point out to the Treasurer that mistakes have cost lives as well. What we are doing here is accountability. We have an integrity body whose conduct has not been appropriately scrutinised for seven years. We are seeing instances regularly, not occasionally, but regularly in our courts where the manner of the investigations and prosecutions by the DPP are being questioned.

It is important that people who have been harmed and had their reputations sullied should not have to live with that stain without at least having a forum to make their views known. The cases I outlined tonight are quite clear. The Treasurer says there are two sides to every story. Yes, there are two sides to every story, Treasurer, and you do not need to tell me that; I know that. Except in this case we have only ever heard or seen one side of the story—one side, the ICAC side from their investigations. These people who have been put through the meat grinder, I think as the Attorney-General described it to me in a discussion I had with her, are at pains to try to get something to restore their reputations, and that is all this committee is going to do.

It is going to look at what had happened in these cases—we will probably get many others that will come forward—and see where the parliament can at least find an avenue to restore reputations that were destroyed on baseless evidence, flawed evidence, evidence that just did not stack up in court and should never have gone to court. That is what this committee will do. What I

think the Treasurer is suggesting, perhaps, is that parliament should be wilfully blind to all the mistakes that have been made over the past seven years. The timing of my inquiry just seems ironic, in that some of these matters are only just starting to come to the surface.

In summing-up, I commend this motion to the chamber and I look forward to working with the members who will be on it and will welcome evidence and submissions to be made to the committee next year. We will look at it, and hopefully we will be able to report back to the parliament before the end of the year next year, in 2021. With that, I put the motion to the chamber.

The Hon. C. Bonaros's amendment carried; motion as amended carried.

The Hon. F. PANGALLO: I move:

That the select committee consist of the Hon. Justin Hanson, the Hon. Tammy Franks, the Hon. Nicola Centofanti, the Hon. Russell Wortley and the mover.

The Hon. R.I. LUCAS: The long-established practice in this chamber is that the government is entitled to two members. I am advised by my whip that we were asked to have both Dr Centofanti and David Ridgway as members of the committee. I think it is grossly unfair that the motion that has been moved by the member has only one government member on the committee and four non-government members, which is a gross imbalance in terms of the representation in this chamber.

As I said, the long-established convention has generally been two government members, two opposition members and either one or two crossbenchers. I guess the only alternative I have is to propose that the Hon. Mr Ridgway be added to the committee. I am not sure who the other four members were. I think it was two crossbenchers and two Labor members. I do not know whether the Hon. Mr Pangallo is prepared to accept a sixth member on the committee or that the Hon. Mr Ridgway be substituted for one of the other members but, certainly from my viewpoint, I am moving that the Hon. Mr Ridgway be at the very least added to the committee so that the committee be a committee of six.

The PRESIDENT: Is the Hon. Mr Pangallo prepared to move in an amended form?

The Hon. F. PANGALLO: Yes, I will move in an amended form.

The PRESIDENT: Bear with us a moment. We have a five-member committee, and we now need to get the right way of extending it to be a six-member committee. The Clerk will assist you shortly.

The Hon. F. PANGALLO: I move:

That standing orders be so far suspended as to enable me to move that it be an instruction to the select committee that its terms of reference be amended to input paragraph 2(a) as follows:

That the committee consist of six members and the quorum of members necessary to be present at all meetings of the committee be fixed at four members.

Motion carried.

The PRESIDENT: I note the absolute majority. If you would like to now move the new membership of the committee, the Hon. Mr Pangallo.

The Hon. F. PANGALLO: I move my motion in an amended form:

That the select committee consist of the Hon. Justin Hanson, the Hon. Tammy Franks, the Hon. Nicola Centofanti, the Hon. Russell Wortley, the Hon. David Ridgway and the mover.

Motion carried.

The Hon. F. PANGALLO: I move:

That the select committee have power to send the persons, papers and records, to adjourn from place to place and that it report on 31 March 2021.

Motion carried.

Bills

TERMINATION OF PREGNANCY BILL

Committee Stage

Clause 1.

The Hon. J.M.A. LENSINK: I rise to make a few remarks, which may assist members in terms of the procedure of this bill. I had foreshadowed earlier, during the second reading debate, that the Minister for Health and Wellbeing and I would make further contributions at clause 1 of the bill to address a number of issues raised by members during their speeches. I hope that this will help clarify some of the issues and address some of the concerns that have been raised before we proceed to further consider specific clauses and amendments of the bill.

One of the primary concerns that has been raised repeatedly about this bill is that it will allow for abortions to be performed up to birth, and that it will lead to a rush or an increase in the number of later term abortions. To be clear, there is no evidence to suggest that the bill will do either of those things. The bill in fact creates a medically-appropriate model for later term abortions, which recognises the inherent complexities and difficulties faced by women who may be considering a termination in these circumstances.

It creates a model whereby a termination of pregnancy may only be performed after 22 weeks and six days, where two medical practitioners consider that, in all the circumstances, the termination is medically appropriate, having regard to all relevant medical circumstances and professional standards and guidelines. The bill in fact gives those women and their families time to process and consider one of the most difficult decisions of their lives, without the pressure of being rushed to reach a decision because there is only a short window of time for them to have a termination.

What this bill in fact does is fundamentally place trust in women and their medical practitioners to reach the decision that is medically appropriate to their circumstances, whatever that decision may be. It has been suggested by some that the bill would allow for a woman to terminate a pregnancy at 38 weeks, or even right up to the birth, for no reason other than that the woman has simply changed her mind. I find that suggestion to be utterly offensive and farcical. Nor is that suggestion supported by the evidence.

We know that in South Australia the overwhelming majority of terminations are carried out in the first trimester of pregnancy. In fact, in 2017, 91.2 per cent of terminations in South Australia were performed under 20 weeks' gestation. Of the 111 pregnancy terminations that were conducted at 20 weeks gestation or later, 47.7 per cent, or 53, were for congenital anomalies; 49.55 per cent, or 55, were for the mental health of the woman; and 2.7 per cent, or three, were for specified medical conditions of the woman.

Similar arguments have been raised that a termination carried out for so-called psychological reasons is not a legitimate basis for seeking a termination. This term is often mischaracterised as a kind of catch-all phrase for women who may find themselves unexpectedly pregnant and who do not want a child for various social or economic reasons. To the contrary: terminations carried out for psychosocial reasons reflect a vast range of circumstances. For example, they can include situations involving the abuse of minors and vulnerable adults to sexual and physical violence, such as rape, incest and sexual slavery, women in violent and abusive relationships, as well as those dealing with mental health and addiction issues. It is unfair to characterise this phrase in such simplistic terms as some have sought to do.

To be clear, mental health is health and it is recognised as such by RANZCOG as a valid and legitimate reason for seeking a termination, including in the later stages of pregnancy. Furthermore, there is no evidence to suggest that the bill will increase the number of terminations in South Australia. We know that since 1999 there has been a steady decline in the rate of pregnancy terminations in South Australia, from 17.9 per 1,000 women aged 15 to 44 years to 13.2 per 1,000 in 2017.

There is also no evidence to suggest that legislative reform would increase the rate of pregnancy terminations in South Australia, based on the experience in other Australian states and

territories. While statewide data is not available for all states and territories, the available data does show changes towards an increase in early medical terminations in contrast to surgical terminations.

In the Northern Territory, following legislative reform in 2017, there were substantial changes in relation to the method of termination, with an increase in the proportion of early medical terminations and a decrease in the proportion of surgical terminations. The rate of termination of pregnancy in the Northern Territory has remained unchanged since that reform. Victoria underwent legislative reform in 2008 and, while no statewide data is available, Marie Stopes reports that overall there was a slight decline in termination of pregnancy numbers but a change in termination type, with early medical and tele-abortion demand increasing and surgical terminations decreasing.

I will also briefly address the notion being suggested by some members that this bill somehow hinders or discourages adoption and foster care and other alternative options to abortion. It does no such thing. Adoption and foster care are vitally important initiatives that can have a profound positive impact on the life of a child and should be encouraged where viable and appropriate. This is undisputed.

However, for many women the choice to have a termination is because they do not want to be pregnant or continue to be pregnant or to give birth or to relinquish a child. A woman's decision to choose adoption or abortion requires services to be provided in a supportive non-judgemental manner that enables her to make the best decision for herself, and I believe the bill achieves this.

I also advise that the Minister for Health and Wellbeing will be managing amendments and clauses that specifically relate to health amendments and clauses in the legislation, so we have the benefit of his expertise and his advisers in this matter.

The Hon. S.G. WADE: I rise to address some matters raised by members in the second reading debate. Termination of pregnancy is a sensitive and polarising matter. Termination services are a health service that the state of South Australia has legally permitted and provided through public and private health services for 50 years.

In Australia, one-third of women experience an unintended pregnancy and one in five of those women will seek and obtain a termination. The rates of unintended pregnancy are higher amongst women who are socially demographically disadvantaged and those living in rural areas. Given these facts, restrictive legislation that inhibits equitable access impacts women and compounds disadvantage. This bill puts in place a well-considered and appropriate regulatory framework to support quality and safe health services for women wherever they live in the state.

As I have indicated in prior statements, there is an existing body of law that provides rigorous oversight of clinical practice and will, of course, remain in force whatever the outcome of the consideration of this bill tonight. These legal frameworks, bolstered by longstanding and rigorous high clinical standards and codes of conduct, preclude terminations of pregnancy to birth. All Australian doctors must comply with these standards at pain of legal or professional penalty. The law has and will continue to govern clinical practice, which will only be strengthened by this bill, which incorporates enhanced safeguards for clinical practice pertaining to terminations.

Some of the relevant and applicable legislation in South Australia that governs clinical practice can be found in legislation, such as the Controlled Substances Act, the Health Practitioner Regulation National Law, the Consent to Medical Treatment and Palliative Care Act and the Health and Community Services Complaints Act. In furnishing the council with these specific laws, I once again affirm that terminations up to birth do not and cannot subsist within the South Australian legal and clinical frameworks.

One of the concerns that has been raised in relation to this bill is that regional health practitioners with a conscientious objection could be pressured to perform terminations when there is no other health practitioner nearby to perform the procedure. In the healthcare context, conscientious objection is the refusal by health professionals to provide treatment that they oppose on religious or moral grounds. This bill recognises and accommodates the right of a health practitioner to raise a conscientious objection in a manner that ensures that the practitioner discharges their professional and ethical duty of care to the patient, whilst safeguarding women's access to services.

The bill requires only that the provider disclose their objections, and either transfers the care of a person to another health practitioner who can provide the services or provides the person with

information on how to locate or contact such a registered health practitioner. As prescribed under the bill, the health practitioner with a conscientious objection will have discharged their professional, legal and ethical duty once they refer the woman to a willing provider and therefore are under no further obligation or pressure. The proposed prescribed form is for the sole purpose of ensuring both clarity and convenience for both parties by providing information, such as details of public health service providers across the state.

The bill strikes a balance between protecting a conscientious objection and the right of women to obtain a legal termination without delay. The bill's approach to conscientious objection reflects the prevailing law, not only in a broader Australian context but also in line with the recommendations of internationally recognised human rights bodies and organisations, such as the World Health Organization and the International Federation of Gynaecology and Obstetrics, as well as a host of international human rights committees that address conscientious objection.

South Australia is currently the only Australian jurisdiction that does not allow for telehealth services to be used in relation to terminations of pregnancy. There is strong evidence to support the use of telemedicine as a reasonable alternative for those who may not otherwise have access to safe, high quality and effective termination care. In cases of early medical termination, telehealth would mean that a woman seeking services would not require an in-person examination by a rural doctor who may have a conscientious objection. By facilitating access to early medical termination by means of telehealth, the bill further allays concerns of pressure being brought to bear on a rural health practitioner who may conscientiously object.

Concerns were also raised in the second reading debate that the bill may allow for private providers with profit models to operate termination clinics in South Australia. This concern is unfounded, particularly in the South Australian context. While most terminations in other states and territories operate under a private provider model, in South Australia most termination services are provided through the public system and will continue to be so under this bill. In South Australia, only 1 per cent of terminations are provided in private metropolitan facilities. By continuing to provide this health service to women in South Australia at low cost within the public system, there is little to no remit or incentive for private providers operating for profit in South Australia.

I would like to respond to comments made regarding further possible amendments to the bill. One of the amendments proposed is that terminations carried out by non-medical health practitioners only be performed with the prior approval of a medical practitioner. In practice, this would only serve to compound the very barriers this bill has been drafted to address.

The bill provides for a robust regulatory framework in the hands of non-medical health practitioners providing termination. Registered non-medical health practitioners who are authorised and appropriately accredited can perform only early medical terminations, that is, MS-2 Step. The non-medical health practitioner must also be acting within the ordinary course of their profession and be authorised to prescribe the drug under the Controlled Substances Act.

Such a proposed amendment would further impede access for women in this state, particularly those in regional South Australia, where access to a medical practitioner can be a challenge in and of itself. Furthermore, the procedural and logistical implications of the application of the proposed amendment could compromise a woman's ability to access a timely early medical termination, potentially necessitating a later term surgical abortion.

Another amendment to the current bill seeks to prohibit a medical termination where a woman is more than 50 kilometres away from a hospital or ambulance service. Firstly, it is important to note that most women do not require follow-up care after termination of pregnancy and, should such care be required, the management of complications arising from medical termination is no different from the management of complications arising from spontaneous miscarriage.

The Therapeutic Goods Administration, which regulates MS-2 step medication, and Marie Stopes International, which administers the MS-2 training for medical practitioners, have existing guidelines regarding follow-up protocols after medical termination, which includes access to emergency care. Marie Stopes International recommends that a woman be within a two-hour drive of a hospital capable of managing a miscarriage following treatment, in the unlikely event that such

management is required. This is in addition to medical practitioners abiding by the further protocols provided in the SA Perinatal Practice Guidelines.

An email recently received by members of the Legislative Council from a medical practitioner providing terminations of pregnancy in rural South Australia outlined the challenges regionally based women face in accessing early medical terminations and the clinical measures in place to ensure it can be carried out safely and prevent rural women from having to travel long distances post termination to return home from metropolitan areas, as is often the case under the current legislation.

The process outlined by this medical practitioner is thorough and includes multiple appointments to review and confirm all options, medical conditions and medications, in addition to ensuring the woman resides within 30 minutes' drive of an emergency department and will be with a responsible adult post procedure.

This is in addition to verbal and written information about medical review, emergency contact details, follow-up appointments and future contraception needs. I respectfully submit, therefore, that medical and clinical protocols and procedures on follow-up care should remain in the hands of the drug and health professionals that administer medical termination rather than within the body of law, as suggested by the proposed amendment.

As we discuss this proposed legislation, we must not lose sight of the core imperatives that are upon us, namely, to ensure equitable access to high-quality and safe healthcare services for all women in South Australia. We need to ensure that we respect the right to personal moral agency and self-determination in relation to fertility—a right recognised in law and supported by health services.

In conclusion, I would like to make a couple of points in relation to my participation in the debate. As a member of this council, I support the bill. As Minister for Health and Wellbeing, I am very mindful of my duty to support this council to have an informed debate on the bill—informed not by my opinion but by the expert advice of a range of clinicians in SA Health. Unless otherwise indicated, the amendments moved and the information provided is substantially based on the advice of SA Health.

The Hon. C.M. SCRIVEN: I thank both ministers who have given their contributions at clause 1. I think we can pursue some of those statements further when relevant amendments or clauses arise; however, I want to make some general comments about the bill.

One of the crucial failings of this bill is that it attempts to make the unborn baby totally invisible. It removes any mention of the child from the law on this matter, with the current terminology of referring to 'a woman with child' being replaced with 'a pregnant person'.

The bill is on the whole based on recommendations that came out of the SALRI report; however, when reading that report the overriding impression is that a woman's autonomy is the principal, indeed almost the only, consideration in many cases. It is repeated over and over again and essentially takes precedence over all other matters. As a result of these features the bill treats the unborn baby as though he or she is a limb or another part of the mother and therefore a woman's autonomy, as mentioned, is considered essentially the only relevant factor.

The reality is there are two humans involved when someone is pregnant. It should not need to be said. It is a simple biological fact that there is both mother and baby, regardless of what language you wish to use, and after an abortion one of those lives has been ended. That is why abortion is not health care like any other, as some would claim. Other health care does not deliberately end a life.

Once a baby is viable—that is, able to live outside the womb, independently of the mother—it should be even more clear that he or she also has rights, but this bill does not afford any rights whatsoever to the baby. That is wrong. As I mentioned in my second reading speech, much of the discussion around abortion is that it is no-one's business except that of the woman, yet this is the type of argument we used to hear regarding family violence, 'It's not your business. It's my child. Don't interfere.' We need to be wary, extremely wary, of that type of an argument.

In terms of public opinion around this, we are told that large numbers support abortion. That may well be true, but this bill does allow abortion up to birth, despite what the minister has said, and

we have seen in Victoria where it has been used up to and including 37 weeks, remembering that 40 weeks (nine months) is the standard accepted gestation for a baby.

