LEGISLATIVE COUNCIL

Thursday, 6 May 2021

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.

Parliament House Matters

PEOPLE AND CULTURE UNIT, PARLIAMENT HOUSE

The PRESIDENT (14:21): I wish to advise the council that the presiding officers have received correspondence from the Joint Parliamentary Service Committee advising that the committee has resolved to establish a centralised human resource function for and within the parliament that supports the management and staff of the two houses and the management and staff employed within the divisions under the Parliament (Joint Services) Act 1985, being cognisant of the independence of the parliament from the executive.

The committee proposes a people and culture unit to be established within the Joint Services Division. Pursuant to section 25 of the Parliament (Joint Services) Act, the committee has recommended to the presiding officers the adoption and implementation of a model for the unit and has sought our concurrence and support for its establishment and the provision of its services to the management and staff of the two houses of parliament.

I intend, either independently or in conjunction with the Speaker, to seek Crown law advice as to the operation and functions of the unit with regard to the management and staff employed by the two houses.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. R.I. LUCAS (Treasurer) (14:22): I move:

That standing orders be so far suspended as to enable me to move a motion without notice concerning the appointment of a member to the Environment, Resources and Development committee.

Motion carried.

The PRESIDENT: I note the absolute majority.

Parliamentary Committees

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. R.I. LUCAS (Treasurer) (14:23): I move:

That pursuant to section 21(3) of the Parliamentary Committees Act 1991 the Hon. R.A. Simms be appointed to the Environment, Resources and Development Committee in place of the Hon. M.C. Parnell (resigned).

Motion carried.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. R.I. LUCAS (Treasurer) (14:23): I move:

That standing orders be so far suspended as to enable me to move a motion without notice concerning the replacement of a member on the Standing Orders Committee in the place of the Hon. M.C. Parnell (resigned).

Motion carried.

The PRESIDENT: I note the absolute majority.

Parliamentary Committees

STANDING ORDERS COMMITTEE

The Hon. R.I. LUCAS (Treasurer) (14:23): I move:

That the Hon. R.A. Simms be appointed to the Standing Orders Committee in place of the Hon. M.C. Parnell (resigned).

Motion carried.

Question Time

SUNRISE ELECTRONIC MEDICAL RECORD

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): My question is to the Minister for Health and Wellbeing regarding medication doses.

1. Minister, can you assure the chamber that there is no risk to South Australians after a reported dosing error where the Sunrise medical system has reportedly issued doses 10 times higher, so that 10 milligram doses have become 100 milligrams doses?

2. Can the minister outline to the chamber which hospitals are affected?

3. Can the minister outline if patients affected have been informed?

4. Can the minister outline to the chamber how long this error has been in operation?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:25): I thank the honourable member for the question. SA Health is aware of an issue that is intermittently impacting medication order dosing in the Sunrise electronic medical record. I am advised that as soon as SA Health became aware of the intermittent issue all sites using the Sunrise system were notified and implemented risk mitigation strategies or business continuity plans.

Additional prescription reviews by medical officers, nursing and midwifery and pharmacists are in place while the root cause of the intermittent issue is investigated. An additional alert has been added to the medication ordering screen. I am advised that we are not aware of any adverse clinical outcomes at this time.

In relation to the honourable member's question in relation to which hospitals are affected, I am advised that the only hospitals affected are those that are using Sunrise EMR for clinical use, those being The Queen Elizabeth Hospital, the Royal Adelaide Hospital, Noarlunga, Mount Gambier and Port Augusta. Some other sites connected to Sunrise EMR are view-only access.

In relation to the honourable member's questions in terms of whether any adversely affected patients have been informed, as I said I am advised that we are not aware of any adverse clinical outcomes at this time.

SUNRISE ELECTRONIC MEDICAL RECORD

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): Supplementary arising from the original answer: can the minister outline to the chamber when he first became aware of this matter and, secondly, can the minister outline to the chamber when his department first became aware of this matter, to the best of his knowledge?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:26): I think I became aware of this particular issue this morning. I will find out at what stage of yesterday the department issued the Sunrise EMR and PAS update, but they definitely issued an update yesterday.

SUNRISE ELECTRONIC MEDICAL RECORD

The Hon. K.J. MAHER (Leader of the Opposition) (14:27): Further supplementary: can the minister outline to the chamber, to the best of his knowledge and from his briefings, how long this error has been in operation?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:27): I have no advice on that.

SUNRISE ELECTRONIC MEDICAL RECORD

The Hon. C. BONAROS (14:27): Further supplementary: I am not sure if the minister provided this at the outset, but can the minister advise how many patients have been affected by the dosage issue?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:27): I haven't been given advice on that.

SUNRISE ELECTRONIC MEDICAL RECORD

The Hon. C. BONAROS (14:27): Will the minister undertake to find out how many patients and get back to the chamber?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:27): I am happy to do so. I am happy to take it on notice.

HOMELESSNESS ALLIANCES

The Hon. C.M. SCRIVEN (14:28): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding shelter and mental health.

Leave granted.

The Hon. C.M. SCRIVEN: Last week, the mental health round table issued a 10-point plan. The plan stated:

> Stand up emergency accommodation for an initial 100 people across the metro area working with homeless service providers.
>
> Expand this on as needed and uncapped basis for the rest of 2021-22. Exactly what was done at height of pandemic.
>
> Just get people into shelter. We can then provide the in reach and get them on a road to recovery.

And:

> Cost: Not estimated but based on Perth's experience, savings of $2.50 for every $1 invested.

My questions to the minister are:

1. How does the minister's new plan align with the expert recommendation to stand up 100 crisis beds in the metro area, when 67 are now closing in seven weeks?

2. Why would the minister ignore a recommendation that saves money?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:29): I thank the honourable member for her question, because it gives me an opportunity to talk about the ways that the South Australian government, in partnership with the non-government sector, is seeking to improve homelessness services going forward.