I have received many emails and letters, and I think it is worth placing on the record that in favour of this bill I have received approximately 230, and against this bill I have received approximately 4,300, and that has actually increased, because since I wrote this speech there have been more coming in this evening while we have been sitting in the chamber. I think we need to recall that in the context—

The CHAIR: I will just bring—

The Hon. C.M. SCRIVEN: —and I have questions for the minister.

The CHAIR: —the honourable member back to the fact that we are at clause 1. I do recognise the fact that both the Hon. Ms Lensink and the Hon. Mr Wade have brought some facts and detail into the debate—

The Hon. C.M. SCRIVEN: I have actually finished, Mr Chair.

The CHAIR: —but you did just mention in your own words 'this speech'. So we are in clause 1. I have allowed you to do that because of the fact that we have already had similar things on the other side, but when you described this as a 'speech', that is not what clause 1 is all about. I will give you a little bit more latitude, but I think we all need to move on with questions and move on to the various clauses.

The Hon. C.M. SCRIVEN: Thank you, Mr Chair. I would just place on the record that I said, 'In my second reading speech I said', so I was not suggesting this was a speech. However—

The CHAIR: I thought you—anyway, we will not argue.

The Hon. C.M. SCRIVEN: —I appreciate your latitude and your guidance, and I have a number of other questions at other clauses. So as I mentioned, I have actually finished.

The Hon. D.G.E. HOOD: I just have one question. I do not seek to delay proceedings. I have a question which does not necessarily appear in any clauses I can see, so I will get to that in a moment, but can I just outline that I thank both ministers for their opening contributions. I think they were helpful in framing the relative positions. I also think it is appropriate—and I do not mean any disrespect—that I refer to them by their names during this discussion rather than their titles, because it is a private member's bill and not supported by all government members.

We have heard in the contributions—I actually cannot recall which of the members it was but in the opening contributions—that this bill will not allow further late-term abortions because they are already quite rare, and I accept that that is true. I understand that about 2.6 per cent, or something in that order, is the figure quoted from SA Health in terms of so-called late-term abortions.

The reason we have a fairly low—some would argue 2.6 might be high, but a relatively low—late-term abortion rate is that we have a clinical framework which doctors and nurses operate within in order to make their clinical decisions, if you like, which tends to make late-term abortions less common, which I think we would probably all agree is a good thing.

But we are not here to discuss clinical parameters. We are not charged with making clinical decisions tonight. We are charged with making legislation. That is our job as legislators. My question is a pretty simple one, and I am happy for either member, whoever feels best equipped, to address it. Which clause in this bill—this is what we are debating, the bill—would prohibit or make less likely abortions post 28 weeks, as the current law requires?

The Hon. J.M.A. LENSINK: There is a huge amount of practice that takes place within the health profession which is governed by ethics. I also point out that not everything that takes place, that comes under an act of parliament, is codified in the law. I think there is a tendency at times, as seen across the political spectrum, for members—sometimes particularly in this house—to seek to codify particular practices within legislation.

I will just reiterate some of the comments I made in my second reading summing up about health law. These are comments that come directly from the Australian Medical Association. I will repeat them because I think this is a really important point. It is one that I think a lot of the

correspondence to our offices has not understood and one on which others have been misled, which has led to anxiety for those people. I think that is regrettable. I reiterate:

> …the clinical decision-making and practices of doctors and other health professionals are governed by incredibly strong safeguards and regulations, which are sometimes called health law.

This is something that I understand they refer to themselves. I continue:

> These include [firstly] codes of conduct under the Medical Board and AHPRA; [secondly] professional standards under professional bodies, such as the AMA and colleges; health service policies, procedures and credentialling requirements; and the overriding principles enshrined in medical and health ethics, which they must comply with.
>
> Doctors must act ethically, and if they do not they [risk losing] their right to practice.

I think those are very important points to make. I think it is also important to point out that doctors undertake the Hippocratic oath and if one considers that a number of the medical professionals who are involved in these practices are obstetricians, their training is, by its very nature, that they wish to help pregnant women and they wish to deliver babies. I think we just need to bear that in mind, that it is something that is part of all of their practice and training, and not everything is going to be codified in an act of parliament, otherwise our statute book would be running into the thousands of pages.

The Hon. S.G. WADE: I certainly agree with the comments of the Hon. Michelle Lensink. I will give another very simple and clear example in response to the Hon. Dennis Hood's question. There is one very clear element which reduces the chance of late-term abortions under this bill compared with the current law. Under the current law, which was established in 1969, the parliament wanted to avoid the prospects of, if you like, abortion tourism—people from other states and territories coming to South Australia to have an abortion—so they put in a provision that said you had to be a resident for two months. That is still in the law.

We have a situation now where we are the last state in Australia to still have it in the criminal law, but we are actually making it more likely that women will have late-term abortions because if they are in South Australia and they have not been resident here for two months, they have to serve the time. That is a clear example where I think this change would reduce the chances of late-term abortion.

It also leads me to make a general point about this debate. I think honourable members need to appreciate that since 1969 there has been a broad consensus for abortion in South Australia. It has been lawfully permitted. South Australians have allowed their government to continue to provide services in public health services. For 50 years taxpayers in South Australia have funded this. I think there is minimal support for change of that framework and if this house does not take the opportunity to update the legislation the old legislation will stand for another 50 years. The fact of the matter is that this is an appropriate modernisation of a framework which has the support of the South Australian people.

I implore honourable members: do not think that, because you do not like the law that is there, you want to keep it outdated and inaccessible. If health services are to be provided in South Australia, they should be provided on a safe, equitable and accessible basis.

The Hon. D.G.E. HOOD: I thank both members for their response. I absolutely concede and agree with most of what they said; that is, we have a clinical framework that restricts late-term abortions, and that is embedded and common practice. I have no dispute with that. I take no issue with that, and I do not think anyone does. I even take the Hon. Mr Wade's point about the two-month requirement of domestic population, if you like, living in South Australia, that could potentially even increase the number of late-term abortions, but none of that was my question.

My question is simple: which clause in this bill specifically rules out or makes it more difficult to have late-term abortions? At the moment, the current law says that beyond 28 weeks—I am paraphrasing of course, but it is roughly this—it is difficult, even if two doctors agree, for an abortion to occur, unless the woman's or the baby's life is at risk. That is paraphrasing, but that is essentially what it says. Which clause in this bill makes it as crystal clear as that—that beyond a certain time an abortion cannot occur unless the mother's or the baby's life is at risk?

The Hon. S.G. WADE: The relevant clause is 6(1)(a), which provides:

(a) the medical practitioner considers that, in all the circumstances, the termination is medically appropriate…

The phrase 'medically appropriate' engages all the clinical framework the Hon. Michelle Lensink has referred to. I would also make the point that under that clause it will be available from 22 weeks and six days. The current law is from 28 weeks. That underscores the fact that our legal framework, our clinical framework in South Australia, has been extremely cautious. In spite of the fact that the law permitted abortions later into the pregnancy, South Australian health services, with both clinical oversight and legal oversight, pared that back, and this legislation reflects the more conservative approach.

The Hon. D.G.E. HOOD: This is the last question from me on this clause because I do not wish to delay proceedings. I thank the Hon. Mr Wade for his response. What seems clear to me is that it is not clear in this bill. There is no clear clause that does what I ask, and I think we all know that. It is not a mystery. The reason there has been such strong opposition to this bill—I, too, and I am sure all members, as the Hon. Ms Scriven said, have had more than 4,000 objections to the bill, or 4,200 or 4,400, something in that order—is that it is not clear in the bill specifically that there is a clear age over which abortion is very difficult, if you like, or almost impossible; that is, either the mother's life or the baby's life is at risk. That does not appear in this bill. I think that is clear and I will leave it at that.

Clause passed.

Clause 2 passed.

Clause 3.

The CHAIR: We have identical amendments from the Hon. Dr Centofanti and the Hon. Ms Scriven. The Hon. Dr Centofanti's amendment was filed first, so I call her.

The Hon. N.J. CENTOFANTI: I move:

Amendment No 1 [Centofanti–1]—

Page 3, after line 18—Insert:

prescribed hospital means a hospital, or hospital of a class, prescribed by the regulations;

This amendment is contingent on the main amendment that I am moving, which is amendment No. 2 [Centofanti-1], as it defines the term 'prescribed hospital', which I refer to in my second amendment. Perhaps if I could seek permission to speak to my main amendment prior to putting this amendment to a vote?

The Hon. S.G. Wade: It would certainly make it easier for me.

The Hon. C.M. SCRIVEN: May I provide an alternative? Because the amendment 'prescribed hospital' refers to amendments other than the Hon. Dr Centofanti's, I wonder if going down the course that the Hon. Dr Centofanti has suggested would mean that we are actually dealing with the substantive nature of a number of different amendments, all at this clause.

My suggestion, if members were willing to agree, would be, given that this actually makes no significant change to the bill—this inserts a definition of a prescribed hospital—if none of the amendments referring to a prescribed hospital get the support of this chamber then that definition would sit there and be irrelevant.

It is perhaps not ideal, but I do not think it would have any material effect whatsoever—I am happy to be told if I am wrong—in which case, it would be of no harm to simply pass this amendment, which is a definition and then deal with substantive amendments in their relevant clauses as they arise. That is just a suggestion for the committee to consider.

The Hon. T.A. FRANKS: I wish to indicate that I will oppose this particular amendment. While I understand that the Hon. Clare Scriven has said perhaps it does no harm because it may not have the consequential amendments then flow through and it would just sit there, I say that I will support at that point a recommittal of this clause to consider the question, should one of those other amendments that are consequential be successful.

The Hon. S.G. WADE: I had exactly the same thought as the Hon. Tammy Franks. The advice from the table is that if this clause is not otherwise amended—and I am not aware of any amendment to this clause other than the one that has been jointly proposed, if you like, by the honourable members—we can resolve to recommit it; in other words, put the clause aside and consider it at the end of the committee stage.

That being the case, it would logically be that the next amendment in the sequence in relation to each honourable member's proposed flow of amendments becomes a test clause for each respective flow, and this particular amendment does not need to be a test clause for either of them. I hope the table agrees with my interpretation, but that is my understanding.

The CHAIR: My advice is that we could postpone the clause. I think we have only moved one of the amendments. If that amendment was withdrawn at this point, we can then postpone the clause.

The Hon. N.J. CENTOFANTI: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. S.G. WADE: I move:

That consideration of clause 3 be postponed and taken into consideration after clause 17.

Motion carried; clause postponed.

Clause 4 passed.

Clause 5.

The Hon. I. PNEVMATIKOS: I move:

Amendment No 1 [Pnevmatikos–1]—

Page 4, line 7 [clause 5(1)(a)]—Delete '22 weeks and 6 days' and substitute:

24 weeks

The reason I am moving this is because health practitioners, medical practitioners, advocacy groups, as well as SALRI, support that if there is to be a requirement for later term abortions to be approved by two doctors, then this should be at the 24-week stage.

I can go into some detail about this in terms of the SALRI recommendations which state that the relevant law in our state should provide that up to 24 weeks gestation an abortion can be performed by one health practitioner but, after 24 weeks gestation, consistent with their recommendations and recognising the woman’s autonomy, an abortion may be performed by a medical practitioner, but only after that medical practitioner has consulted with another medical practitioner and both are of the view that the proposed procedure is medically appropriate.

In addition, the presence of two medical practitioners and the requirement that they both approve after 24 weeks reflects current clinical practice and also recognises that terminations at this later stage often involve issues of disadvantage, distress, complexities and higher risk to the pregnant woman. The AMA believes that one qualified medical practitioner should be required for consultation and consent up to 24 weeks gestation and, at or after 24 weeks gestation, the AMA believes that consultation with a second medical practitioner should be necessary.

A serious foetal abnormality may not be detected until screening at 19 or 20 weeks. The AMA believes that a requirement for a second medical practitioner to approve a termination should occur at that 24-week gestation point. The provision will allow that individual some time to decide a course of action without an added requirement. Because there are significantly greater physical, ethical and psychological implications inherent in later term abortions, the involvement of a second medical practitioner after 24 weeks will give greater assurance to those ethical, psychological and physical implications to be considered.

It also will assist in doctors, medical professionals, being able to consult and share and discuss their assessment and ensure that all appropriate matters are considered in the clinical decision-making process. There are many supporters who provided evidence to the SALRI report who supported no formal gestational limits. I will list them as follows:

- the Australian College of Midwives;
- the Royal Australian and New Zealand College of Obstetricians and Gynaecologists;
- Fair Agenda;
- academics such as Dr Margie Ripper; Professor Heather Douglas; Beth Wilson, who is a former Victorian Health Service Commissioner; Professor Da Costa, who is a professor of obstetrics and gynaecology;
- the Royal Australasian College of Physicians;
- the Human Rights Law Centre;
- the Southgate Institute;
- Ceduna health practitioners;
- SARC;
- the Australian Women's Health Network;
- Dr Erica Millar;
- Associate Professor Catherine Kevin;
- the Women's Electoral Lobby;
- the Coalition of Women's Domestic Violence Services SA;
- the AMA; and
- the Women's Electoral Lobby Australia.

They all explicitly supported that there should be no informal gestational limit but, if there were to be a limit, it should be at the 24-week mark.

SALRI concluded, as a consequence of the various submissions, that in all the circumstances, and although acknowledging that there were differing opinions, 24 weeks' gestation was the most appropriate threshold for a change, if any, to the consideration of undertaking an abortion procedure. This recommendation not only reflects current clinical guidelines and practice but also likely advancements in the future.

SALRI reiterated its position that in the alternative to its preferred approach based on the ACT, the relevant law in South Australia should provide that up to 24 weeks' gestation a lawful abortion can be performed by one health practitioner, but that after 24 weeks' gestation, and recognising the woman's autonomy, an abortion may be performed by a medical practitioner but only after that medical practitioner has consulted with another medical practitioner and both are of the view that the proposed procedure is medically appropriate.

The 22 weeks and six days included in the current bill is nothing more than a legal date or term placed in the bill, whereas the scientific and medical evidence overwhelmingly supports a 24-week gestation to require the involvement of a second consenting doctor to the process.

The Hon. S.G. WADE: I will not be supporting these amendments, not only amendment No. 1 [Pnevmatikos-1] but also Nos 3, 4 and 5. In its report SALRI made alternative recommendations concerning gestational limits for lawful terminations of pregnancies. SALRI's preferred recommendation was that there should be no specified criteria or set gestational limits for when a termination of pregnancy may be lawfully performed.

Under this model, it was recommended that termination of pregnancies should be available at any gestational stage with the involvement of one health practitioner. In the alternative, SALRI recommended that termination of pregnancies should lawfully be available on request up to 24 weeks' gestation with the involvement of one health practitioner, and thereafter only with the approval of two medical practitioners who consider the termination is medically appropriate.

As evidenced by the SALRI report, the issue of gestational limits is a sensitive matter, and it is recognised that there are diverging views on the appropriate approach, but I specifically and respectfully disagree with the honourable member saying that the limit on the bill is a legal one rather than a health one. The decision to impose a gestational limit of 22 weeks and six days is supported and considered appropriate by the Australian Medical Association and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists.

The gestational limit of 22 weeks and six days has been set in this bill based on the advice of the Department for Health and Wellbeing that most closely reflects clinical practice and is more broadly consistent with the position of other jurisdictions. New South Wales and Queensland both impose an upper gestational limit of 22 weeks, while Victoria imposes an upper limit of 24 weeks.

The additional presence and approval of two medical practitioners after 22 weeks and six days' gestation also recognises that terminations at a later stage of pregnancy often involve disadvantage, distress and complexities that warrant the involvement of a second practitioner. I consider that the present specified limit of 22 weeks and six days should be retained, and I do not support the amendment.

The Hon. C.M. SCRIVEN: Mine is a question which is probably best addressed to the Hon. Mr Wade, notwithstanding that the amendment is from the Hon. Ms Pnevmatikos. What is the nature of the second medical practitioner being consulted? I appreciate that a lot of things have been covered in briefings. So that they are on the record, my understanding is that that could be, for example, a telephone call or similar. Can the minister outline what is meant by a second consultation?

The Hon. S.G. WADE: I would like to make two points in response to the honourable member's question. The first is that the consultation of the second practitioner is referenced in clause 6(1)(b):

> a second medical practitioner is consulted and that practitioner considers that, in all the circumstances, the termination is medically appropriate.

I am advised that that consultation could occur by telephone call but, considering the practitioner needs to convince themselves that in all the circumstances the termination is medically appropriate, that may not be sufficient. It depends on the circumstances of the case. That is the law. I now want to make a very clear point about practice.

I think there is a tendency in this debate to, if you like, dramatise the potential of renegade medical practitioners, but we need to remember the context in which this law will operate. It will operate in the South Australian context. As I said earlier, we are, as I understand it, unique in Australia for overwhelmingly providing our abortions through the public health system. As I said earlier, 99 per cent of terminations in South Australia happen in the public health system.

Every termination beyond 22 weeks and six days in a public hospital would not only involve two medical practitioners, it would involve a multidisciplinary team, a very broad multidisciplinary team, including both health practitioners and other health professionals in the context of a rigorous ethical framework. As only SA Health can do, these frameworks are complex and well developed.

I want to assure the council that the prospect of this legislation going rogue is not well founded. We have had a well-established law that is significantly out of date and is inhibiting quality, safe health services. We believe that this legislation will sit comfortably within the rigorous clinical frameworks that are there that provide strong assurance to both this house and the community of South Australia.

The Hon. D.G.E. HOOD (22:09): I hope the Hon. Mr Wade is right. I hope, to use his words or something similar, that the potential for medical practitioners to go rogue, as he put it, using this legislation is limited. I sincerely hope that is right. But I cannot help but reflect on the comments made by Robin Millhouse not that long ago. He introduced his bill all those years ago but was interviewed just a few years ago and said, in his words, the doctors and the lawyers had gone much further than he expected. I think it is entirely possible that we are facing exactly the same risk right at the moment. I do not think we can rule out that possibility. Again, I am paraphrasing, but I think Robin Millhouse's words can certainly be interpreted to that effect.

Anyway, to return to the actual amendment, it will surprise no-one, I am sure, to hear that I will also be opposing the amendment. At the end of the day, what we are arguing about is essentially

one week—22 weeks and six days versus 24 weeks. Some would argue it is not a great deal of time and, I guess, in a sense, that is right, but I am comforted by the fact that my understanding is that the AMA and the Department for Health and Wellbeing in South Australia recommend 22 weeks and six days as the appropriate time frame. I understand that the New South Wales legislation dictates 22 weeks even, as I understand it. I may stand to be corrected on that, but I think that it is right.

The Hon. S.G. Wade: Yes, it is right.

The Hon. D.G.E. HOOD: It is right. Thank you, minister. That is slightly less than what our bill proposes. To me, that seems to be about the right level, if we are going to go down this path.

I will just note for members' interest that when researching this particular amendment it is not hard to come across many different sources of information, but there is a website called babycenter.com.au, which I had never heard of until this week. It points out that at 23 weeks—that is pretty close to 22 weeks and six days—the baby weighs around half a kilogram or the same weight as a large mango. The baby can hear sounds clearly and may even respond to certain sounds. It goes on to say 'now is a great time to share your taste in music with your unborn baby' at 23 weeks.

For those reasons and others, I will not be supporting this amendment. I will also point out that SALRI does not particularly nominate a particular time of gestation, whether it be 22 weeks and six days or 24 weeks, so I am not obliged to support the amendment.

The Hon. R.I. LUCAS (Treasurer) (22:12): I rise to speak briefly. With great respect, I respectfully disagree with the views of the Hon. Mr Wade in relation to this particular issue. I agree with his position in opposing the amendment but disagree with his further explanation. As I outlined in my second reading explanation, I believe that the threshold established in this legislation to which we are now referring, that a second medical practitioner considers that the termination is medically appropriate, is a much lower threshold than the thresholds that currently exist within the legislation, albeit at different time periods.

I understand the Hon. Mr Wade's faith in the protocols and practices and conventions and booklets of SA Health, etc., in terms of the practices of medical practitioners, but as I outlined, I think, briefly in my second reading, my experience, with great respect to the medical profession, with all those practices, procedures and guidelines in relation to return-to-work legislation would leave me sceptical of the efficacy of many of these guidelines outlined by SA Health and indeed ethics committees and whatever else it might be in relation to the procedures of medical practitioners.

In saying that, let me acknowledge that the overwhelming majority of medical practitioners should not be judged by the actions of a limited few. As I seek to defend my own profession, in that the overwhelming majority of members of parliament should not be judged by the actions of a limited few, I say the same thing in relation to the medical profession. But one only needs, as we have seen in the return to work legislation over a period of time, a limited few in relation to being able to use these particular provisions. In particular, as the Hon. Mr Wade has indicated, it is possible that a second consultation could be by way of telephone consultation or the like. I remain concerned and leave my concerns on the public record for the passage of time to judge.

The Hon. S.G. WADE: I make a simple point: I never said 'trust the doctor'. As I said in my clause 1 contribution, we have a range of legislation that governs clinical practice, and the policies of SA Health operate under that. Of course, we need to hold doctors accountable, but I was responding to the Hon. Clare Scriven's point suggesting that one call was enough. That is not a fair representation of the way that health law and practice operates in South Australia.

The committee divided on the amendment:

Ayes 7
Noes..... 14
Majority..... 7

AYES

Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Maher, K.J.	Parnell, M.C.	Pnevmatikos, I. (teller)
Wortley, R.P.		

NOES

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

Amendment thus negatived.

The CHAIR: We remain on clause 5 and we now move to clause 5, page 4, lines 12 and 13, amendment No.1 [Lensink-1], but we also have an overlapping amendment from the Hon. Ms Pnevmatikos, amendment No. 2 [Pnevmatikos-1], in which I have a process from my assistants, the Clerks, by which we will deal with those overlapping amendments, but I call the Hon. Mr Wade.

The Hon. S.G. WADE: I move the amendment standing in the name of the Hon. Ms Lensink:

Amendment No 1 [Lensink–1]—

Page 4, lines 12 and 13 [clause 5(1)(b)(ii)]—Delete subparagraph (ii)

This amendment seeks to delete clause 5(1)(b)(ii) to remove the specification of a 63-day limit in relation to early medical terminations performed by registered health practitioners—that is, terminations caused by the administration or prescription of a drug.

Clause 5(1)(b)(ii) of the bill currently provides that an early medical termination performed by a registered health practitioner may only be performed on a person who is not more than 63 days' pregnant. The current specification of a 63-day gestational limit in clause 5(1)(b)(ii) is based on the current approved time limit for the use of the abortion drugs mifepristone and misoprostol, also known as MS-2 Step, as set by the Therapeutic Goods Administration.

Notwithstanding, it was submitted by a number of stakeholders that the approved time limits for the use of MS-2 Step have been extended by the TGA in the past, and it is likely that they will be extended again in the near future. These stakeholders include the Australian Nursing and Midwifery Federation (SA Branch), Marie Stopes Australia, Children by Choice, the Law Society of South Australia, the Human Rights Law Centre, the Public Health Association, SHINE SA and the South Australian Abortion Action Coalition.

It is noted that Marie Stopes health, which is the sponsor of the MS-2 Step in Australia, is currently in the process of reviewing its risk management plan with the TGA, with the intention of extending the use of MS-2 Step up to 70 days' gestation. Indeed, the United States Food and Drug Administration has already licensed the use of mifepristone up to 70 days' gestation. Stakeholders also argued that it is unnecessary to expressly prescribe a time limit for the use of termination drugs in these circumstances, as such limits will necessarily be established by the TGA in line with pharmaceutical advice.

As such, many stakeholders who were consulted on the bill recommended that this provision be removed from the bill to reflect potential further advancements in clinical evidence and evolving models of care in the future. In the absence of a specified limit in clause 5(1)(b)(ii), it should be noted that a registered health practitioner will only be authorised to administer or prescribe such drugs in accordance with the requirements set by the TGA.

Any registered health practitioner who sought to prescribe or administer such drugs in a manner inconsistent with those requirements for early medical termination would be acting outside the ordinary course of their profession and would be performing a termination contrary to the act. Such conduct may also lead to the registered health practitioner being subjected to disciplinary proceedings and/or civil or criminal proceedings.

It should be noted that this amendment would only affect terminations of pregnancy performed by registered health practitioners. This amendment does not impact on the ability of

medical practitioners to perform early medical terminations of pregnancy, which is provided for separately in clause 5(1)(a) of the bill.

The CHAIR: The Hon. Ms Pnevmatikos, would you like to move your amendment?

The Hon. I. PNEVMATIKOS: No, I will not be moving my amendment No. 2 [Pnevmatikos-1]. I will be supporting the amendment moved by the Hon. Michelle Lensink.

The Hon. C. BONAROS: I rise to indicate my support for this amendment, but in so doing will just reflect on what has just transpired, and do so without questioning the result of that vote or anything like that. But I just want to place this on the record, because I think what is abundantly clear, by virtue of the fact that we are having this debate, generally and in relation to this particular amendment as well, is that these matters take time. I would like to say that it is a process of baby steps, but I will not say that because in my firm view that is a term that has been used and over abused in this debate.

What I do suggest, however, is that once a review into the changes has taken place, and we have all realised that the sky has not fallen in and that doctors have not gone rogue, and that their ethical and professional responsibilities and obligations have not been thrown out the window, it is my view that there will be opportunity to reflect on further changes that could be made in line with some of the proposals that are being put tonight. I want to place that on the record because I think it is important that I do so, and in doing so also indicate my support for the current amendment that we are dealing with.

The Hon. N.J. CENTOFANTI: I rise to indicate that I will not be supporting this amendment. The Hon. Mr Wade indicated that the registered health professionals will only be acting under the guidelines of the TGA, and the TGA guidelines for the MS-2 Step currently say 'should only be prescribed by doctors with the appropriate qualifications and certified training'. With that in mind, I indicate that I will not be supporting the amendment of removing the 63 days because, quite frankly, I find the fact that we are allowing health practitioners to prescribe these medications concerning.

The Hon. T.A. FRANKS: I will be supporting the amendment. It will come as no surprise to the mover, given that I raised a concern that by locking ourselves into a 63-day time frame we are actually not following what may happen in the future with changes of different types of medication becoming available. It used to be RU486; we are now referring to MS-2 Step.

Now the TGA regulates the training required, the timing required and the other clinical requirements around this particular medication, and our bill reflects those particular requirements, but actually our act should reflect what the TGA determines, because medications come and go and the requirements will be properly regulated through the TGA.

I, for one, do not want to be back here in five years' time because we have locked in 63 days and the medication that is then currently being used is not reflective of the days that this parliament has just chosen, without any clinical reason to in the future.

The Hon. D.G.E. HOOD: I will not be supporting the amendment. The basic reason is that, if this amendment should pass, what it does is essentially move the law ahead of current medical practice. Yes, it allows for future changes, if you like, but I am reminded of the words of Robin Millhouse, as I mentioned before, that the doctors and lawyers (not all of them, of course, but some of them) had moved well beyond his intentions. I think that by removing the specific 63-day requirement in this legislation from the bill, we open that potential at least for it to be misused, and for that reason I cannot support it.

The Hon. T.A. FRANKS: Can I add, Chair, that the days may actually go down. They do not necessarily go up, and that is one of my concerns. If you have a medication on the market being used by medical professionals, the days and the other requirements should reflect that medication, not one particular medication that we currently use.

The Hon. I. PNEVMATIKOS: In relation to that, to put in a particular figure in terms of days does not appreciate changes that occur in terms of medical developments and innovation, and that is the reality. The current bill has functioned for 50 years. If we want the same, in terms of the bill having a long life, we should allow some flexibility there to take into account technological and

medical innovations. By eliminating the 63-day time frame, you can do that. I agree with the Hon. Tammy Franks that it may be that there are medications that actually reduce that time frame, not increase it.

The Hon. C.M. SCRIVEN: On that point of the Hon. Ms Pnevmatikos and the Hon. Ms Franks, if the current provision was to stay there, that would not prevent that. It says, 'on a person who is not more than 63 days pregnant', so if the timing was to reduce, that would not require a change.

The Hon. S.G. WADE: I just make the tangential point that we have had this legislation for 50 years. This parliament has not shown a great willingness to tweak it and keep it up to date. To highlight that point, I would make the point that early medical termination of pregnancy has been available in this state for 11 years.

This legislation is particular unsuited to that medical approach, yet this parliament only now is opening it. Let's not think that every time the TGA changes its guidelines we are going to rush into the parliament and consider whether we want to apply it in South Australia. I think we need to make sure that we are futureproofing this legislation in a way that supports good clinical practice.

Amendment carried.

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

Amendment No 2 [Scriven–1]—

Page 4, after line 15 [clause 5(1)(b)]—After subparagraph (iii) insert:

and

(iv) a medical practitioner has determined that the termination is safe; and

(v) the registered health practitioner—

(A) administers the prescription drug within 50 kilometres of a prescribed hospital; or

(B) gives the person a notice stating that the drug must be administered or taken within 50 kilometres of a prescribed hospital and identifying the location of each such prescribed hospital.

My amendment is to indicate that these types of terminations could only be done once a medical practitioner has determined that the termination is safe and the health practitioner administers the drugs or gives notice that it must be administered within 50 kilometres. The reason for the first part is to take into account the medical guidelines for these sorts of drugs.

According to guidelines, and I am referring to SA Health guidelines and also the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, it is important that a woman has an examination for cervical screening, STI swabs and, most importantly, an ultrasound to confirm viability and dates and to exclude multiple pregnancy, molar pregnancy and an ectopic pregnancy.

SA Health guidelines for the medical management of miscarriage, as it is called, which is using misoprostol, clearly state that:

> Access to 24-hour telephone advice and emergency facilities within 30 minutes of a woman's place of residence including O negative blood and surgical management are conditions of undertaking medical treatment of miscarriage. SAAS [ambulance service] membership is strongly advised.

Further, the publication from the Royal Australian and New Zealand College of Obstetricians and Gynaecologists about the use of mifepristone for medical abortions states:

> …up to around 5% of women will need surgical evacuation of the uterus for heavy or prolonged bleeding or for continuing pregnancy.

So there is either excessive bleeding or not all of the baby has been delivered, or perhaps none; and up to 5 per cent will need surgical evacuation. Under 'Staff and facilities for early medication abortion', up to 63 days, it states:

- The prescribing practitioner must supervise and take responsibility for arrangements for the entire process of abortion from administration of mifepristone through to confirmation of abortion and completion of follow-up including implementation of a contraceptive plan.

- These arrangements must include 24 hour access to specific telephone advice and—

And I emphasise this section—

support and to provision of surgical uterine evacuation or other interventions required for the management of complications, for example through on call arrangements or in an emergency department resourced to respond to women's health needs (such as required for miscarriage care).

- Where early medical abortion is offered suitable emergency care (in a service accepting this responsibility) should be available.

I emphasise again that that was a quotation from the Royal Australian and New Zealand College of Obstetricians and Gynaecologists about the use of this drug for abortion.

That kind of support—emergency support, emergency departments, the ability to access surgical uterine evacuation or other interventions—is often not available in many rural and regional areas. As a regional woman myself, I say it is not acceptable to present this as a solution for regional women when RANZCOG itself is saying that 5 per cent of women will need to have surgical evacuation of the uterus. This amendment will therefore improve the bill because it will ensure that abortion drugs are administered to a woman within approximately 30 minutes of her residence, which is the SA Health recommendation.

I acknowledge that the 50-kilometre requirement to be near a prescribed hospital is not perfect. Within 30 minutes of her residence, which is the SA Health guideline, is of course dependent on exactly where you live and the traffic conditions and so on. I acknowledge that it is not perfect, but it does at least acknowledge that you need to be within a short space of time of being able to access those services.

I think the Hon. Mr Wade mentioned in his contribution to clause 1 that many of these things are needed to deal with spontaneous miscarriage—ordinary miscarriage—and that women have spontaneous miscarriages more than 30 minutes from emergency care and that, of course, is true. The difference is that we know that mifepristone will cause miscarriage—that is the point of it; that is what the abortion is—and we know that 5 per cent, according to these documents, will require surgical evacuation of the uterus. So in this case we are managing a known risk rather than something we cannot know, which is in the case of a spontaneous miscarriage.

The argument will be raised that this can be left to the guidelines. That is not the view of many medical practitioners who are firmly of the view that such important matters do need to be in legislation. In fact, they have written to the AMA to object to the bill, and specifically to this part. There are 54 doctors who are signatories to the letter, most working in women's health, including obstetricians and gynaecologists. I will read an extract from that letter. It states:

We draw your attention to the unacceptably high risk to which pregnant women living in rural and regional areas of the State will be subjected through the application of an EMA [early medication abortion] through tele-abortion and by permitting non-medical health practitioners to have prescribing rights. If 'safety' is defined in terms of maternal mortality (death rate) and morbidity (ie the complication rate), then Early Medication Abortion (EMA) is less safe then early surgical abortion.

The literature indicates that up to eleven times as many women die from early medication abortion compared with early surgical abortion, and EMA has a higher infection-related mortality than live births or abortions at all gestations. For every death from EMA, there are 70 reported (and up to 700 unreported) severe and life-threatening adverse events from complications such as severe bleeding, serious infection…and ruptured ectopic pregnancy. Early medication abortion in SA is 9.2 times more likely to fail than surgical abortion and 4.9% of women require a D&C. Compared with surgical abortion, EMA has a four to seven-fold higher overall complication rate.

Women in rural and remote areas are at greater risk of complications from EMA than women in built-up areas due to:

1. The non-availability of pre-treatment blood screens, clinical examination for cervical screening and STI swabs, and ultrasound to confirm viability and dates, and to exclude multiple pregnancy, molar pregnancy and an ectopic pregnancy.

2. There being no post-treatment access to a hospital providing vacuum aspiration to complete the abortion or for the control of haemorrhage.

Support for access to 24 hour emergency care for women receiving mifepristone and misoprostol comes from guidelines approved by Therapeutic Goods Administration and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists.