Can I say at the outset that the assertion that 67 crisis beds are closing is incorrect. I have responded to that already and, as I have said, the successful tenderer alliance is in discussions with all of the parties who were part of the unsuccessful tender to see how they may fit into the new alliance going forward.

The Hon. C.M. Scriven: But you don't know when, how or where.

The PRESIDENT: Order!

The Hon. C.M. Scriven: Sixty-seven are closing, aren't they?

The Hon. J.M.A. LENSINK: I think it would be highly inappropriate for politicians in this chamber to try to pre-empt how that should look, because, quite frankly, none of us are the experts. We should leave it to those who are.

The Hon. C.M. Scriven: So 67 are closing and you don't know what's replacing them.

The PRESIDENT: The deputy leader asked a question; she might like to listen to the answer.

The Hon. J.M.A. LENSINK: I noticed that, in her disorderly interjection, she continues to assert things that I have already stated are factually incorrect. She can continue to do so and I will continue to correct—

The Hon. C.M. Scriven: To mislead the parliament.

The Hon. J.M.A. LENSINK: You might like to withdraw that.

The PRESIDENT: Order! I didn't hear the comment—

The Hon. J.M.A. LENSINK: You might like to withdraw that.

The PRESIDENT: —but if the honourable deputy leader feels like withdrawing then I would invite her to do so.

The Hon. C.M. Scriven: If the minister is offended, I withdraw the comment.

The Hon. J.M.A. LENSINK: I am offended.

The PRESIDENT: I think you should do that on your feet.

The Hon. D.W. Ridgway: On your feet.

The PRESIDENT: I don't need any help, the Hon. Mr Ridgway.

The Hon. C.M. SCRIVEN: Shame, Mr Ridgway! I withdraw the comment.

The PRESIDENT: Thank you.

The Hon. J.M.A. LENSINK: I thank the Deputy Leader of the Opposition for that. So where was I? In relation to mental health and homelessness reforms going forward, indeed we did note during the COVID lockdown last year when we had our program, which I think has been broadly commended in terms of assisting people who were rough sleeping or were homeless in South Australia for a range of reasons, that we were able to house up to in the order of 550 people, 250 of whom have now been permanently placed.

What we noticed at the time, which I think is reflected in the honourable member's question, is that through that process, when people had a stable place as residents, the mental health services and Drug and Alcohol Services knew where to find them, in effect, and those people were able to be stabilised, and that was of great assistance.

That is part of what we are looking for as part of our model going forward, so that we do have specialist mental health services as part of our homeless reforms going forward. The successful tender I think is quite an innovative one. I look forward to being able to provide more details about that into the future, particularly as it establishes on 1 July and rolls out. As part of that, Sonder Care is one of the alliance partners within that alliance, so the wraparound services are certainly going to be part of the new services.

I would also like to point out that there is a new service that will be establishing fairly soon through the site at Holbrooks in the western suburbs, which emanates from our picking up the benefit, if you like, of housing people through the hotel-motel program and people being able to receive assistances on site and having a fixed place of residence. Those are coming online quite soon. Part of the alliance process going forward, in Adelaide south, has the mental health component.

Of course, the governance of the alliances is actually very important too, because what it does is not just rely on a single service provider having that particular expertise within its own suite of services that it provides but, because of the governance process where all the organisations are represented at that level, they are able to share that expertise across both the senior level and through their staff to ensure that people who are experiencing homelessness—whether indeed it is due to mental health, drugs and alcohol or domestic and family violence—are able to receive those services at the point of entry. So the person receives a single assessment rather than having to navigate across multiple service providers. At that point, those services are able to be brought in to assist them.

HOMELESSNESS ALLIANCES

The Hon. C.M. SCRIVEN (14:34): Supplementary: is the minister saying that she is implementing the recommendation to stand up 100 crisis beds in the metro area? And if she is not saying that, why not?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:34): We have a model which I think reflects that we were onto this before the Deputy Leader of the Opposition. In fact, I think it is something I have spoken about here before many times about how having mental health incorporated into a homelessness services model is going to assist people to connect those services.

Whether it is a particular number that the honourable member wishes to nominate or whether it is the entire service system, which is many, many beds that don't necessarily have a label attached to them—but it's more about that the person who is in a particular bed at that particular point in time receives the services that they need.

HOMELESSNESS ALLIANCES

The Hon. E.S. BOURKE (14:35): My question is to the Minister for Human Services regarding mental health. How exactly will the new homelessness system avoid discharges into homelessness from acute mental health wards? Given the minister's previous answer in this place, does the minister's answer depend on whatever definition of homelessness is convenient today?

The Hon. S.G. Wade: That's comment.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:35): As my colleague the Minister for Health and Wellbeing disorderly interjects, there was some comment in that particular question, but we will let that go through to the keeper. There is regular connection between the homelessness sector and the LHNs, I think they are called, to ensure that health services are reminded that they should not actually be discharging people into homelessness. That has happened on occasion and we get onto that very quickly if we discover that that is actually taking place. I can't remember what the comment was.

The Hon. E.S. Bourke: The definition of homelessness.

The Hon. J.M.A. LENSINK: Yes; so the Labor Party have taken some exception to a comment that I have made at some point about the definition of homelessness. In the community, I think a lot of people conflate rough sleeping as homelessness and don't realise that in the official Australian Institute of Health and Welfare definition it actually includes temporary accommodation. So people who may be residing in boarding houses or in crisis accommodation are actually considered homeless.

For instance, we have a new site, which is called The Waymouth, which has some temporary accommodation for people where they certainly have access to a comfortable room and a bed to sleep, somewhere to put their clothes, a shared kitchen and shared bathroom and laundry facilities, but that is actually still technically considered homeless. It is something the Labor Party have decided to take exception to. I think within the community there are various understandings of what homelessness is. My comments reflect that in the community there are a range of understandings of that particular matter.

INTERSTATE MIGRATION

The Hon. D.W. RIDGWAY (14:38): My question is to the Treasurer. Can the Treasurer please outline to the chamber some details in relation to the interstate migration figures released earlier this week?