> As you know, the medical management of miscarriage as per the SA Perinatal Practice Guideline lists no immediate access (>30 minutes) to emergency facilities as an exclusion criterion. On page 12, the Guideline stipulates that 'access to 24-hour telephone advice and emergency facilities within 30 minutes of a woman's place of residence, including O negative blood and surgical management, are conditions of undertaking medical treatment of miscarriage.'

That is the end of the quote from the letter. I note that the Hon. Mr Wade talked about Marie Stopes giving advice that being within two hours was appropriate, which is in contrast to these particular guidelines, the SA Perinatal Practice Guidelines. The doctors who wrote to the AMA also said:

> The Bill should be amended to mandate that access to 24-hour telephone advice, and emergency facilities within 30 minutes of a woman's place of residence, including O negative blood and surgical management, are conditions of undertaking Early Medication Abortion.

That is the view of those 54 medical practitioners who have written to the AMA. I am sure there are many others, but they are the 54 who have written. Knowing that they are working within the health systems, both public and private, they do not consider that this should be left simply to guidelines and practice.

They are of the view that it should be in the legislation, and I think the Hon. Mr Hood has made very valid points, in that the intent when the law was passed for the current abortion legislation back in 1969 was well exceeded in the last 50 years. Doctors and lawyers went much further than we expected, as Mr Hood quoted Mr Millhouse.

This amendment would go some way to meeting those criteria that doctors have asked for. I would suggest that, since they are currently in all of these guidelines, which we are told underpin the practice of abortion in the state, if they are already there, there is no problem in having them in the legislation.

As I say, I do acknowledge that a 50-kilometre limit is not the perfect option in terms of trying to manage within 30 minutes of a woman's place of residence, but it does go some way towards meeting those criteria and certainly far more than the current version of the bill would do.

The Hon. J.M.A. LENSINK: I will leave the comments in relation to the specifics of the safety guidelines and the like to the Hon. Mr Wade. In relation to the letter that the honourable member has quoted from, my understanding from my discussions with the AMA is that it has been written by a member who has recently rejoined the AMA.

The Australian Medical Association in South Australia has some 1,300 members and my understanding is that, while the letter and its alleged signatories may well be published in tomorrow's paper, not all of the names who are associated with that letter were necessarily asked their permission to have their names published.

The CHAIR: I will go to the Hon. Mr Wade unless that is particularly relevant.

The Hon. C. BONAROS: I have a question for the mover of the amendment.

The Hon. C.M. SCRIVEN: I will perhaps just respond to the Hon. Ms Lensink first. Would you be willing to accommodate that, Ms Bonaros?

The Hon. C. BONAROS: Sure.

The Hon. C.M. SCRIVEN: I would like to correct the Hon. Ms Lensink. The letter was authored specifically by three people and then the remaining medical practitioners were apprised of the contents of the letter and they agreed to be part of that.

One of the authors has been a member of the AMA for many decades and has resigned on several occasions partly because of the lack of action by the AMA on protecting doctors on these sorts of matters. Interestingly, a number of other medical practitioners who are signatories to the letter have also resigned at various times because they feel the AMA is not supporting them in the way that it should.

Nonetheless, all of the aspects that are raised in the letter that I quoted are in regard to current guidelines and requirements in those other documents—the SA Health guidelines and the RANZCOG guidelines.

The Hon. C. BONAROS: I am glad I gave a member the opportunity to clarify. Can the minister also tell us if she has details of the total number of medical practitioners in South Australia?

The CHAIR: The Hon. Ms Scriven has just been promoted, but I will allow you to answer.

The Hon. C.M. SCRIVEN: Yes, apparently I am the minister now. No.

The Hon. C. BONAROS: And would the minister—I am really promoting you—would the member be surprised to learn that there are more than some 8½ thousand medical practitioners in South Australia?

The Hon. C.M. SCRIVEN: No, of course I am not surprised to learn that that might be the number. The relevance is that there are many medical practitioners who are saying that it is not sufficient to have these things only in the guidelines and that they do need to be in legislation. They obviously feel that that is necessary both for their own protection and also for better policy in the state, because doctors and lawyers sometimes do go beyond what is expected, and they are of the view—and I am led to believe there are others—that it would be best put into the legislation.

The Hon. C. BONAROS: Given that we have 1,300 members of the medical profession who have signed up to the AMA, and the AMA as a representative body has indicated its overwhelming support for this bill, and given that we have some 8,500, 8,800—I am not even sure of the precise figure—would the member not expect there to be more than 54 doctors who would sign up to a letter opposing these provisions?

The Hon. J.M.A. Lensink: And they're not all South Australians.

The Hon. C.M. SCRIVEN: I heard the interjection that they are not all South Australian. My understanding is that the 54 doctors are all South Australian, and then there are other doctors in addition to those 54 who also put their names to the letter—doctors from other states who have no doubt experienced difficulties in the legislation that is present in those other states. But I think the honourable member's question is: do I think more would have signed? Yes I am sure; that is quite possibly so—

The Hon. C. Bonaros: Fifty four out of 8½ thousand.

The Hon. C.M. SCRIVEN: I would ask the member herself: is she aware of whether the AMA surveyed all of its members before coming out and saying it supported this bill?

Members interjecting:

The CHAIR: I did have the Hon. Ms Pnevmatikos on her feet.

The Hon. I. PNEVMATIKOS: Just a question for the mover of the amendment—

Members interjecting:

The CHAIR: Order! We will not have a conversation across the chamber. The Hon. Ms Pnevmatikos has the call.

The Hon. I. PNEVMATIKOS: The Hon. Clare Scriven, as a representative of rural South Australia, how does the member envisage that this amendment is going to assist women in rural and remote areas? I raise that in terms of some of the consequences that can occur with this 50 kilometre requirement in terms of stress being placed on women, the need for them to locate accommodation, the undue financial burden that this will place on rural and remote women, the economic restrictions, not to mention those that are victims of domestic violence and who are in remote locations.

The Hon. C.M. SCRIVEN: My answer is that it will help them because it will keep them safe. The requirements under RANZCOG, under SA Health guidelines, is that women should be within 30 minutes of emergency facilities. So if they are not within 30 minutes of emergency facilities, they are not safe. So that is how it would help regional women.

The Hon. S.G. WADE: I do not want to engage too much in the AMA debate, but what I would simply say in relation to that is that the AMA is no different from the South Australian community. There is a diversity of views, a diversity of moral frameworks in relation to abortion, but for 50 years the South Australian community has operated on the basis of a broad consensus, which any one of us may not feel comfortable with, but this parliament has not seen fit to change that legislative framework.

For those of us who agree with the legislation and those of us who disagree with the legislation, the fact that we would not make a choice under a piece of legislation does not mean that other people should not be able to make that choice. Whether it is 54 out of 1,300 AMA members who do not support the legislation, in a pluralist society it is somewhat irrelevant. I would also like to reiterate the point we made in clause 3, that this is a test clause for this particular issue.

The amendment provides that in addition to the requirements already set out in the bill, terminations may only be performed where a medical practitioner has determined that the termination is safe and the registered practitioner has either administered the prescription drugs within 50 kilometres of a prescribed hospital or given the person a notice stating that the drug must administered, or taken within 50 kilometres of a prescribed hospital, and identifying the location of each such prescribed hospital.

The amendment adds an unnecessary layer of complexity by requiring that a medical practitioner must determine that the termination is safe before a registered health practitioner can administer a prescription drug. It was an express recommendation of SALRI that the performance of an abortion should not necessarily be confined to a medical practitioner but should, where appropriate, be able to be undertaken by a health practitioner. It was observed that the current restrictions in this regard have served to impede and restrict equitable and effective regional, rural and remote access.

In particular, SALRI noted the importance of the evolving clinical landscape in this space and the need for any legislation to have sufficient flexibility to accommodate changes in clinical practice and procedure. The safety of a termination is a fundamental consideration of quality clinical practice exercised by all registered health practitioners. In addition, the distance from an emergency facility is always a consideration of the treating health practitioner who makes a judgement on the risks involved.

There are further clarifications in the MS-2 Step guidelines and for hospitals only within the SA perinatal practice guidelines in relation to proximity to hospitals. I respectfully submit therefore that the medical and clinical protocols and procedures should remain in the hands of the drug and health professionals who administer medical termination, rather than within the body of law, as suggested by the proposed amendment.

It is also observed that it was the prevailing view from professional health bodies and health practitioners that current health law and regulations, policy and clinical guidelines are sufficient to ensure that health practitioners are only involved in abortion procedures to the extent that is appropriate considering their qualifications, experience and scope of practice. The bill reflects this position by ensuring that early medical terminations may only be performed by those health practitioners who are suitably credentialled and qualified within the ordinary scope of their practice to administer such drugs and in accordance with the regulations.

More generally, it is noted that there are some aspects of the amendments that are likely to be unenforceable in practice. For example, there is no obligation for the woman to comply with the requirements of the notice. Relevantly, there would be no consequences in the event that a woman chose to take medication in a location which is more than 50 kilometres from a prescribed hospital. Similarly, there will be no penalties for a registered health practitioner in the event that the woman does not comply with the notice, as the practitioner's obligations under the provisions would only require that the practitioner provide the patient with the relevant notice.

As such, while the intention of the amendment is to enhance protections to ensure the safety of women in the event of complications associated with early medical termination, the amendments as drafted do not ensure that this will in fact actually occur in practice. It is therefore considered that the proposed amendment is unnecessary in the circumstances. Given the technical nature of the issues that this amendment raises, I seek the support of the council to have an adviser on this issue.

The CHAIR: It is unusual to have advisers even in the box for what is a private member's piece of legislation. However, I have considered the potential for the debate to be facilitated—to be assisted, I think, in its facilitation—by having that at a complex stage, so I am willing to allow you to have an adviser sit next to you if you are in the Treasurer's position.

The Hon. S.G. WADE: Thank you, Mr Chairman.

The Hon. N.J. CENTOFANTI: I ask the Hon. Mr Wade a question: given that health practitioners who are not doctors do not have the same degree of medical training as doctors, would they be held to the same standards with regard to negligence as a medical practitioner would usually be under this legislation?

The Hon. S.G. WADE: I am advised that the whole range of health practitioners are subject to professional registration. AHPRA has a range of health professions that are registered by them, and AHPRA is itself governed by states and territories, including the state of South Australia.

Under the registration process you are required to have professional indemnity insurance, whether you are a doctor or a nurse or the like, and health practitioners would need to act both within the professional registration framework of AHPRA but also in accordance with the scope of practice of the credentialling of the health setting in which they work.

The Hon. D.G.E. HOOD: I support the amendment. The reason is fairly straightforward, and that is that I understand that the Royal Australian and New Zealand College of Obstetricians and Gynaecologists recommend in the use of these medications that the patients, if you like, are within 30 minutes of a treatment facility. This amendment mentions 50 kilometres on a country road—50 kilometres of travel is roughly 30 minutes—so I think that might be where the mover is coming from with that. I think we need to be honest and acknowledge that these drugs are not without risk.

In fact, my understanding of the actual label of the drugs is that they acknowledge a 5 per cent complication rate, which is one in 20 women, and that is not insignificant. I think we need to be careful. As someone who comes from the pharmaceutical industry originally, I can assure you that not all medication is harmless; side effects are real. This particular medication has been associated with some very serious side effects over time, and I think it would be prudent of us to put in place steps that would help protect that one in 20 woman who will be affected adversely by this drug, according to the manufacturer's own statements.

The Hon. I.K. HUNTER: I accept the mover of the amendment's assertion that, in moving the amendment, she wants to provide a level of protection for women, particularly in rural and regional South Australia. However, I am persuaded by the Hon. Mr Wade's comments that in fact the amendment will do no such thing, that the amendment is without effect, that there is no sanction involved in the amendment, that there is no mechanism for enforcing the intent of the amendment and, indeed, that the woman, once provided with the drugs, can decide for herself where she actually takes those drugs. In that respect, I think it is rather pointless to have an amendment that sets out an intention but in fact cannot deliver on it, so I will be opposing it.

The Hon. C.M. SCRIVEN: I have a couple of things. First of all, I think clause 13 covers what the Hon. Mr Wade raised, conduct and performance of registered health practitioners. That is referring to someone who is involved in an abortion in a way other than in accordance with this act, which would include that change if this amendment passes.

I would also like to query the Hon. Mr Wade's previous answer that was in response to the Hon. Dr Centofanti. My understanding was that the Hon. Mr Wade said that essentially there would be liability and responsibility and accountability for whoever was prescribing to the same level as a medical practitioner. Was that my correct understanding of what the Hon. Mr Wade said?

The Hon. S.G. WADE: No, I would characterise that as a significant misrepresentation of what I said. What I said was that health professionals are professionally registered within their scope of practice and within that professional registration they have professional indemnity insurance.

The Hon. C.M. SCRIVEN: Thank you for that clarification. There were people talking and it was a little bit difficult to hear. I would just point out that clause 13(4) says that any duty for a registered health practitioner has to comply with professional standards and guidelines that apply to health practitioners, so I think the implied query that the Hon. Dr Centofanti raised was that if there was someone other than a medical practitioner prescribing that raises problems of liability, potentially, where something goes wrong.

The Hon. S.G. WADE: With all due respect, my understanding is that the Hon. Clare Scriven is drawing an inappropriate parallel with medical management of miscarriage. In the South Australian

Perinatal Practice Guidelines, the 30-minute limit relates to the medical management of miscarriage. It is our understanding that that is also the case in relation to RANZCOG.

Medical management of miscarriage is significantly different from early termination of pregnancy. Medical management of miscarriage involves pregnancy that is non-viable, and the foetus has passed away but pregnancy products remain inside the uterus. In this setting, women are more sensitive to both mifepristone and misoprostol and as such are much more likely to bleed, compared with the use of those medications in the context of a termination of pregnancy where the foetus remains viable.

Hence, the practice recommendations around 30-minute access to hospital facilities are in the setting of medical management of miscarriage. These recommendations are not relevant in the setting of termination of pregnancy via early medical termination MS-2 Step. The protocols produced by Marie Stopes International do not specify either a time frame or a distance from hospital.

The Hon. N.J. CENTOFANTI: I rise to indicate that I will be supporting this amendment. The TGA website, under the definition of prescription medicines, states:

> You need a doctor's prescription to buy prescription medicines from a pharmacist. Otherwise, only authorised health care professionals can supply them, such as in a hospital setting.

I think this statement alone should be evidence enough for every member in this house to support the Hon. Ms Scriven's amendments to this clause.

I would like to emphasise the term 'supply' in this passage. Authorised healthcare professionals can only supply, not prescribe, prescription medicines. This must be done by a medical practitioner for the safety and quality of health services in South Australia. What clause 5(1)(b) allows for is a health practitioner, other than a doctor, to be able to prescribe abortion medication without the need for safeguards and completely ignoring the TGA's very own definition and advice. So I think that this is a fundamental flaw in the proposed legislation that we can correct here today and I think that, if we do not, then we will be negligent in our duty as elected lawmakers.

Currently, pharmacists and nurse practitioners dispense a wide range of medications that have been prescribed by a doctor. Medications such as antibiotics, heart medications and other medications to treat various other medical conditions, but what they cannot do in any of these and a magnitude of other situations is prescribe these medications themselves. These medications are prescription medications and have serious side effects.

It is critical for the health of these women, particularly those in rural and regional areas, that these medications are given only once a medical practitioner has deemed it safe to do so and, essentially, has prescribed these medications. I believe it is also critical that these medications are given within 50 kilometres or half an hour to an hour's reach of a prescribed hospital in the case of an emergency, which can include a severe haemorrhage requiring an emergency blood transfusion or an incomplete abortion which has the potential to cause sepsis. Both of these situations can therefore lead to death if left untreated.

As the Hon. Ms Clare Scriven has pointed out, the Minister for Health and Wellbeing stated in his contributions in clause 1 that side effects to MS-2 Step are no different to a miscarriage. I respectfully disagree with this position. Miscarriage is an unforeseeable process, the same as a heart attack or any other serious acute life-threatening emergency.

In stark contrast, serious acute life-threatening side effects of any medical abortion are completely foreseeable. We all know the risks. In fact, the risks of side effects of medical abortions are 10 per cent higher than that of surgical abortions. Therefore, I think it is absolutely essential that this legislation provides framework about these standards if we are going to allow people who have not undergone a medical degree, not only to dispense but to be able to prescribe these early abortion medications.

The Hon. S.G. WADE: Just to put to bed the suggestion that under the current law only medical practitioners can prescribe medications, I would refer honourable members to the Controlled Substances Act 1984, section 18—Regulation of prescription drugs, which states:

> A person must not prescribe a prescription drug (not being a drug of dependence) except as follows:

(a) a registered health practitioner may prescribe a prescription drug (not being a drug of dependence) for a person if he or she is acting in the ordinary course of the practitioner's profession and—

(i) the practitioner is a dentist, medical practitioner or nurse practitioner;

or

(ii) the practitioner's registration is endorsed under section 94 of the Health Practitioner Regulation National Law…or

(iii) the practitioner is authorised to prescribe the drug by the regulations;

It goes on. There is already a framework for health practitioners, other than medical practitioners, to prescribe drugs. I hasten to add that only medical practitioners can currently prescribe MS-2 Step medications and this legislation would not change that situation.

The Hon. C.M. SCRIVEN: Could the Hon. Mr Wade explain that final comment that medical practitioners currently are the only ones who can prescribe this medication and that that would not change under this legislation? Could he explain why that is the case?

The Hon. S.G. WADE: I hasten to add I was talking in the context of early medical termination of pregnancy. I am advised that only medical practitioners can prescribe MS-2 Step drugs for early medical termination.

The Hon. N.J. CENTOFANTI: Can the minister then tell the chamber who will be authorised to prescribe MS-2 Step in the event that this legislation does pass?

The Hon. S.G. WADE: I am advised that what this bill does is set up a framework so that if, in the future, the Therapeutic Goods Authority were to expand the scope of practice, we would have a mechanism to allow that to happen. In relation to a particular registered health profession, I respectfully suggest the most likely is nurse practitioners.

If the scope of practice of nurse practitioners were to be expanded, the TGA would provide clarity in terms of the expansion of the scope of practice, but also in South Australia the practitioner would need to be authorised to prescribe the drugs by regulation under the Controlled Substances Act section 18(1)(iii). In that context, this parliament would then have the opportunity to disallow those regulations.

If the TGA thinks it a good idea for nurse practitioners to be able to prescribe MS-2 Step medications this parliament, through regulations, would have an opportunity to express a view on that. I think that is a good, clinically-based framework for the well-considered expansion of the scope of practice with, also, oversight of the parliament through the regulations.

The Hon. N.J. CENTOFANTI: Is the minister saying that we are creating laws for situations that have not yet occurred?

The Hon. S.G. WADE: I am very keen that this legislation can have responsible futureproofing. We only deal with this legislation once every 50 years.

The committee divided on the amendment:

Ayes 9
Noes..... 12
Majority..... 3

AYES

Centofanti, N.J.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Ngo, T.T.	Pangallo, F.
Ridgway, D.W.	Scriven, C.M. (teller)	Stephens, T.J.

NOES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.

NOES

Lensink, J.M.A.	Maher, K.J.	Parnell, M.C.
Pnevmatikos, I.	Wade, S.G. (teller)	Wortley, R.P.

Amendment thus negatived; clause as amended passed.

Clause 6.

The Hon. N.J. CENTOFANTI: I move:

Amendment No 2 [Centofanti–1]—

Page 4, lines 24 to 27 [clause 6(1)(a) and (b)]—Delete paragraphs (a) and (b) and substitute:

(a) the medical practitioner considers that, in all the circumstances—

(i) the termination is necessary to save the life of the pregnant person or save another foetus; or

(ii) there is a case, or significant risk, of serious foetal anomalies associated with the pregnancy that are incompatible with survival after birth; and

(b) a second medical practitioner is consulted and that practitioner considers that, in all the circumstances—

(i) the termination is necessary to save the life of the pregnant person or save another foetus; or

(ii) there is a case, or significant risk, of serious foetal anomalies associated with the pregnancy that are incompatible with survival after birth; and

(c) the termination is performed at a prescribed hospital.

I spoke at length about my reasons for this second amendment in my second reading speech. This amendment seeks to narrow the circumstances in which a termination can occur after 22 weeks and six days to allow for situations where it is medically necessary, rather than the current wording of 'appropriate'. I seek to define the situations where it is medically necessary rather than leave the interpretation open to individuals, as in the case of the existing legislation with the term 'medically appropriate'.

The amendment allows for termination of a pregnancy after 22 weeks and six days after two medical practitioners have consulted and believe that in all the circumstances the terminations are necessary to save the life of a person, life of a foetus or in the case of serious foetal anomalies that are incompatible with life.

As I mentioned in my speech, I understand that there are some heartbreaking situations that can occur when exceptional medical circumstances mean a child may pass away in the womb or soon after birth because of a severe, often genetic, anomaly, or another circumstance where the mother may discover she has a certain type of cancer and must undergo chemotherapy at, say, week 23 of a pregnancy to save her own life, or in the situation of twins, where the health of one twin may significantly impact that of another. In these circumstances, I believe that termination of a pregnancy needs to be considered and an option.

As the Treasurer pointed out in his second reading speech, different doctors have the potential to interpret the legislation in different ways. Whilst this number may be small, I do think we need to be quite specific with this legislation to ensure we do not share the same regrets that the late Hon. Mr Millhouse did when he said the doctors and lawyers interpreted the legislation too widely. I think these specific situations I have outlined speak for themselves.

The Hon. I. PNEVMATIKOS: This amendment implies that you have no trust in the medical practitioners, their codes of conduct, codes of ethics and the general governance of medical practitioners. So can you be certain that with the amendment you propose you have set out provisions for the best possible health care to be available to all women seeking an abortion? And further, what makes you more qualified than medical practitioners to dictate when an abortion is or is not appropriate?

The CHAIR: I will just remind the Hon. Ms Pnevmatikos that she should refer through the Chair, but I will give the Hon. Dr Centofanti a chance to respond.

The Hon. N.J. CENTOFANTI: I thank the honourable member for her question. As members are aware, this is a conscience vote, and consequently these amendments are my contribution to the debate and an indication as to where I feel the line should be drawn regarding legislation on late-term abortions. Other members are entitled to their opinions. I also feel that we do need to allow for situations when it may be required, but we also need to protect the situations where it is not required.

The Hon. I. PNEVMATIKOS: Whilst I appreciate it is a conscience vote, it does not mean that we should be making legislation on the basis of whim. There should be some scientific basis for why we are making the legislation that we are making, because we are relying on health issues. There are no credible resources that support the amendments that you propose. It runs contrary to the recommendations provided by SALRI. So I am asking you, through the Chair, which specific groups or people did you consult to reach this amendment?

The Hon. N.J. CENTOFANTI: I thank the honourable member for her question. I would suggest that my amendments are based on science and medicine. I have outlined the situations where it is medically necessary, in a number of situations, for health practitioners and women and mothers to have the option of an abortion.

As I stated earlier, in putting my amendment forward, what I am doing is seeking to narrow the circumstances in which a termination can occur post 22 weeks and six days, to allow for situations when it is medically necessary, and defining the situations when it is medically necessary rather than leaving the interpretation open.

The Hon. C. BONAROS: I have a question for the mover. The SALRI report refers to the fact that abortions occurring later in gestation are especially likely to involve complex medical circumstances, including serious or fatal foetal abnormalities—including where a prognosis is uncertain or the foetus is one of a multiple pregnancy, as I think the member referred to—or complex personal circumstances, including late recognition of pregnancy, delayed access to services, social and geographic isolation, domestic or family violence, socio-economic disadvantage or even mental health issues.

One of the factors that often results in a late-term abortion is rape. The example given to illustrate this is a case involving a minor with an intellectual disability who became pregnant as a result of sexual abuse by a family member. Given her intellectual disability, she was unable to appreciate or understand her pregnancy until she was at a late gestational stage. When her situation became known, the girl was clear that she did not wish to proceed with her pregnancy and a late-term abortion was carried out. The severe and adverse effects on her had she continued with the pregnancy were noted as the reasons for this.

My question to the mover is: does she consider this medically necessary or medically appropriate, and does she also accept that, in this instance, a young person with a mental disability—who is not able to comprehend the nature of the condition that she finds herself in and is not able to understand that, at a very late stage, she is actually carrying a foetus—would potentially not have access to an abortion, to her detriment?

The Hon. N.J. CENTOFANTI: I thank the honourable member for her question. In that situation, I would be asking: where was the support for this young girl and why did she get into this situation?

The Hon. C. Bonaros: It is irrelevant.

The Hon. N.J. CENTOFANTI: Well, I do not think it is irrelevant.

The Hon. C. Bonaros: Are you going to force her, make her have it, give birth?

The CHAIR: Order!

The Hon. N.J. CENTOFANTI: I do not believe it is irrelevant.

The CHAIR: Order! There is an honourable member on her feet.

The Hon. N.J. CENTOFANTI: I think it comes to the real point of the matter. I think we really need to look at the support structure around these situations. I would also argue to the member that my amendment potentially allows for this situation. If the medical practitioner considers in good faith that, in all the circumstances, a termination is required to save a woman's life, then he or she is acting within the scope of the legislation.

The CHAIR: I know the Hon. Mr Wade was going to make a contribution. I will let the Hon. Ms Bonaros respond to that, then I will come to the Hon. Mr Wade and the Hon. Ms Scriven.

The Hon. C. BONAROS: I would like to know if the member is honestly asking us to accept that a failure of the support systems around a young person with a disability who has been raped by a family member and cannot understand the consequences of that—something that the SALRI report said was far from uncommon in practice—would be a reason to say that that young person should have to go through that pregnancy, knowing the implications that will have.

The Hon. N.J. CENTOFANTI: I refer the member to my earlier answer, in that I said I believe that my amendment actually allows for that situation.

The Hon. C. BONAROS: Sorry, I would like to know which part of the termination that is necessary to save the life of the pregnant person or save another foetus does what you are saying it will do.

The Hon. N.J. CENTOFANTI: If the medical practitioner considers in good faith that this young person's—

The Hon. C. Bonaros: Life is at risk.

The Hon. N.J. CENTOFANTI: —life is at risk—

The Hon. C. Bonaros: And what if their life is not at risk? What if it is just going to damage—

The CHAIR: We are not having a conversation here.

The Hon. N.J. CENTOFANTI: I refer the member to my original answer.

The Hon. C. BONAROS: My question is: are we talking about a situation where her life is at risk because of the pregnancy and, irrespective of whether the life is at risk because of the pregnancy, is the member actually suggesting that if a young person were to take their life as a result that her amendment goes far enough to deal with those instances? Which one is your amendment aimed at?

The Hon. N.J. CENTOFANTI: I refer the member to my original answer.

The CHAIR: I am going to go to the Hon. Mr Wade now.

The Hon. C. BONAROS: Well, Chair, I have questions about the amendment.

The CHAIR: You have had several questions. I will come back to you. I am going to go to the Hon. Mr Wade.

The Hon. S.G. WADE: The amendments proposed are directly contrary to the SALRI report, which expressly recommended that there should be no specified criteria for when a later term termination may be performed. The issue of gestational limits and specified criteria for later term abortions was considered at length by SALRI. While SALRI acknowledge there were divergent views on the role and value of specified criteria, it ultimately found that there is no merit in specifying criteria as to when abortion should be permitted. Notably, SALRI stated:

> Any such criteria will undermine the crucial autonomy of the woman. It has the inevitable effect of transferring the decision-making from the patient to the medical practitioner, a role that many medical practitioners told SALRI in consultation that they neither welcomed nor felt equipped to undertake.

Of specific concern are the proposed amendments which would limit the availability of later term abortion in circumstances concerning serious foetal anomalies. In particular, it is unclear what would constitute a serious foetal anomaly which is, to quote the amendment, 'incompatible with survival after birth'.

For example, this may be obvious in the case of a fatal condition of a foetus, which means that regardless of the level of medical treatment administered it is inevitable that the child would

degenerate and pass away soon after its birth; however, the application of this test becomes less clear in circumstances where, although the foetus has a serious congenital condition which will result in extremely low quality of life, their condition may not necessarily be incompatible with survival after birth. As such, adopting the proposed amendments in these extremely difficult circumstances would only serve to have the effect of removing the choice for parents to make the best decision for the child and their family.

The time frame for what constitutes survival after birth is also ambiguous. For example, it is unclear whether this means simply a matter of hours or it could mean days or even months. It is also worth noting that the proposed amendments would create a more restrictive model for later term abortions than the current law, which presently allows for terminations to be carried out up to 28 weeks where two medical practitioners consider the termination is immediately necessary to save the life or to prevent grave injury to the physical or mental health of the pregnant woman.

As asserted by SALRI, it is unhelpful and arbitrary to draw a line about which later term abortions are justifiable and those that are not. The evidence from SALRI is that the decision to terminate a pregnancy, whether early on or at a later stage, is always difficult. The bill recognises this reality and seeks to achieve an appropriate balance by creating a model for later term abortions which is based on what is medically appropriate in all the circumstances for all the parties involved. I will therefore be opposing the amendment.

The Hon. C.M. SCRIVEN: I will be supporting this amendment. Something that has not been mentioned so far in the consideration of this amendment is that the 22 weeks and six days is what is considered viability, so when a baby can be delivered and have a reasonable chance of survival.

Obviously, the later it goes past that 22 weeks and six days the greater the chance of the baby being born without significant disability, and the less medical intervention that would be required. Essentially, this amendment is saying that, up to the time a baby could be born and have a good chance of survival, the abortion will simply be for any reason really, given the emphasis on the autonomy of the woman, but after that time it is different. After that time, many people will acknowledge that a child that can live independently of its mother has some rights.

After that time, if the amendment was to pass, it would only be for very serious situations that involve saving the life of the pregnant person, to save the other foetus or in terms of serious foetal abnormalities that are incompatible with survival after birth. That is the difference, and that is why it should be different, because after that time the baby has a chance of living independently of the mother. So in that tragic situation the Hon. Ms Bonaros mentioned, that baby could have been delivered and cared for by someone other than the biological mother, and been given the best chance to survive.

It may be that if the child was delivered very early it would not have survived, so that would be the same outcome as an abortion. We need to remember that, regardless of whether it is done through delivery or abortion, either way the baby needs to be delivered in some way. I do not particularly want to go into the detail of how some late-term abortions are done because it is very graphic and very difficult to hear. I know that some people feel that, if it is going to be done, we should hear about it. I am not intending to go into that in my contribution tonight, but either way the baby has to be removed in some way. Why can the baby not be removed alive and be given the best chance of survival?

In the very sad circumstance the Hon. Ms Bonaros mentioned, that baby could be offered for adoption, which we know is not a perfect solution, but from that baby's perspective I think it is likely to be a better one, in that the baby's life would not have been ended. In terms of the actions in relation to the Hon. Dr Centofanti's comments about the support, this comes back to comments I made in my second reading speech. When a woman has difficult circumstances, the answer is not to say that your only choice is to end the life of the child you are carrying in the womb, especially when that life is capable of surviving outside the womb. That is not dealing with the complex and difficult circumstances a women is facing.

That is where we need to be rethinking our approach, that somehow abortion is solving problems; often abortion is ignoring the problems and not coming up with a solution. As I said in my

second reading speech, the very fact that women are offered abortion supposedly as the solution gives excuses to our society not to provide real, ongoing solutions. I have some other contributions on this clause, but I wanted to place those comments on the record.

The Hon. C. BONAROS: I want to go back to the same point I was making earlier, and that is that on the plain reading of this amendment I could say 'any lawyer in this room', but I think it is clear to any person capable of interpreting legislation in this room that the intent of the amendment being proposed by the mover clearly means that the saving of the person's life is intrinsically linked to the pregnancy itself.

The suggestion I have made that this amendment could somehow be used in the case of the risk of somebody taking their own life, as opposed to being at risk of losing their life as a result of the pregnancy, of carrying the foetus, is one that warrants an explanation by the member. If the member does not know the answer, I suggest she make that clear, but I am disturbed that we would place information like that on the record when, clearly, on reading this amendment, there is no way that the scenario that I have outlined would be covered under the interpretation given to us by the member.

The Hon. N.J. CENTOFANTI: I thank the honourable member for her question. We have had lots of commentary tonight about being able to trust the health professionals. I again go back to the amendment, which states:

> (a) the medical practitioner considers that, in all the circumstances—
>
> (i) the termination is necessary to save the life of the pregnant person or save another foetus; or
>
> (ii) there is a case, or significant risk, of serious foetal anomalies associated with the pregnancy that are incompatible with survival after birth…

The Hon. C. BONAROS: Given the case that I am putting to you, it is fine to say that perhaps we have made a mistake, but there is a big difference between this being a case of medically necessary or medically appropriate. It is very clear that this would not fall within the category that you have suggested it would fall. In the instance that I have outlined, this young woman would not fall within the grasp of this amendment.

The Hon. I. PNEVMATIKOS: I will not be supporting this amendment. I oppose this amendment. In essence, it is a life or death amendment that narrows the options and the choices available and ignores the complexities that can occur and the various permutations that can occur that are not necessarily life or death. The example the Hon. Connie Bonaros gave of the disabled girl who was the victim of incest and rape would not fit within this category of this amendment. It is far too narrow and restrictive as it reads. It is life or death; no other option.

The Hon. D.G.E. HOOD: I will be supporting the amendment, and there is a number of reasons why. I cannot speak for the Hon. Dr Centofanti, but I imagine the reason that she has landed on 22 weeks and six days is because that is what it actually says in the bill. That is one of the markers, if you like, that is set in the bill as a marker of determining a period in the bill where it says one doctor is required to approve the abortion and after that two doctors are required. I think that is not an unreasonable thing to do. I cannot speak for the Hon. Dr Centofanti, but it seems to me that she has chosen to lower the bar, if you like, which I am inclined to support.