The Hon. R.I. LUCAS (Treasurer) (14:38): I am sure all honourable members were very excited when they saw the headline in *The Advertiser* highlighting the net interstate migration figures. I am sure the reason for members' excitement is that for 20 or 30 years we have had to endure the ignominy of more people fleeing the state of South Australia in what is colloquially referred to as the 'brain drain', rather than attracting people to come to South Australia.

The figures released this week by the independent Australian Bureau of Statistics show that for the first time in almost 30 years there were more people attracted to South Australia over the last 12-month period than actually left from interstate.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: For example—

Members interjecting:

The PRESIDENT: Order on both sides!

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley knows better than to point across the chamber.

Members interjecting:

The PRESIDENT: Order! We will move on to the next question.

The Hon. R.I. LUCAS: That wasn't entirely helpful, Mr President. If I can remind members of—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —the opposition that in their last year, prior to the 2018 election—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —6,000 more people—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —fled South Australia to try to find a job interstate than actually came into South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Six thousand people fled the state—

Members interjecting:

The PRESIDENT: Order! We've had a very boisterous week. There will be some good questions. There will be some concise answers, and we will get on and get as many questions as we can today. I call the Treasurer.

The Hon. R.I. LUCAS: As I said, in the last year of the former Labor government, 6,000 more people fled the state seeking jobs, in particular in the Eastern States, than actually came in. For the first time in 30 years, that has actually—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —been reversed—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and we now actually have more people coming into South Australia than fleeing South Australia in relation to job prospects.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: People in Australia are acknowledging, firstly, the tremendous record of the South Australian—

Members interjecting:

The PRESIDENT: Order! I put the opposition on notice that they will lose a question if this continues. The Treasurer will conclude his remarks fairly shortly.

The Hon. R.I. LUCAS: If I could be heard over the cacophony of sound, Mr President.

The PRESIDENT: Well, I am doing my best; you do yours.

The Hon. R.I. LUCAS: I am doing my best too, Mr President. I am trying to scream now; I am trying to scream. The obvious attractions in South Australia are (a) the highly affordable lifestyle, (b) the wonderful success the South Australian government and the public sector have had in coping with the COVID-19 pandemic, and (c) the tremendous job prospects that people see in defence, shipbuilding, submarines—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —the defence industry, space—

Members interjecting:

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

The Hon. R.I. LUCAS: —and cybersecurity. The important thing is that Hansard is recording all of these wonderful words for posterity.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is for those reasons that the terrible record of the former government has been reversed in this last 12-month period.

Members interjecting:

The PRESIDENT: The leader and the whip are out of order. The next question goes to the Hon. Ms Franks, who will be heard in silence.

LUCAS, HON. R.I.

The Hon. T.A. FRANKS (14:42): I seek leave under standing order 107 to address a question to the Hon. Rob Lucas, as a member of the Joint Committee on the Equal Opportunity Commissioner's Report into Harassment in the Parliament Workplace, on the topic of his commitment to that committee.

Leave granted.

The Hon. T.A. FRANKS: As members are very well aware, the equal opportunity commissioner's review of this parliament has uncovered sexual harassment, misogyny and sexism in our workplace. Indeed, these issues were no surprise to many members of this place. The Hon. Rob Lucas is one of the most longstanding members of this place, and I imagine they were no surprise to him.

I note, however, that that equal opportunity report was a long time in the making. Indeed, a motion that I moved and that we took to a vote on 9 September 2020 in this place was opposed by the Hon. Rob Lucas, purportedly on behalf of the government, noting that it would need a concurrent motion of the other place and certainly ignoring the reality that you can't get a concurrent motion in

one place unless you pass it in the other place, and finally opposing it on the grounds of cost, calling that the 'kicker' that the equal opportunity commissioner wanted to be paid for her work in inquiring into this place.

Eventually, justice prevailed and on 18 March, some eight weeks ago now, following finally having that equal opportunity report presented to the parliament, we saw the establishment of a select committee, the joint committee on recommendations arising from the equal opportunity commissioner's report into harassment in the parliament workplace. I note that that committee is yet to meet, and that is because the committee has been unable to attain quorum.

My question to the Hon. Rob Lucas is: is he committed to this committee and will he ensure that he provides quorum, or will he then, if he cannot do so, support the lowering of the quorum for that committee?

The Hon. R.I. LUCAS (Treasurer) (14:44): I am absolutely committed to the committee.

LUCAS, HON. R.I.

The Hon. T.A. FRANKS (14:44): I have a supplementary.

The PRESIDENT: It is difficult to get a supplementary out of that, but I will listen.

The Hon. T.A. FRANKS: Has the Hon. Rob Lucas been available for the meetings scheduled for the committee that have had to be cancelled due to lack of quorum?

The Hon. R.I. LUCAS (Treasurer) (14:44): I have been available for a number of dates which I have made available in my diary, as other members have done in relation to their diaries. The matter of getting the total committee together is really up to the secretary of the committee. As the honourable member would know, as I sit on a number of committees, some of which she sits on, I make myself available as a minister for the important work of those particular committees. My office would make available certain times and will continue to make available certain times.

LUCAS, HON. R.I.

The Hon. T.A. FRANKS (14:45): Supplementary: has the honourable member been available for all of the meetings scheduled of the committee?

The Hon. R.I. LUCAS (Treasurer) (14:45): I can't add anything more than that. My personal assistant in the office would work with the committee secretary, would indicate the range of times that I am available, as occurs in relation to, for example, the committee on committees, on which I sit with the honourable member and other members of the committee. I can assure the honourable member that I am sure I am not the only person who is finding time within their schedule for meetings for various committees that we have committee engagements to. Coming back to the essential question: am I committed to the work of the committee? Absolutely.