Another thing is that the Hon. Ms Scriven said—and I think the obvious point is—that that is generally considered to be the age of viability. There is some debate on that, but I think that is broadly accepted as the age of viability, and I presume that is why the Attorney used that particular marker, if you like, as that stage of gestation in the bill when she was originally drafting the bill. I understand that she consulted widely and that was the medical advice given to her. I can only accept that.

There are going to be circumstances that are incredibly difficult when you are dealing with a matter like abortion, and I have empathy. I presume that is a real case or is it hypothetical?

The Hon. C. Bonaros: No, it is a real case. It is one of a number of real cases.

The Hon. D.G.E. HOOD: A real case that the Hon. Ms Bonaros has outlined. There will be some, and it is terribly unfortunate, but ultimately it comes down to a philosophical decision of what is the right thing to do in those circumstances? That is what we all need to grapple with. In my view, I think there needs to be an upper gestational limit on abortion in almost all circumstances, because

I think that is just simply appropriate to put it there. There will be members with different views and that is fine. That is my view and that is why I am supporting the amendment.

The Hon. F. PANGALLO: I will be supporting the measure. I believe it is a sensible amendment. I was not going to speak too much on this bill, but I want to give another real-life scenario example, following what my colleague raised. In the 1980s, I met a wonderful person called Sue McKenzie. She was a young adult living in Murray Bridge. She had a very severe arthritic condition, and that condition meant that she was never going to grow beyond the size of a toddler. Apart from that, her features were quite normal.

Sue fell pregnant to a male who was around six feet tall. Her doctors told Ms McKenzie that to carry the child to full gestation would kill her, and there was enormous pressure from the family as well to have a termination. Sue resisted that pressure, she put her life at risk, and she carried the child and gave birth to a beautiful daughter who would be in her mid-30s today. Sue became known as Australia's tiniest miracle mum. Had she taken the doctor's advice she would not be blessed with the child that she has today—a child that has brightened her life—so I fully support the amendment by the Hon. Nicola Centofanti.

The CHAIR: I will call the Hon. Ms Pnevmatikos and the Hon. Ms Scriven because they have both indicated they want to speak, then I am going to move to determine this amendment.

The Hon. I. PNEVMATIKOS: Through the Chair, the example that the Hon. Mr Pangallo has given us is not on point; it has nothing to do with the issues we are discussing. At the end of the day, whether a woman chooses to have an abortion or not is a choice that she makes. That is her decision. Good on this woman for deciding to continue with her pregnancy. That should not apply to all circumstances, and that should not dictate how we deal with all circumstances.

In another instance, another woman may have made a different decision. All we are talking about is the right for a woman to be able to choose based on the medical advice that she receives and based on her assessment, and the doctor's assessment, in terms of the circumstances and complexities of the case—no issue.

The Hon. C.M. SCRIVEN: I think the Hon. Mr Pangallo has raised a very valid point. The pressure that is applied to women who are pregnant, where there is a diagnosis of disability of the baby, is considerable. I have experienced it in my close family, as I have alluded to in my second reading contribution. A couple of weeks ago, some people were invited here to speak to members, including a woman whose son was diagnosed as having Dandy-Walker Syndrome. She was told that he would not survive and, instead, he is now a very healthy, bright and fun six year old.

Here I think, I am sure in the majority of cases, it is with the best of intentions when medical professionals try to point out the difficulties that people might face with a child with a disability, but it often goes beyond that, and there are many people who can attest to that. I talked about my relative, where a medical practitioner called unannounced at her home because she was refusing to have an abortion because her second child had been diagnosed as having spina bifida. And that child is now 19 years old and living a full and wholesome life, with some medical issues, but not major ones. So the issue of pressure from the medical profession is real.

Secondly, the problem with some of the argument that is coming is the suggestion that, in the tragic case that the Hon. Ms Bonaros read in the SALRI report, the abortion solves the problem. In that case, the delivery of the baby could have solved the problem equally well. I asked a woman some years ago, in terms of the obviously terribly difficult circumstance of rape, 'Why don't you support abortion in the case of rape?' Incidentally, she had worked at an abortion clinic for I think about 22 years and then had come to see that this actually was not helping women in the way that she had originally signed up to do. She said, 'Well, instead of one terrible scar the woman has two terrible scars.'

However, to come back to this amendment, various people have put forward that there are very few late-term abortions in South Australia, but I think clearly that is because they are currently illegal. If we are talking about very late abortions, after 28 weeks they are illegal, so of course the number of late-term abortions is going to be very low in South Australia at the moment. In many submissions and in many conversations, the view has been put forward that late-term abortions are generally done only for major complications such as severe foetal abnormality.

However, this is not borne out by the evidence from Victoria, which has had legislation somewhat similar to what is being proposed here. Victorian perinatal morbidity and mortality statistics report all births whether live, stillbirth or by termination after 20 weeks gestation. I seek leave to table a table that sets out the number of late-term abortions in Victoria from 2000 to 2017, and it separates those abortions done for psychosocial indicators—

The CHAIR: Honourable member, are you seeking leave to table?

The Hon. C.M. SCRIVEN: I seek leave to table this table.

Leave granted.

The CHAIR: I will ask you to bring this to a conclusion. I think it is time. We have canvassed these issues very well on this clause and at other stages so I ask you to—

The Hon. C.M. SCRIVEN: I shall be concise, thank you, Mr Chairman. The table reports those abortions done for psychosocial indications and those done for congenital abnormality. I will point out that there were some years where the abortions done for psychosocial indications were greater than the number done for congenital abnormality—those years being 2005, 2006, 2008, 2009, 2010. One of those abortions for psychosocial reasons was carried out at 37 weeks of pregnancy, so that is just three weeks before the due date.

This is not to suggest that psychosocial reasons mean frivolous reasons. I have heard allegations of that suggestion, but I have not heard anyone actually make the suggestion that late-term abortions are done for frivolous reasons. They are likely to be very difficult circumstances, but I reiterate again: when a woman has difficult circumstances, the answer is not to say, 'Your only choice is to end the life of the child you are carrying.' The answer is to give that woman support to potentially deliver the baby early, if she cannot for whatever reason or does not want to carry to term, because when we are looking at this amendment we are talking about the lives of babies who can live independently of the mother.

The Hon. C. Bonaros: Where's the choice in that?

The Hon. C.M. SCRIVEN: The choice is to no longer be pregnant.

The Hon. C. Bonaros interjecting:

The Hon. C.M. SCRIVEN: Can I have some order?

The CHAIR: We are not having a conversation across the chamber. I have asked the honourable member to conclude and I would like her to do so very soon.

The Hon. C.M. SCRIVEN: The choice is to be no longer pregnant, so if a woman has an abortion she is no longer pregnant; if a woman delivers the baby, she is no longer pregnant. There is an option.

The Hon. C. Bonaros: That is so cruel and callous.

The CHAIR: Order!

The Hon. C.M. SCRIVEN: The interjection to say that that is cruel while suggesting that a baby who could be delivered alive and stay alive to have their life ended is anything other than that, I think represents a view which is not in keeping with much of the community. Much of the community is appalled at the idea of late-term abortions where the baby could be delivered alive and cared for.

The committee divided on the amendment:

Ayes.....9
Noes 12
Majority 3

AYES

Centofanti, N.J. (teller)	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Ngo, T.T.	Pangallo, F.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.

NOES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Lensink, J.M.A.	Maher, K.J.	Parnell, M.C.
Pnevmatikos, I.	Wade, S.G. (teller)	Wortley, R.P.

Amendment thus negatived.

The PRESIDENT: We remain on clause 6. We move to amendment No. 3 [Centofanti-1]. I call the Hon. Dr Centofanti.

The Hon. N.J. CENTOFANTI: This amendment is consequential, so I will no longer be moving it.

The PRESIDENT: Thank you. And you have another, amendment No. 4 [Centofanti-1] on clause 6?

The Hon. N.J. CENTOFANTI: Again consequential. I will no longer be moving that amendment.

Clause passed.

Clause 7 passed.

Clause 8.

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

Amendment No 1 [Scriven–2]—

Page 5, lines 8 to 29 [clause 8(1) to (3)]—Delete subclauses (1) to (3) and substitute:

(1) Subject to subsection (2), no person is under a duty, whether by contract or by any statutory or other legal requirement, to—

(a) perform a termination on a person; or

(b) assist in the performance of a termination on a person; or

(c) provide advice to a person about the performance of a termination,

if the person has a conscientious objection to doing so, but in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

(2) Nothing in subsection (1) affects any duty to participate in treatment which is necessary to save the life, or to prevent grave injury to the physical or mental health, of a pregnant woman.

Clause 8 refers to conscientious objection. I will not be supporting this clause because it in fact does not protect doctors who have a conscientious objection to abortion. Some doctors who have contacted me have said that in the bill presently before the parliament the Attorney-General is trying to persuade the parliament to run roughshod over the conscientious objection of health professionals to play any part in the direct and intended taking of an innocent human life, in this case the child while still in the womb.

The amendment restores the existing provisions in the existing act to a large extent. Obviously, there need to be some minor changes, but essentially it restores the existing provisions in regard to conscientious objection. The bill that is before us does not give doctors the right to a conscientious objection because it says that they must refer to another health practitioner who provides abortion—I am paraphrasing, obviously—or they must provide information about how the person can access an abortion.

I will point out a number of things. First of all, referral is not needed for abortion. In the frequently asked questions that were distributed from the Attorney-General's office this week, it states at question 13 that there is no referral required from a GP to access public services, and women can self refer. So first of all, there is no need for referral. A doctor who has a conscientious objection to abortion has a conscientious objection to doing anything that enables abortion. It is absolutely

outrageous that they would be asked to act against their conscience and be threatened with the loss of their registration because they cannot be involved in providing information about an abortion.

I draw members' attention to the situation of Dr Hobart in Victoria. Dr Hobart exercised good clinical judgement in refusing to refer for a sex selective abortion of a healthy 19-week baby girl and, under the Abortion Reform Act 2008 in Victoria, was threatened with deregistration. We also know of another doctor—I know him personally—who moved from Victoria to South Australia to avoid the conflict between his conscience and the pressure to comply with an unjust law. This doctor, who wrote to me, has appealed for the restoration of the current status quo.

In the SALRI report, it said that the bill, as we see it before us, or roughly the wording, supposedly provides a balance between the conscientious objection of doctors and the autonomy of the woman or what is called the right to have access to these services. It does not provide that balance. It requires the doctor to provide information about how abortions can be accessed. In other forms of law we recognise the concept of being an accessory to an act. If there was an armed robbery, for example, and someone was driving the getaway car, that driver is not exempt from culpability.

We accept that in other areas of the law and yet in this we are saying, 'No, even though you think this is the taking of a life, we are going to force you to provide information about someone else who will take that life.' That is not providing conscientious objection. This will also potentially have a perverse impact on rural and regional areas. If, because of their location, a GP is the only doctor in the region who would be able to provide an abortion service, it may be that they are required to provide information or even potentially, under various interpretations of the current proposed bill, participate in some other way.

What that means in reality is that some doctors will be deterred from taking up roles in regional areas. Indeed, those who are already there and have a conscientious objection to abortion may well feel that they would be better protected if they were in a metropolitan area. Those doctors who do not want to be placed in that position will not deliberately seek out a position in a regional location when that problem is exacerbated. I think it is an important point for members to appreciate that we actually have difficulty getting medical professionals to go into regional areas.

I saw on social media a reaction by someone of 'good' to the idea that health professionals who do not want to be involved in abortion would not be in country areas. I suggest that that reaction really misunderstands the reality of the health workforce in regional areas. There are shortages of staff in many areas. Some areas do not have a permanent GP within a 100-kilometre radius.

If those who are currently there feel obliged to move to the city so that they are not forced to participate in abortions, either directly or indirectly, the result will be no permanent medical practitioners at all in some of those rural areas. So local people will not only be unable to get access to abortions but they will not be able to access other medical services either, because we will be deterring practitioners from being in those areas.

It would actually be a perverse outcome that results in fewer services for regional people, not more services. I will give a short quote from an obstetrician gynaecologist association publication, which states that they recognise that:

> …an obstetrician/gynaecologist is called to care for two patients. His or her Hippocratic obligation requires that he/she treat each of his/her patients with beneficence and respect. He/she must maximise the good for each patient he cares for, and avoid intentionally inflicting harm.

So to arrange in any way for the life of one of their patients to be taken is certainly to be intentionally inflicting harm, and that is why a doctor with a conscientious objection could not in good conscience do so.

I noticed that the Hon. Mr Wade mentioned in his clause 1 contribution that this basically would not happen. The case in Victoria of Dr Hobart was that he refused a sex selection abortion in good conscience. He did not think it was clinically necessary; it was a sex selection abortion for no reason other than a social reason, and he refused that. He was taken to the registration board and threatened with deregistration because of that.

So it does happen, and it will happen if this current proposed bill progresses with the current wording, and that will be an absolute infringement on the rights of health practitioners, and medical practitioners in particular, to not participate in abortion and not be involved in any way. It is a severe

dilution of the current provisions, and that is why my amendment restores those current provisions to their greatest extent.

The Hon. S.G. WADE: This amendment is directly contrary to the intention of the bill on the recommendations of SALRI in relation to the issue of conscientious objection. The question of whether a health practitioner who holds a conscientious objection to abortion should be required to refer a patient to another practitioner who does not hold a conscientious objection was discussed at length by SALRI.

SALRI heard that a number of medical practitioners viewed the referral procedure as inherently contradictory to health practitioners' underlying principles of preserving life and reducing harm. It suggested that compelling a health practitioner to refer a patient in respect of a potential termination undermines freedom of conscience and is tantamount to making the practitioner complicit in the process. On this point, SALRI had regard to the views of the Queensland Law Reform Commission, which observed that:

> A referral does not necessarily mean that a termination will take place but enables a woman to access a practitioner who can offer her a range of options, including termination.

Many parties also wrote to SALRI about the compounded effects of conscientious objection in rural and remote areas. It was noted by many that, even though a referral may be provided in these circumstances, women in these areas may be especially disadvantaged in obtaining timely access, where the nearest next available practitioner may be located some 300 kilometres away.

The conscientious objection provisions in the bill have been carefully drafted in close consultation with the Australian Medical Association to ensure that they strike an appropriate balance between a health practitioner's right to freedom of conscience and a woman's right to seek a termination of pregnancy in a safe and timely manner.

Further, it is notable that, while all jurisdictions reserve the right of conscientious objection, they also all require health practitioners with a conscientious objection to refer the patient to another practitioner who does not hold a conscientious objection to abortion or to provide the patient with sufficient information about alternative service providers to enable them to seek further information.

I just want to reassure the committee that this is hardly onerous. I have been provided, for example, with the referral form that is offered by New South Wales Health. It is a simple one-page information sheet, which—ironically—uses a QR code to link women seeking termination services to the pregnancy options webpage at New South Wales Health.

I have the utmost respect for people who conscientiously object to providing termination pregnancy services and want to rely on conscientious objection, but we expect every health practitioner to act professionally, and in a situation where they are not able to provide services within their own moral framework, they should offer other people respect for their moral frameworks and make appropriate referrals. The current provisions in this bill are in line with the position of other jurisdictions, and the proposed amendment would put South Australia behind every other jurisdiction in this regard and should not be supported.

The Hon. D.G.E. HOOD: I have had a good look at this amendment for some time now. This particular amendment has only come out today—I think it was today, or yesterday—but I have been aware that it was coming for a little while, so I have been having a good think about this issue. In doing so, I consulted with some medical practitioner acquaintances—not friends, but acquaintances I have had for a number of years.

I was moderately comfortable with the provisions in the bill—I would not say 100 per cent comfortable, but moderately comfortable—but I was concerned when I consulted some of these acquaintances, half a dozen in total. Two of them said to me point-blank that they simply would not be prepared to operate under what the bill requires of them. When I pushed them on that and said, 'If push came to shove and you were in a situation where it meant no longer practising, what would you do?' Both of them independently, in separate meetings, said to me that they would simply walk away.

You are talking about two high-quality, I presume, qualified medical professionals who have just decided that they will not operate under those circumstances. I think that should give all of us

some concern. These are very decent people, as far as I am aware. I do not know them well, but I know them well enough, and certainly I know that they have been practising for a long period of time, as far as I am aware, without any significant problems. It seems to me that they are exactly the sort of people we want in our health system, not out of it.

My understanding of the Hon. Ms Scriven's amendment is that it essentially brings the law to how it stands. Is that a reasonable summary? That is how it was explained to me; somewhat similar to how it stands. For that reason, I am inclined to support the amendment. One of these individuals said to me, 'I simply won't do it,' and that was probably what pushed me over the edge. I will be supporting the amendment.

The Hon. N.J. CENTOFANTI: I rise to also speak in support of the Hon. Ms Scriven's amendment. The current laws protect the rights of persons, including doctors and nurses, to conscientiously object to playing any part in the performance of an abortion. The bill before us risks potentially requiring medical practitioners to be complicit in the performance of an abortion despite their conscientious objection. I believe the Hon. Ms Scriven's amendment seeks to reinstate the protections for nurses and doctors as they stand in the current law.