HOMELESSNESS SECTOR STAFFING

The Hon. I. PNEVMATIKOS (14:46): My question is to the Minister for Human Services regarding human services. How will the minister ensure that existing agencies can continue to provide services until 30 June, when their staff have to look for new employment in order to secure their future livelihoods? Secondly, is there even a single day of crossover funding where old and new services operate at the same time to allow proper transition of clients and programs?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:46): I thank the honourable member for her question. In terms of the transition, as I said yesterday, all of the tenders were required, as one of their many requirements, to have a transition plan to ensure that things were transferred as smoothly as possible between 30 June and 1 July. I have expressed publicly already my thanks to all staff who, I am sure, have found this process challenging for them as well, and I think their good work needs to be acknowledged as well as the stress for them going forward.

Our expectation is that there will be jobs for all of the existing staff, whether it is within those agencies in which they currently work or not. That is to be determined by those groups, which have met already this week, continue to meet and continue to negotiate those going forward.

The successful tender bidders did say on the day of the announcement, 30 April last week, that they are hopeful of being able to make sure they have advertisements up and running for positions that transition. The successful bid alliance and, I am sure, the other existing providers are very mindful of ensuring that we retain all the skilled workforce in that sector going forward, whether they are to be retained within their current agency or another going forward.

I think it is important to point out, too, that within those particular services that weren't successful the funding which has gone into the pool going forward is not by any means all of their funding. Not every program is going to be affected. None of them are expected to close their doors. They all have revenue from other sources, so we would expect that the remaining services are unaffected, but it is something that the alliance is working towards very carefully.

HIGHGATE PARK

The Hon. N.J. CENTOFANTI (14:49): My question is to the Minister for Human Services regarding Highgate Park, formerly known as the Julia Farr Centre. Can the minister provide an update on the future of the Highgate Park site and how the Marshall Liberal government is ensuring that South Australians living with disability are at the forefront of the decision-making process in relation to this site?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:49): I thank the honourable member for her question. We are in the phase of moving to that next level. The decision was made many years ago to deinstitutionalise from large institutions, places like the Strathmont Centre and what was formerly known as the Julia Farr Centre (and most recently Highgate Park), to have people in much more appropriate accommodation in the community where they can have much more interaction with everyone else, which in itself is important for them in terms of safeguarding.

We have gone through a thorough independent consultation with the disability sector on the future of that site at Fullarton, and Renewal SA has been engaged to sell the site, with proceeds retained by the trust to benefit people living with disability. The government is seeking expressions of interest for that site. It is my hope that, given that we are in this time of real estate boom, this will be seen as a once-in-a-lifetime opportunity. These sorts of sites don't come onto the market very often, so it is a once-in-a-lifetime opportunity to purchase that site. Obviously, for the benefit of people living with disability, for myself as the trustee it is my hope that that value is maximised so that the money going back into the fund is at its absolute maximum.

Through the consultation more than 360 people were involved, and it focused on people with lived experience of disability from across South Australia, including some subject matter experts working in the disability sector. That report is available on the DHS website. JFA Purple Orange, which is the not-for-profit disability advocacy organisation formed out of Julia Farr Services, is now facilitating a working group to consider the future focus of the trust. We are seeking people to be part of that working group, particularly people with lived experience and people associated with that site in the past.

We are moving into that next phase, where the way we care and deliver services for people with disability has changed radically, so we want to maximise the value of the trust going forward and ensure that the funds are used for things that people with lived experience tell us they would like them to be used for.

RETIREMENT VILLAGES

The Hon. J.A. DARLEY (14:52): I seek leave to make a brief explanation before asking the Treasurer a question about the implementation of the government's decision in respect of retirement villages.

Leave granted.

The Hon. J.A. DARLEY: The government has approved the recommendation of the joint select committee on valuation policies and charges in retirement villages to rectify the inconsistent valuation of retirement villages in South Australia. I understand that this policy is due to be implemented in the 2021-22 financial year. However, I have concerns that no action has been taken to address the additional charges that residents incurred due to the previous inconsistent policy.

It is my understanding that residents faced an additional cost of approximately $300 per annum for multiple water supply charges and some sewerage charges between 2015 to this financial year. My questions to the Treasurer are:

1. Approximately how many thousand residents will benefit from this reversal of the valuation policy?

2. Does the government intend to reimburse residents for the additional costs they incurred as a result of the previous inconsistent policy back to July 2015 and, if not, why not?

The Hon. R.I. LUCAS (Treasurer) (14:54): I will take advice on the detail of the honourable member's question, but by and large the government has been seeking to implement the recommendations of I think it was a joint select committee upon which the Hon. Mr Darley and a number of other members sat. That's the government's intention. I don't recall in that committee report, signed by the Hon. Mr Darley, a request or submission to reimburse people back to 2015 but I might stand corrected. If it did, I will correct the record, but we are seeking to implement the principal decisions made by that joint select committee.

We have sought to fix many of the problems of the former Labor government. We don't have unlimited funding available. The problem identified by the member, which goes back to 2015 under the terms of the former Labor government, I'm not sure what the cost of that would be to the taxpayers of South Australia but I'll take advice on the details of the honourable member's question and bring back a reply as soon as I can.

HOMELESSNESS ALLIANCES

The Hon. T.T. NGO (14:55): My question is to the Minister for Human Services about human services:

1. Can the minister describe exactly how clients who are receiving services on the date of transition between homelessness systems will be moved from one service to another?

2. Who exactly is responsible and accountable when a person falls through the cracks in this process?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:56): I thank the honourable member for his question. We expect that the way that clients should be transferred from the existing service providers to the new service providers—given that some of them are existing service providers it won't be the case for all of them. We are going through the process of identifying how many current clients there are, how many should be expected to have completed need for service by 30 June and what process is going forward.

The clients who are currently in the system, it goes without saying, are known to the existing service providers. I would have a very high expectation that they will provide all of those records to the new service providers and that it should be as seamless a transition as possible. These things are not unknown in this realm. Sometimes these services change.