I note in this debate the interest of improving services available to those in regional areas. Under the proposed bill, doctors with a conscientious objection to abortion may actually be deterred from working in our regions in South Australia. I believe this amendment removes this likelihood and also the potential that doctors may face coercion to perform abortions in regional areas despite their conscientious objection, and so I will be supporting this amendment.

The Hon. S.G. WADE: I would make the simple point to reiterate what I said in my earlier contribution. All other states and territories have this responsibility to provide options to the client, and I am not aware of mass exoduses of medical practitioners from the profession.

The other point to be made is that the Australian Medical Association has been intimately involved with the Attorney-General. I remember in our discussions in relation to this bill, I was aware of the AMA and the Attorney-General having ongoing discussions to resolve this issue. If the peak medical body believes that we have struck the balance right, I would urge honourable members to support the bill but not to support the amendment.

The Hon. C.M. SCRIVEN: First of all, I have a question for the Hon. Mr Wade. Is he aware of whether the AMA surveyed all its members about this or indeed any aspect of the bill?

The Hon. S.G. WADE: The Australian Medical Association has well-established position statements, both at the national and the state level. My understanding is that the South Australian branch was acting in consistency with that framework.

The Hon. C.M. SCRIVEN: I think we can gather from that that the answer is no. They did not survey all of their members, to the honourable member's knowledge. I am aware of many doctors who are most upset with the AMA for this reason among others because it does not provide that appropriate balance.

The Hon. Mr Wade has given an example of what is in New South Wales. It may well be that doctors will still have a concern with that because it is still being complicit. Remember women do not have to have a referral, so it would still potentially be complicit. Also, I point out that we do not know whether that is the kind of information that will be required under clause 8(2) which provides that a registered health practitioner will be taken to have complied with an obligation if the practitioner gives the person information in the prescribed form. But we do not have that prescribed form because that will be set by the regulations.

The Hon. S.G. Wade: Which you can disallow.

The Hon. C.M. SCRIVEN: The minister says which we can disallow. I think he is being a little disingenuous there. He knows how difficult it is to do that with regulations when it is separated from the context of a major bill and consideration of such a major issue such as this. I acknowledge the contribution of the Hon. Mr Hood and the doctors he has spoken to who have said that they would simply stop practising. I have mentioned a doctor I know who moved from Victoria to South Australia, specifically because of this.

I am sure there are people in this chamber or elsewhere who do not think that doctors should be able to exercise conscientious objection at all and there are others who think they should and

they do think this is an appropriate balance. I will point out, to use an analogy, what this does. You can have the analogy of someone coming to me and saying that they wanted to have a gun and kill someone and where could they get the gun and someone who was willing to kill. If they came to me and asked would I kill someone for them, I would say, 'No, I will not do that but I know someone else who will and here is their number or here is where you can contact them.' That is the similarity for a doctor who has a conscientious objection about ending the life of one of their—

The Hon. C. BONAROS: A point of order, Chair.

The CHAIR: The Hon. Ms Scriven will resume her seat. A point of order.

The Hon. C. BONAROS: I think it is highly inflammable and—

The Hon. J.M.A. Lensink: Inflammatory.

The Hon. C. BONAROS: Inflammatory—that's what I want; I am flustered—and inflammable, if we throw a bit more gas on it, that the member would be suggesting that what we are talking about is the same as giving somebody a gun and offering for them to kill somebody. It is offensive at the most basic level and completely and utterly false.

The CHAIR: We will not be debating it.

The Hon. C. BONAROS: Well, I am saying it is wrong and the member should withdraw her comments.

The CHAIR: The honourable member can resume her seat, as she has. There is no point of order. But the hour is late. I would suggest that there are some comments that are not going to help the debate and I would ask the honourable member to draw her remarks to a conclusion.

The Hon. C.M. SCRIVEN: Thank you; I am happy to do that, Chair. However, I will respond to the—

The Hon. C. Bonaros: Don't bother, please. You have said enough.

The Hon. C.M. SCRIVEN: Excuse me?

The CHAIR: Order! The Hon. Ms Bonaros has had her say. It is a point of order. I have ruled on that. I have asked the honourable member to draw her remarks to a conclusion, and I am sure she will do so.

The Hon. C.M. SCRIVEN: Thank you, Chair. To suggest that an analogy is somehow offensive is quite a remarkable statement to make.

The Hon. C. Bonaros interjecting:

The Hon. C.M. SCRIVEN: Can we have some order, please?

The CHAIR: Order! We are not going to have a conversation here. I have asked you to conclude your remarks.

The Hon. C.M. SCRIVEN: Thank you, Chair; I will if I get the opportunity to do so. When a doctor has two patients, a pregnant woman and a baby, and the life of one of those patients is ended, I think it would be clear why there is a similar analogy.

If a doctor says, 'I will not end the life of that baby but I will lead you to someone who will,' then that doctor, understandably, feels they are complicit in that act. Whether that is providing information, whether it is directly referring, whether it is so-called transfer of care, all those things are leading to the potential death of that second patient.

The quote the Hon. Mr Wade gave, saying that a referral or whatever does not guarantee the termination will take place, is not really relevant in the sense that you are giving information of where that second life can be ended. Therefore, the provision in the bill does not give the protection of conscientious objection to doctors. Hence, anyone who seriously does support conscientious objection—

The CHAIR: I have asked the honourable member to conclude.

The Hon. C.M. SCRIVEN: —I ask them to support this amendment.

The Hon. T.A. FRANKS: I strongly support the clause as is, and I thank the AMA of South Australia for the particular conversations they have had with me on this particular matter of conscientious objection. Members have noted that there are a range of views about conscientious objection, and I think this strikes a nice balance and is supported, in that case, by the AMA in consultation, both with the participation and the recommendations of SALRI and, of course, the Attorney-General, as the Minister for Health and Wellbeing has touched on.

I note that this bill removes the criminality of abortion and treats it as a healthcare issue, so analogies around being an accessory to a robbery and a getaway car, or getting a gun to kill someone, are analogies that refer to abortion as a crime. Myself, I do not believe abortion is a crime: I believe it is health care, and I will treat it as such.

I certainly also do not want to see doctors who say that they will leave their profession, having had years of medical training, having committed themselves to that vocation, because of this, for having to pass on a piece of information to their patient, that they will quit that vocation, rewarded for that stance. I believe that it is, in fact, the duty of our medical professionals to ensure that people have informed consent and have information.

When you go to a doctor you are often seeking their assistance, and that assistance should include the full range of information. Should they not be providing you with that full range of information, they should have to make that known to you. We know there are doctors who refuse to tell their patients about the full range of options, and in fact they are the people we see having to have abortions in later stages of that pregnancy because they have not been given the medical assistance early on that they should have been given by those medical professionals.

We saw from the SALRI report that it does not stop just with the termination of that pregnancy. It also continues when that girl or that woman returns home—perhaps to Kangaroo Island, to name one of the examples covered in the SALRI report—and is refused after-care when things go wrong because they are continuing to judge that girl or woman for her choice to have had an abortion. She is left on that small island without access to health care that is her human right, and which should be afforded to her in full dignity.

If doctors are going to quit their jobs over having to pass on a piece of information to give that patient the full range of options then I say good on them—they should quit that profession because they are not worthy of the name of doctor.

The CHAIR: The Hon. Mr Wade, and then I am going to get very close to putting this amendment.

The Hon. S.G. WADE: I rise to vigorously refute what I regard as the unbalanced presentation of conscientious objection put forward by the Hon. Clare Scriven and in particular her attempt to denigrate the Australian Medical Association SA branch in their working with the Attorney-General to develop this clause. I believe in doing so they have acted completely within the policy and ethical framework of the Australian Medical Association nationally, and to that end I would like to quote from the AMA position statement 2019, three clauses in particular. Clause 1.4 states:

> It is acceptable for a doctor to refuse to provide or to participate in certain medical treatments or procedures based on a conscientious objection.

I might just pause to stress this statement is not about abortion: it is about a conscientious objection in whatever medical context. It affirms that a doctor does have the right to refuse to participate in certain medical treatment or procedures based on a conscientious objection. It states:

> 1.5 A doctor's refusal to provide, or participate in, a treatment or procedure based on a conscientious objection directly affects patients. Doctors have an ethical obligation to minimise disruption to patient care and must never use a conscientious objection to intentionally impede patients' access to care.

Subsequently, section 2.3, the section dealing with patient care, explicitly states, and the first three dot points only because the Chair's patience would run out at the third dot point, I am sure:

> 2.3 A doctor with a conscientious objection, should:
>
> - inform the patient of their objection, preferably in advance or as soon as practicable;

- inform the patient that they have the right to see another doctor and ensure the patient has sufficient information to enable them to exercise that right;
- take whatever steps are necessary to ensure the patient's access to care is not impeded;

I vigorously refute the suggestion from the Hon. Clare Scriven that her amendment represents a balanced view of conscientious objection, and I commend the Attorney-General for the work that has been done with the AMA to give us what is good law.

The CHAIR: I am going to put the amendment.

The Hon. D.G.E. HOOD: If I may respond, Mr Chairman, just briefly.

The CHAIR: Very briefly, because we have canvassed these issues.

The Hon. D.G.E. HOOD: Yes, we have.

The Hon. S.G. Wade: It will turn into debate.

The Hon. D.G.E. HOOD: No, I would ask the Hon. Mr Wade to hear me out before he suggests what I am about to say. I was merely going to clarify my earlier comments. I think some people may have misinterpreted them. Perhaps I was not eloquent enough; it is getting late, so forgive me for that. Of the six doctors I spoke to, four said that they, in effect, make it work. Basically, that was the comment to me. They did not necessarily like it, but they would make it work.

Two had a stronger objection to it and, it seemed to me, would ultimately refuse to do it, but it is not that they are going to leave their practice tomorrow or anything to that effect. If push came to shove at some later point, and they were forced to in some way cooperate to end in a termination, they said they would probably refuse to do it. I just want to clarify those remarks and be clear about what was said to me.

The Hon. C.M. Scriven interjecting:

The CHAIR: No, I am going to put the amendment.

The Hon. C.M. SCRIVEN: I think I have the right to sum up before we move on.

The CHAIR: You do not really, and the reality is we have canvassed these issues at great length. I am going to put the amendment.

The committee divided on the amendment:

Ayes 9
Noes..... 12
Majority..... 3

AYES

Centofanti, N.J.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Ngo, T.T.	Pangallo, F.
Ridgway, D.W.	Scriven, C.M. (teller)	Stephens, T.J.

NOES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Lensink, J.M.A.	Maher, K.J.	Parnell, M.C.
Pnevmatikos, I.	Wade, S.G. (teller)	Wortley, R.P.

Amendment thus negatived; clause passed.

Clause 9 passed.

Clause 10.

The CHAIR: We move to amendment No. 5 [Centofanti-1].

The Hon. N.J. CENTOFANTI: This amendment is consequential, therefore I will not be moving it.

The Hon. I. PNEVMATIKOS: I have a point of clarification. In terms of clause 10, I have a question. To whom is this section intended to apply? Would it apply to husbands, boyfriends, sisters or friends, for example, who assist in providing abortion pills sourced online or brought in from overseas? This may be relevant for international students or others who come from overseas or those who source pills online.

The Hon. S.G. WADE: I am advised that the honourable member is correct, it is potentially possible. I would refer the honourable member to clause 11, where it states 'DPP's consent required for prosecution under Part'. One would certainly expect the DPP to consider all relevant circumstances.

The honourable member raises the circumstances of international students. I would respectfully suggest that this legislation again reduces the harm to women because it means an international student who has not been in South Australia for two months is able to access services in a timely fashion.

Clause passed.

New clause 10A.

The CHAIR: We now move to the insertion of a new clause 10A, proposed by the Hon. Mr Hood. You have two amendments, sir. Would you clarify?

The Hon. D.G.E. HOOD: Amendment No. 1 [Hood-1] I will not be moving. I move:

Amendment No 1 [Hood–2]—

Page 6, after line 20—Insert:

10A—Termination of pregnancy for sex selection unlawful

(1) Subject to subsection (2), a person who performs or assists in a termination of a pregnancy for the purposes of sex selection is guilty of an offence.

Maximum penalty: $20,000.

(2) It is a defence to a charge of an offence against this section relating to a termination if the defendant proves that a medical practitioner was satisfied that there was a significant risk that the person born after the pregnancy (but for the termination) would suffer a sex-linked hereditary medical condition that would result in significant disability to that person.

This is fairly straightforward. I think members know what the intention of this amendment is. I think it comes down to a philosophical position. Essentially, this amendment will make sex selection abortions unlawful, that is, someone basing their decision for having an abortion purely on the sex of the baby.

People may have different views, and that is fine. I will be very frank about it: I do not like the idea of it. I do not like the idea of somebody deciding that because it is a girl, they do not want that particular child or because it is a boy, they do not want that particular child. There are reasons why a sex selection abortion should be okay or should proceed, if you like, and I have tried to allow for that in proposed new subsection (2).

There are certain conditions. It is interesting what you find when you research these things. There are certain conditions that are more likely to occur in certain sexes as the genetics of the parents are passed down to their offspring. In those cases, this amendment would allow a sex selection abortion. That is, for a particular couple, a medical condition that one of them has is more likely to be passed on to a girl than to a boy. The baby is a girl; therefore, the abortion proceeds. That can happen under this amendment. That will be perfectly legal under this amendment.

But when none of those circumstances exist and it is just somebody deciding they do not want a girl or they do not want a boy, for example, this amendment would make that unlawful. I think it is fundamental that one gender should not be treated more importantly than another. ScienceDaily has quoted that some overseas countries—you hear about this in the news from time to time—have strong biases, typically towards boys in some of the Asian countries in particular.

I found on their site, sciencedaily.com, that in China, India and South Korea there are about 125 boys born for every 100 girls. It is quite a significant difference. It is not to say that necessarily would happen in Australia; in fact, I think there is little evidence that it is happening in Australia—some, but little. The result in overseas countries where it is legal is that we have seen a significant percentage of male population as opposed to female population, as I have said, in those countries in particular.

Another thing that should be noted here is that the 20-week scan is typically the time when people find out what sex their child will be. I remember our 20-week scan. I remember it well still, some 14 years ago almost. I remember finding out that we were having a little girl. It was a very exciting time, as you can imagine. But those scans, as they tell you at the time, are not always 100 per cent accurate; that is, they can be wrong. Sometimes they will say it is a boy and it turns out to be a girl, etc. So if you were making an abortion decision based at that time purely on the fact that it is going to be a girl or it is going to be a boy, you need to allow for the fact that the scan may not be accurate, that it may be wrong.

Finally, just briefly, I believe there is significant public support for these types of amendments. In the USA, the Charlotte Lozier Institute published a study recently that showed 77 per cent of Americans oppose sex selection abortion. In the UK, in a ComRes report, 80 to 84 per cent of UK residents were against sex selection abortion. In 2019 in Australia, a YouGov Galaxy poll asked the question: 'Should abortion be permitted on the basis of the gender of an unborn child?' That is exactly word for word what was asked. The yes responses, supporting sex selection abortion, were 8.6 per cent; the no responses were 83.9 per cent; and the rest were undecided.

The Hon. E.S. BOURKE: I thought I had better get up and say something. I would just like the Hon. Stephen Wade to clarify in the chamber today whether the intention under what was clarified as a lawful termination covers that a termination of pregnancy cannot be based on gender at any stage throughout a pregnancy and whether that is covered under the professional standards and guidelines that apply to the medical practitioner in relation to the performance of the termination. Can the Hon. Stephen Wade confirm within the chamber if this amendment is necessary or if that would fall under that requirement?

The Hon. S.G. WADE: I thank the honourable member for her question. My advice is that post 22 weeks and six days it will need to be medically appropriate, and it is arguable that it would be medically appropriate to perform an abortion on the basis of gender selection, but it is possible in less than that threshold. In terms of professional standards, I am advised that there are not specific provisions, but the expectation is that most practitioners would not undertake an abortion in those circumstances.

In terms of my comment on the amendment, if I may, recommendation 36 of the SALRI report explicitly considered the issue of terminations of pregnancy on the basis of gender selection. Whilst it was acknowledged by SALRI that the practice of gender selection has been the subject of strong concern by international human rights bodies, especially in the context of violence and discrimination against women, it found that there was little evidence to support the view that gender selective abortion is occurring in South Australia.

Furthermore, it was SALRI's view that any attempt to legislatively prohibit gender selective abortion is likely to be unworkable and unenforceable as this would effectively require medical practitioners to investigate and assess the motivation behind a patient's decision for seeking a termination. This provision would also serve to delay access to termination services, undermining the intent.

It was also found that there may be legitimate reasons for gender-based abortion where there is a real risk of a detrimental sex-linked condition being passed on to a child, and I acknowledge that the Hon. Dennis Hood has made efforts to address this issue by proposing that a termination performed for these reasons would be a defence to the proposed offence, but it does make clear that this is a complex and nuanced issue which requires careful consideration. These are significant issues.

I am sure it is for that reason that SALRI recommended that any concerns regarding gender selective abortion practice should be considered further as part of the recommended five-year review

of abortion laws. As the honourable member highlights the concerns in this area, I would suggest that this issue could be appropriately addressed as part of the five-year review of the legislation that the bill establishes.

The Hon. C.M. SCRIVEN: Before I address that, I would like to respond to something the Hon. Mr Wade put on the record that I think is incorrect: when he accused me of denigrating the AMA. I will just draw members' attention to the fact that all I did was ask whether the AMA had surveyed all their members on this issue, which I do not think should be rightfully characterised as denigration.

However, on this the Hon. Mr Wade has said that most would not undertake the process. Whilst acknowledging it could certainly be done, he said that most practitioners would not undertake the process. I am not sure if he was quoting from his advice there or from the SALRI report; I think it was the former. However, I would draw to members' attention the situation of Dr Hobart, who I have mentioned before, who was under investigation by the Medical Board of Victoria because he refused to provide an abortion when his patient and her husband requested sex selection abortion after an ultrasound determined the foetus was female.

Under the Victorian situation, apparently he was obliged to refer the patient to a doctor he knew would terminate the pregnancy, but he did not know a doctor who would agree to terminate a pregnancy for sex selection reasons. However, the couple found another doctor who did undertake the sex selection abortion, and Dr Hobart found himself being brought before the Medical Board of Victoria and risked losing his licence.

The SALRI report, as quoted by the Hon. Mr Wade, said that there is no or little evidence of sex selection abortion happening in South Australia, and I would point out that that is clearly because it is currently illegal. If it was not illegal, then there may be instances of it, and we are aware of circumstances interstate where it has occurred. The response that SALRI gave, which was that one would need to investigate the reasons for an abortion, I do not think is necessarily the case. What we would be talking about is where a couple come and say that they want an abortion because of sex selection.

Obviously there is a way around it; people who know this can come along and not say that it is for sex selection—they can just say it is for any other reason—and that is a limitation. However, I think it is an important signal, I guess, to society that we will not tolerate abortions purely because, in the majority of cases, it is the girl who would be aborted rather than the boy if we look at some of the biases that have been experienced. I think it is an important amendment. Those circumstances, however common or rare, where there is a sex-determined hereditary medical condition would be accounted for in this, and therefore it should assuage anyone's concerns about supporting it.

The Hon. I. PNEVMATIKOS: The example the Hon. Clare Scriven raised about Dr Hobart was not an issue in terms of his refusal to provide an abortion because the couple had asked for the abortion on gender selection grounds: the issue was that he did not refer the clients on—that was the issue.

The Hon. C.M. Scriven: He didn't know anyone who would do it.

The Hon. I. PNEVMATIKOS: The issue was he did not refer—he could have referred on. That is the issue for Dr Hobart and deregistration. In any event, one problem I have with these amendments is that they may encourage racial and cultural profiling. I would like to ask the Hon. Dennis Hood what consultation he had with multicultural groups and community groups on this issue.

The Hon. D.G.E. HOOD: None whatever, because I did not do it for that reason. I did it because I object to aborting of a baby on the basis of their sex, regardless of what culture they are from.

The committee divided on the new clause:

Ayes 10
Noes 11
Majority 1

AYES

Bourke, E.S.	Centofanti, N.J.	Hood, D.G.E. (teller)
Lee, J.S.	Lucas, R.I.	Ngo, T.T.
Pangallo, F.	Ridgway, D.W.	Scriven, C.M.
Stephens, T.J.		

NOES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Hanson, J.E.	Hunter, I.K.	Lensink, J.M.A.
Maher, K.J.	Parnell, M.C.	Pnevmatikos, I.
Wade, S.G. (teller)	Wortley, R.P.	

New clause thus negatived.

Clauses 11 to 14 passed.

Clause 15.

The Hon. S.G. WADE: I move:

Amendment No 2 [Lensink–1]—

Page 8, lines 1 to 6 [clause 15(2)(c)]—Delete paragraph (c)

Clause 15 of the bill sets out the circumstances in which the personal information of a person may be disclosed by a person engaged in connection with the operation of the act. Relevantly, clause 15(2)(c) allows for personal information to be disclosed to a relative, carer or a friend of the person if the disclosure is reasonably required for the treatment, care or rehabilitation of the person and there is no reason to believe that the disclosure would be contrary to the person's best interests. However, clause 15(3) provides that this information cannot be disclosed where the person has issued a clear direction for the information not to be disclosed.

While there may be legitimate circumstances in which the disclosure of personal information is reasonably required for the treatment, care or rehabilitation of the person, it is recognised that the disclosure of personal information in the context of a termination of pregnancy is more nuanced. Some submissions pointed out that disclosure in these circumstances may inadvertently compromise the safety of the woman and place her at risk of harm.

For example, many women choose not to disclose a termination of pregnancy for fear of stigma, pressure or coercion to not terminate a pregnancy from a partner, family member or friend. For some women, there may also be a very real risk of domestic or family violence for having sought a termination. Unlike other health procedures, where there may be a legitimate need for certain information to be disclosed, it is difficult to envisage a scenario where disclosure of a termination would be reasonably required for the treatment or care of the person.

In those circumstances, where the disclosure of such information may be appropriate or necessary, it is noted that disclosure of information would still be permitted under the bill with the consent of the person, that is, in accordance with clause 15(2)(b) or where it is otherwise required or authorised by or under law, which is in clause 15(2)(a). It is therefore considered appropriate that this provision should be removed.

The Hon. C.M. SCRIVEN: What was the reason for this being included originally as a clause, and would not the issues that the Hon. Mr Wade has referred to come under the banner of 'contrary to the person's best interests' if it was to be revealed?

The Hon. S.G. WADE: I am putting forward the amendment. I did not draft the bill.

The Hon. C.M. SCRIVEN: Perhaps the Hon. Ms Lensink would like to answer it then.

The Hon. J.M.A. LENSINK: My understanding is that when this bill was drafted, the clauses are standard clauses in health care but I think, given the sensitivities of this, it was raised by people

in consultation and some of our colleagues that it was inappropriate that some of these clauses should continue in this piece of legislation.

The Hon. E.S. BOURKE: This was an issue I raised in my second reading contribution and also in forums outside this room, that the intent of this being within the bill could be taken the wrong way. I support the amendment that has been put forward because you would not want a situation where a young child went to have an abortion and the local GP was advised because they were the family doctor, and unwillingly that happened.

So, yes, I support that this is required to happen. My understanding is that the reason this was within the bill is because a lot of the health requirements were carried over from previous legislation and therefore this is actually a double-up of what is required for health professionals to follow anyway, so this being removed is not going to have an impact.

The Hon. I. PNEVMATIKOS: I also support the amendment and withdraw mine, which mirrored this.

The Hon. C. BONAROS: I indicate for the record that I will be supporting this amendment.

Amendment carried.

The Hon. S.G. WADE: I move:

Amendment No 3 [Lensink–1]—

Page 8, lines 18 to 20 [clause 15(2)(e)]—Delete paragraph (e)

If the council would be agreeable, I suggest that this could be treated as consequential.

Amendment carried.

The Hon. S.G. WADE: I move:

Amendment No 4 [Lensink–1]—

Page 8, lines 26 and 27 [clause 15(3)]—Delete subclause (3)

I would also submit that this is consequential on amendment No. 2 [Lensink-1].

Amendment carried; clause as amended passed.

Clause 16.

The Hon. T.A. FRANKS: I move:

Amendment No 1 [Franks–1]—

Page 9, lines 6 and 7 [clause 16(1)]—Delete subclause (1) and substitute:

(1) The Minister must cause a review of this Act and Part 5A of the *Health Care Act 2008* (including the administration and operation of this Act and that Part) to be conducted on the expiry of 4 years from the commencement of this section.

This simply ensures that the debate we had previously on safe access zones around abortion healthcare services is also part of the review of this act, as was discussed in that previous debate, and this amendment simply ensures that safe access zones are also reviewed.

The Hon. C. BONAROS: I rise to indicate my support for the amendment, especially in light of the fact that we have covered off on the other issue that we had in relation to those health access zones which we had a clear commitment to deal with as part of this bill.

The Hon. D.G.E. HOOD: I rise to support the amendment and I thank the Hon. Ms Franks for following through on the commitment she made in the previous debate.

Amendment carried; clause as amended passed.

New clause 16A.

The Hon. I. PNEVMATIKOS: I move:

Amendment No 8 [Pnevmatikos–1]—

Page 9, after line 11—Insert:

16A—Minister to cause review of policies etc of certain providers of terminations to be undertaken

(1) The Minister must, within 12 months after the commencement of this section, cause a review to be undertaken of the policies and practices (however described) of each prescribed termination provider to determine the extent to which the policies and practices are consistent with the operation of this Act.

(2) The Minister must cause a report of the review—

(a) setting out the extent to which the policies and practices of each prescribed termination provider are consistent with the operation of this Act; and

(b) setting out details of any policies and practices of a prescribed termination provider that limit, or are otherwise inconsistent with, the operation of this Act; and

(c) containing any information required by the regulations,

to be prepared and provided to the Minister within 1 month after the completion of the review.

(3) The review and report need only consider such policies and practices of prescribed termination providers as may relate to terminations.

(4) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

(5) In this section—

Minister means the Minister to whom the administration of the *Health Care Act 2008* is committed;

prescribed termination provider means—

(a) the Women's and Children's Hospital; and

(b) the Pregnancy Advisory Centre located at 21 Belmore Terrace, Woodville; and

(c) each incorporated hospital (within the meaning of the *Health Care Act 2008*) at which terminations are, or are to be, performed.

This amendment creates additional clause 16A, which is a review of practices and procedures. In essence, because up until now we have been functioning under a criminalised model and we are moving to a healthcare model, this amendment would require the minister to review policies of certain providers of terminations to be undertaken.

This will ensure that the procedures and practices conform to the bill that will be passed today in this chamber. Up until now, the procedures have been functioning based on a criminalised model. If we are transferring it to the health code, we need to make sure that the various providers and units are working appropriately within the health code.

The Hon. S.G. WADE: I do not support this amendment. The proposed amendment from the honourable member recommends a review of policies of certain providers of terminations to be undertaken within 12 months of the commencement of this bill. Whilst I appreciate the good intent behind the amendment, I cannot support it due to the problematic practical implications. This amendment would in effect require me as minister to interfere in matters of clinical governance and practice of health services.

It should be noted that clinical governance and the practice of health services sit within the remit of health services for all other health conditions, and it is my recommendation that this should remain the case in terms of the matter of terminations as well. The honourable member makes the point about the transition from a criminal model to a healthcare model. Let's be clear, the SA Health networks have never treated outpatients as criminals. It has been problematic to deliver patient-centred health care under a criminal model but I would stress that the model of care has been and will be focused on health services.

Only yesterday we made substantial progress on the second stage of the Health Care (Governance) Amendment Bill and, God willing, later this morning we will be continuing the consideration of that bill. That bill is fundamentally supporting local health networks to develop clinical governance frameworks, clinician engagement frameworks and consumer engagement

frameworks to deliver quality and safe care. It is those frameworks that will make sure that the enhancements to the law that this parliament is considering in this bill will be rolled out and implemented.

The boards have a particular responsibility to comply with legislation. I think we should let them get on with the job. In that context, I would not start treating abortion as a special health condition when, after all, this legislation is about stopping treating it as a crime and treating it as a health condition.

The Hon. C.M. SCRIVEN: I have a question for the mover. Why has she only included (a), (b) and (c) in terms of what prescribed termination provider means—so only the Women's and Children's Hospital, the Pregnancy Advisory Centre at Woodville and incorporated hospitals?

The Hon. I. PNEVMATIKOS: Because those are the providers of abortion services to date.

The Hon. C.M. SCRIVEN: Indeed, but this bill will allow other than those, so I was interested in the answer to that question. I will not be supporting this amendment. I find it ironic, after all the argument we have had saying that things do not need to be in legislation and they can just be in guidelines, that we would then put something like this in legislation.

New clause negatived.

Clause 17.

The Hon. S.G. WADE: I move:

Amendment No 5 [Lensink–1]—

Page 9, line 17 [clause 17(2)(a)]—Delete 'or the Department' and substitute:

, the Department, or an attached office attached to the Department

This amendment seeks to amend clause 17(2)(a) of the bill to provide that data or statistics collected pursuant to regulations made under the act may be provided to an attached office attached to the department. Clause 17(2) allows for the Governor to make regulations to require any registered health practitioner, hospital or private day procedure centre to collect and provide the minister or the department with data and statistics in relation to services connected with the performance of terminations.

As currently drafted, it is unclear whether 17(2) would allow for data or statistics collected under the regulations to be provided to an attached office of the department. Data and statistics in relation to the termination of pregnancy is currently collected and managed by Wellbeing SA, which is an attached office of the Department for Health and Wellbeing. For the avoidance of doubt, this amendment would clarify that such information may be provided directly to Wellbeing SA.

The ACTING CHAIR (Hon. T.T. Ngo): Minister, do you want to move amendment No. 6 too, because they are pretty much the same?

The Hon. S.G. WADE: Yes, I am happy to move:

Amendment No 6 [Lensink–1]—

Page 9, line 21 [clause 17(2)(b)]—Delete 'or the Department' and substitute:

, the Department, or an attached office attached to the Department

This amendment similarly expands the provision of information to the attached office.

The Hon. C.M. SCRIVEN: I just have a question. I note that the legislation says the regulations 'may' require this information. I realise that legislation normally will say 'may' rather than 'must' provide such information in terms of collecting data. My question is in regard to whether we will be able to compare data following the passage of this bill, if it is successful, to the sort of data that has been provided so far. Hopefully that question is clear. I am happy to elaborate if necessary but, if not, I will not.

The Hon. S.G. WADE: I thank the honourable member for the opportunity to say yet again, 'How great is South Australia?' Over the 50 years of the criminal law consolidation custody of abortion law, SA Health and its various iterations back—not as far back as Sir Lyell McEwin, but in 1969 he

might have even still been called the chief secretary at that stage. I am not sure if it was even the Minister for Health.

However, over 50 years SA Health and its various iterations have maintained a very good dataset. It is certainly the intention that we will continue that tradition. We have the best dataset in Australia and we certainly anticipate that it maintains continuity with the dataset over the years, but of course we will take the opportunity to look at this legislation and refresh it so that it can continue to grow over the next 50 years.

Amendments carried; clause as amended passed.

Clause 3.

The CHAIR: Now we revert back to clause 3 with the amendments, as I indicated earlier, one from the Hon. Dr Centofanti and one exactly the same from the Hon. Ms Scriven.

The Hon. C.M. SCRIVEN: I indicate that I will not be proceeding with the amendment.

The Hon. N.J. CENTOFANTI: I also indicate that I will not be moving my amendment.

The CHAIR: They have now indicated that they are not moving them, so the question is that clause 3 stand as printed.

Clause passed.

Schedule and title passed.

Bill reported with amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (01:11): I move:

That this bill be now read a third time.

The Hon. D.W. RIDGWAY (01:12): I would like to make a few comments. I have sat and listened to the debate in my office and in the chamber this evening. As members know, I supported the second reading of this bill a couple of week ago. I have listened to the debate and listened to the amendments but mostly the ones I have supported have been lost.

The one I wanted to make particular comment about was the Hon. Mr Hood's gender selection amendment. That was a very close vote in the end but I think it demonstrates to me that this chamber really has not had the health and wellbeing in mind of either the mother or the child when they were not prepared to support the Hon. Mr Hood's amendment about gender selection.

For me personally, that is an important issue: to say that you can use this particular bit of legislation or this framework or these rules, or whatever you like to call it, to actually choose whether to have a boy or a girl. I find that somewhat offensive, being a father of two girls and a boy, and would have been happy to have three girls, three boys, or whatever combination you could have.

I wanted to put on the record that I will not be supporting the bill at the third reading because I think it has shown that some people participating in this debate really have not been—that particular issue demonstrates to me that they actually have not fully understood the joy of being a parent, the joy of having children. I have always been a pro-choice person but to allow, at some point, a set of rules or laws or regulations that allow parents to choose what gender their child should be, I do not believe I can support that, so I will not be supporting the third reading.

The council divided on the third reading:

Ayes 12
Noes..... 9
Majority..... 3

AYES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Lensink, J.M.A. (teller)	Maher, K.J.	Parnell, M.C.

AYES

Pnevmatikos, I.	Wade, S.G.	Wortley, R.P.

NOES

Centofanti, N.J.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Ngo, T.T.	Pangallo, F.
Ridgway, D.W.	Scriven, C.M. (teller)	Stephens, T.J.

Third reading thus carried; bill passed.

STATUTES AMENDMENT (ABOLITION OF DEFENCE OF PROVOCATION AND RELATED MATTERS) BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

STATUTES AMENDMENT (FUND SELECTION AND OTHER SUPERANNUATION MATTERS) BILL

Introduction and First Reading

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

At 01:21 the council adjourned until Thursday 3 December 2020 at 11:00.