Indeed, under the existing regime there is a lot of what we would call referral between services at the moment, which is something we are trying to minimise in the new system going forward because what that means is that people have to continuously repeat their story, which they find exhausting, and sometimes they just give up because they get completely exhausted through the process.

We are very mindful that this has been a problem in the current services. In fact, just from talking to our officers, we are aware that there may be situations where we have someone who is physically located in one particular service and they could have three case managers. That is just absurd, so we want to make sure that the system going forward has that seamless transition, and that's part of all the process that the providers are working through right as we speak.

HOMELESSNESS ALLIANCES

The Hon. T.T. NGO (14:58): A supplementary question arising from the answer: the minister mentioned that—

The PRESIDENT: No, just straight to the question.

The Hon. T.T. NGO: How does the minister deal with one service provider providing information from one client to another in terms of overcoming privacy acts?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:58): I thank the honourable member for his supplementary. Those matters are all covered by information sharing guidelines.

SMOKING RATES

The Hon. T.J. STEPHENS (14:58): My question is to the Minister for Health and Wellbeing. Will the minister update the council on the government's efforts to reduce smoking prevalence in South Australia, given that every year more than 15½ thousand Australians die as a result of smoking-related diseases?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:59): I thank the honourable member for his question. The Marshall Liberal government is determined to drive down smoking and the harm to health that it causes, including death.

The Marshall government recently launched a national first: Quit Your Way in May. It is an innovative campaign to encourage South Australians to make a quit smoking attempt during the month of May. It often takes people several attempts to successfully quit smoking. This campaign encourages smokers to set a goal to quit smoking for the entire month of May or a shorter period, such as a fortnight or week. You don't have to have stopped smoking on 1 May to join the campaign; you can set yourself another date this month to begin your journey to be smoke free—any day is a good day to give smokes away.

The campaign provides an opportunity for South Australians to have a go at quitting alongside other South Australians as they attempt to be smoke free. Smokers can join the campaign at quityourwayinmay.com.au and register to receive helpful tips and support throughout their quit attempt.

There are many useful tools for quitting smoking on the website, which includes help to make a quitting plan, suggestions on how to distract yourself, information on how your body recovers after quitting and a smoking costs calculator to show smokers how much more money they could have in their pockets if they gave the smokes away.

Smoking has been linked to a long list of diseases that includes many types of cancer, heart disease and stroke, chest and lung illnesses and stomach ulcers. The Cancer Council reports that tobacco remains the leading preventable cause of death and disease in Australia and, as the honourable member rightly highlighted, they estimate that it claims the lives of more than 15,000 Australians every year.

I am very encouraged by the strong response to Quit Your Way in May so far, with more than 1,000 South Australians having signed up to put the durries away for the month of May. If everyone who has registered is successful in not smoking for the time they have elected on their registration, there will be almost 600,000 unsmoked cigarettes and almost $900,000 saved this month alone.

The Marshall Liberal government was elected with a strong commitment to improve the health and wellbeing of our community. Our better prevention for a healthy South Australia and targeted health prevention policies outline our commitment to rebalancing the South Australian health system with a renewed prevention focus. This government is committed to reducing the prevalence of smoking and supporting all South Australians to experience good physical, mental and social health and wellbeing.

SA HEALTH

The Hon. C. BONAROS (15:02): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding SA Health.

Leave granted.

The Hon. C. BONAROS: I have just received a copy of a SALHN CEO update, which reads, and I quote:

The Southern Adelaide Local Health Network Governing Board Chair has advised me today of the resignation of Chief Executive Officer, Professor Sue O'Neill.

Sue has made the decision to embark on a new phase of her career, giving more dedicated focus to her lifelong work in improving health care systems and her involvement in academic research.

Over the last three and a half years Sue has successfully led and overseen a number of reforms within SALHN and across the SA Health system.

Among many achievements, Sue delivered a comprehensive integrated management system, which has delivered better outcomes for patients and guided SALHN into a positive budgetary position.

Sue has been dedicated to the health and wellbeing of the community in Southern Adelaide and beyond and I would like to take this opportunity to thank her for her service.

Sue's last day with SALHN will be 30 June 2021.

My questions to the minister are:

1. When did Professor O'Neill resign and have you been made aware of her resignation?

2. To your knowledge, has it anything to do with the questions that have been asked in this place regarding fractured relationships with Dr McGowan and comments allegedly made by him, which he has denied?

3. If not, and noting the inaccuracy of information that has previously been provided for the reasons for the departure of SA Health staff, what do you understand those reasons to be?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:04): I thank the honourable member for her question. I understand that the honourable member was reading from an update from the chief executive of—

The Hon. C. Bonaros: The SALHN CEO update.

The Hon. S.G. WADE: Yes, and it was the chief executive of the department.

The Hon. C. Bonaros: Yes.

The Hon. S.G. WADE: I certainly was aware of the resignation of the chief executive officer. I would like to join the governing board chair in paying tribute to the exemplary service of Professor Sue O'Neill as SALHN chief executive officer. The board chair has issued an update, which I would like to quote from:

It's my unfortunate task to advise you that the Chief Executive Officer, Professor Sue O'Neill, has tendered her resignation to the South Australian Local Health Network Governing Board. Sue made the decision to embark on a new phase of her career, giving more dedicated focus to her lifelong work in improving healthcare systems and her involvement in academic research. This next step in her career will no doubt continue to positively serve South Australia, our citizens and our healthcare system.

Later in the same update it goes on to say:

At the time Sue took the reins of SALHN there was a pattern of too regular change and disruption. This was 3½ years ago after the closure of the Repat health reforms during a period of unstable leadership and the organisation was running at a budgetary deficit of over 10 per cent. How things have changed. Sue leaves behind a lasting legacy. She led organisation through national accreditation, introduced the integrated management system, SALHN's strategic direction map and has managed to steer SALHN into a favourable budgetary position. Importantly, Sue led SALHN during the COVID-19 pandemic as SALHN's commander-in-chief of the emergency response using the award-winning IMS, which connects the wards all the way to the Board.

The chair goes on to make other comments—very appropriate comments—about the service of Sue O'Neill. On behalf of the government, I thank Sue O'Neill for her service. The honourable member poses a question: could this resignation be linked to offence at the comments made by the chief executive? I am advised that Professor Sue O'Neill has provided the following statement about those alleged statements:

I strongly refute the claims that Dr Chris McGowan used inappropriate language at this meeting to describe me or my colleagues. I attended this meeting in person and can categorically say that it simply did not happen. As leaders of SA Health, we are committed to ensuring our high standards of displaying respectful behaviours are upheld at all times.

SA HEALTH

The Hon. C. BONAROS (15:07): Supplementary: is the minister concerned about the growing number of resignations and the reasons for them in the face of what can only be described as a health crisis in this state?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:07): I ask the honourable member to reflect on the statement I just made about the resignation of Sue O'Neill. She served for 3½ years. We had what was called under the former government 'a revolving door of leadership' in SA Health. I think the stability in the leadership of SA Health demonstrates the commitment of that team and the fact that there are a lot of health leaders who are very excited about being part of delivering positive change.

The PRESIDENT: Another supplementary, the Hon. Ms Bonaros.

SA HEALTH

The Hon. C. BONAROS (15:08): To your knowledge, is there any truth whatsoever to the claims of fractured relationships between LHN CEOs and Dr McGowan?

The PRESIDENT: I'm not sure that that arose from the answer, but if the minister wishes to add something.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:08): I would just like to make the point: can you really expect that you can have 45,000 employees, which I do in SA Health, and that they are all happy with each other? I'm sorry, when—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: You blokes all hate each other most of the time.

The PRESIDENT: Order! The Hon. Mr Ridgway is out of order pointing. Don't point.

The Hon. S.G. WADE: As I said, there are 45,000 employees, and I am sure they bump into each other from time to time. The depth and quality of both skills and commitment of the SA Health team has been demonstrated in the last year. This team has stepped up and led this state in the pandemic response. They work—

The Hon. C. Bonaros: In extraordinary circumstances, they've stepped up.

The Hon. S.G. WADE: Excuse me; I'm trying to answer your question. That team has demonstrated they are cohesive, they are focused and they are dedicated.

SA HEALTH

The Hon. K.J. MAHER (Leader of the Opposition) (15:09): Supplementary arising from the answer the minister originally gave: is the minister aware if Professor O'Neill has ever raised concerns about the Chief Executive of SA Health, including the conduct and behaviour of the Chief Executive of SA Health, Chris McGowan?

The PRESIDENT: Minister, I don't think that came out of the original answer. Unless you want to answer it I am going to rule that out of order.

SA AMBULANCE SERVICE

The Hon. J.E. HANSON (15:10): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding ambulances.

Leave granted.

The Hon. J.E. HANSON: In the last 24 hours, the secretary of the Ambulance Employees Association, Phil Palmer, said in a communication to his members:

> We had to endure a series of ridiculous proposals from a pigheaded government who just could not get how wrong they were.

My question to the minister is: does the minister accept that his government's interactions with paramedics have been pigheaded and ridiculous?

The Hon. R.I. LUCAS (Treasurer) (15:10): Given that I handled—

Members interjecting:

The Hon. R.I. LUCAS: Given that I handled all of the negotiations with my officers on behalf of the government, the question is more appropriately addressed to me. The simple answer to the honourable member's question is no. We always, as I am sure all members would respect, handle our own negotiations with employee representatives and their members respectfully but nevertheless in a firm and fair fashion on behalf of the taxpayers of South Australia.

Without recounting all of the details of the deal that has been arrived at, signed off by the representatives of the AEA and the government, together with the Deputy President of the Employment Tribunal—a signed agreement—it is clear, and that is that both sides have been prepared to compromise. The government is more interested—and as I said yesterday, we are not interested in claiming victory or who won or who didn't win.

The people of South Australia, the patients and the staff within our public hospitals are the winners in relation to what occurred yesterday as a result of—

The Hon. J.E. Hanson interjecting:

The PRESIDENT: The Hon. Mr Hanson asked the question; he might like to listen to the answer.

The Hon. R.I. LUCAS: —three or four weeks of negotiation. We are in a position now to move on, with an extra 74 full-time equivalent staff, a commitment to roster reform by 30 June and a willingness to negotiate with each other in terms of crib break reform and, critically, a signed agreement to cease all industrial action as from yesterday.

RETURNTOWORKSA PREMIUM

The Hon. D.G.E. HOOD (15:12): My question is to the Treasurer. Can the Treasurer outline the background to the decision by the ReturnToWork board today on the premium levels for next year?

The Hon. R.I. LUCAS (Treasurer) (15:12): I am advised that the ReturnToWorkSA board, as an independent body, has issued a press statement, I think this afternoon or maybe this morning, announcing its premium levels for next year, which is a small increase of 0.05 per cent. The premium for this year and I think last year as well has been 1.65 per cent, and the proposed premium for next year is 1.70 per cent.

We welcomed the reforms of the former government, led by former Attorney-General, John Rau. We supported those reforms through this parliament. There has been some discussion in recent days about long speeches given in this particular chamber critical of aspects of the former government's comprehensive reforms, which, as I said, were supported by the then Liberal opposition and the now government.

That has led to premium rates dropping from just under 3 per cent—I think 2.75 per cent—down to at the lowest level 1.65 per cent. I congratulate the ReturnToWork corporation, its staff and its board over the last 12 to 18 months, as they have had to manage, as everyone has had to manage, the ramifications of the COVID-19 pandemic. They took key decisions in relation to whether or not premiums would be charged, for example on JobKeeper payments, which assisted business to help retain jobs in South Australia. They have been flexible and agile in terms of trying to work with businesses to try to keep as many businesses alive as possible during the 12 or 15 months of the COVID-19 pandemic.

Their release today outlines the fact that the scheme is under significant pressure. There have been a number of recent tribunal and court decisions that are placing financial pressure on the key elements of the scheme. As outlined by the former Attorney-General, John Rau, there are, certainly in the last 12 months, higher numbers of workers now qualifying for seriously injured worker

status than were originally projected by the corporation (and the former government, I might say, when they introduced the scheme).

Those tribunal and court decisions, as I said, are placing pressure on the fundamentals of the scheme and in particular on premium levels that might have to be charged. Essentially, they have advised me that is the background to the modest increase in the premium levels from 1.65 per cent to 1.70 per cent for the coming year.

MINISTERIAL CARS

The Hon. R.A. SIMMS (15:16): I seek leave to make a brief explanation before addressing a question on the topic of ministerial cars to the Treasurer.

Leave granted.

The Hon. R.A. SIMMS: It's been reported that the state government will be replacing their ageing Holdens in the government's ministerial fleet with luxury Genesis G80 cars worth just shy of $85,000. That's despite previously indicating that the government would be looking to purchase electric vehicles and, following the news of the purchase of the Genesis G80 cars, the Treasurer saying that he expected the entire Public Service to shift towards electric vehicles in the 'very near future' and that 'we are certainly committed to the whole fleet, including the ministerial fleet, moving in that direction'.

The government state that they knocked back electric vehicle options at this time because they were deemed to be 'too expensive'. However, there are electric cars available in Australia for far less than $85,000. My question to the minister is: what is the justification for purchasing luxury non-electric vehicles to replace older cars in the government's ministerial fleet, particularly when they cost about $25,000 more than the cars they are replacing? Is the government's opposition to electric vehicles in their own fleet connected with their electric car tax?

The Hon. R.I. LUCAS (Treasurer) (15:17): The answer to the last part of the question is no. With great respect to the media coverage of this particular story, I want to place some facts on the table. The first point is the supposed claim that these luxury vehicles that replace the no longer being produced Holdens are $25,000 more expensive. That's a comparison of a 2020 cost with, as I understand it, the list price for the Caprice back in 2017.

I am not sure whether the Hon. Mr Simms has availed himself of the purchase of a car, either in a private capacity or under the new arrangements that are available to him as a member of parliament, but—surprise, surprise—car costs have actually increased in the last four years. Should the Caprice have still been produced in 2020-21 it would have been significantly more expensive than the $61,000 cost, or whatever it was, that was being quoted in that media article.

I think any fair person, and I am sure the Hon. Mr Simms would judge himself to be a fair person, wouldn't be comparing the cost of a new, supposedly luxury vehicle in 2021 with what might have been the cost of a vehicle back in 2017. An apples with apples comparison would have been much better.

The decision is not a recent decision in relation to the Genesis. When we first came to government we took a decision to reduce the number of ministerial cars and the number of ministerial drivers. We saved just under $400,000 a year from what we thought were the excessive number of cars and drivers that the former government had provided for themselves, but we had to go through the process of replacing the Holdens because they were no longer available. There is a requirement for the ministerial car to be available to transport other people within the car, in particular for the Premier and most ministers I guess as part of their daily routine or work patterns. That was the case with the former government, and it's the case with this government as well.

Some other jurisdictions, as I understand it, have looked at BMWs and others as alternatives to the Holden. As the Treasurer, I wasn't going to take a decision to provide a BMW to ministers as a replacement vehicle. We looked at a variety of vehicles. I think the article quotes the recommendations that eventually came to me after things like BMWs were ruled out. I think Skodas, Volkswagens and one or two others, together with the Genesis, were recommended.

They were all in and about that particular price range. The point I made to the media at the time was that the purchase price is not the key determinant of the cost of purchasing a vehicle, whether it be for members of parliament cars or whether it be for ministerial cars. The cost of fuel over the expected life of the vehicle, maintenance costs and the like are also factored in to a complex calculation. When that was done, the Genesis came out as being cost competitive, both with the former Caprice but also more cost competitive than the other models that were available.

They were also tested by the various drivers in the fleet in terms of usability and drivability for drivers. I do note that there are a small number of cars in the ministerial fleet that are provided to members who live in country electorates, which are more expensive again in terms of being, I think, Prados. I think the Hon. Mr Maher from the opposition might have a vehicle of that description as well. Former Minister Whetstone, and I think Minister van Holst Pellekaan, for example, have Prados, in terms of people who live in country electorates and have to do a lot of country driving in terms of the use of the vehicle, and they are more expensive again. They might be described as even more luxury vehicles perhaps, in terms of their fuel costs and the like as well.

That was the background to it. It certainly wasn't in relation to the electric vehicle tax. The government's position on the whole fleet, which is a much bigger number of car purchases and much more significant, is that the advice we have received from industry stakeholders is that by probably around about 2025-26 the purchase price of electric vehicles will be cost competitive with non-electric vehicles.

It will be at that stage, we believe, that not only large numbers of people in the private sector, but it will be clearly advantageous in the public sector for the government fleet to move completely to the electric vehicles. As that price becomes more competitive, the number of electric vehicles in the fleet will be able to increase in terms of its number.

MINISTERIAL CARS

The Hon. R.A. SIMMS (15:23): Supplementary, and I thank the honourable member for his response—most illuminating. I would like to know whether it is true that only nine of the current ministerial fleet are in fact electric?

The Hon. R.I. LUCAS (Treasurer) (15:24): I don't believe any of the ministerial fleet are electric at all. I am prepared to have a long discussion with the Hon. Mr Simms, if he likes, about cars. What I know about cars is what I am advised, as opposed to any inbuilt knowledge about cars. I suspect he is talking about the total state fleet as opposed to ministerial fleet. There has been an answer to a question provided to I think the Hon. Mr Parnell in the past in relation to the whole state fleet and that's a much bigger group of cars than whatever it is, 20 or so, that are in the ministerial fleet.

I can assure you that the state fleet is not all Genesis vehicles because they aren't required to carry passengers and the like. I am happy to talk to the honourable member about the MPs car scheme as well, if that is of any interest to him.

Personal Explanation

STATUTES AMENDMENT (FUND SELECTION AND OTHER SUPERANNUATION MATTERS) BILL

The Hon. R.I. LUCAS (Treasurer) (15:25): I seek leave to make a statement to correct a statement I made in the house earlier in the week.

Leave granted.

The Hon. R.I. LUCAS: During the debate on the superannuation bill on Tuesday, I was asked whether the Super SA Board had considered and approved the future outsourcing of its insurance services. I indicated that my understanding was that there had been no decision taken by the board. I am advised that that statement was not correct.

Late last year, Super SA sought my approval to take to cabinet a proposal to cease their current self-insurance arrangement and move to an industry standard arrangement of external insurance for Triple S members. That is not all their members, but Triple S members. I did not sign the approval request, and the proposal did not proceed to cabinet.

Bills

STATUTES AMENDMENT (IDENTITY THEFT) BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (15:27): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935, the Criminal Procedure Act 1921, the Sentencing Act 2017 and the Youth Court Act 1993. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:28): I move:

That this bill be now read a second time.

I am pleased to introduce the Statutes Amendment (Identity Theft) Bill 2021. This bill updates the laws that apply to identity theft by making amendments to the Criminal Law Consolidation Act 1935, the Criminal Procedure Act 1921, the Sentencing Act 2017 and the Youth Court Act 1993.

South Australia was the first jurisdiction to introduce identity theft provisions back in 2003. However, in the 18 years since then, criminals and technology have evolved significantly. Change is required to update our laws to make sure they are fit for this new reality.

This bill updates the provisions in part 5A of the Criminal Law Consolidation Act to make it easier to prosecute identity theft and increases penalties associated with the crime. Changes will also support victims by making it easier to quickly obtain verification from a court that they have been a victim of identity theft, which will assist victims to restore their creditworthiness.

The bill inserts a new offence into the Criminal Law Consolidation Act of possessing or using another person's identification information without reasonable excuse. The new offence in section 144DA places the onus of proof on the defendant to show reasonable cause for possessing another person's identification information. This offence is a summary level offence, carrying a maximum penalty of two years' imprisonment.

The reverse onus nature of this offence aims to address the fact that identity theft offences are becoming increasingly prevalent, are generally committed remotely from the victim, leave little physical evidence and are far harder to track than other property theft offences. Varying the burden of proof in this way recognises that the 'reasonable excuse' for possessing another person's identity information relates to facts which, if they exist, are readily provable by the accused as matters within his or her own knowledge or to which they have ready access.

The new offence is limited to the possession of the personal identification information of natural persons rather than bodies corporate. The new offence does not include the possession of public identification information. This is defined to include name, address or other contact details, date or place of birth, marital status and relatives. These details are readily available publicly and possession of them does not constitute an offence.

There are a number of defences for the possession of another person's personal identity including:

- for use in the ordinary course of a lawful occupation or activity,
- where the defendant is a close relative of the victim,
- where the defendant holds a power of attorney for the victim, or
- where the defendant is a guardian or administrator for the victim.

Where a defence of reasonable excuse is raised, the onus is then on the prosecution to prove beyond reasonable doubt that the defendant had possession of the relevant material without reasonable excuse.

The existing identity theft offences are very narrow. Currently, sections 144B and 144C require the prosecution to prove that the assumption of a false identity or the misuse of personal identification information was done with intent to commit a 'serious' criminal offence. A

serious criminal offence is defined in section 144A as an indictable offence or one prescribed by regulation.

This requirement has meant the threshold for prosecution has been unreasonably high and failed to capture many modern identity theft schemes. For instance, 'card not present' fraud, skimming, payWave and other high-volume and low-value offences. It is proposed in the bill to remove the requirement for intent to commit a serious criminal offence, and simply refer to a criminal offence. With this amendment, police will be able to target a wider spectrum of offending.

The penalty for the existing offence of producing or possessing prohibited material in section 144D is also increasing from three years to five years to provide a greater deterrent for this type of offence.

Section 144F of the Criminal Law Consolidation Act currently contains a broad exemption for misrepresentations by persons under the age of 18 for the purposes of obtaining alcohol, tobacco, 'or any other product or service'. The breadth of the underage exemption for 'any other product or service' is narrowed by the bill. Minors who access online gambling products or services or R18+ publications, films or computer games will no longer be exempt from identity fraud.

Minors will, of course, be dealt with in accordance with the Young Offenders Act 1993, which allows police to deal with this type of offending by giving informal or formal cautions, requiring a family conference and imposing other sanctions for serious offences.

Finally, the bill modifies the existing provisions regarding the issuing of identity theft certificates. An identity theft certificate is a document which can be provided by a court to verify that the victim is a victim of identity theft. Victims then use this certificate to prove to relevant authorities that their identity has been compromised.

Under the current framework, many victims are not able to obtain an identity theft certificate. Currently, section 125 of the Sentencing Act requires first the conviction of the offender, and secondly, that the victim apply to the court that arrived at the finding of guilt for a certificate to be issued.

This process presents difficulties for victims. Many perpetrators are never found or charged and, if the perpetrator is found and charged, it can take years for prosecutions to be completed. There is also a low rate of successful prosecution. In the meantime, victims can spend a significant amount of time and effort convincing government departments, agencies, utilities and credit reporting agencies that their identities have been compromised before it is possible for them to obtain credit or services. In cases where there is a prosecution, the long wait for a court outcome exacerbates the financial detriment and emotional stress experienced by victims.

The bill inserts a new section 84 in the Criminal Procedure Act 1921 enabling the Magistrates Court (or, in the case of minors, the Youth Court) to issue a certificate to a victim of identity theft where the court is satisfied, on the balance of probabilities, that they are the victim of identity theft. As the ability to obtain a certificate is no longer contingent on a conviction of the perpetrator, the certificate provision has been moved from the Sentencing Act to the Criminal Procedure Act.

Keeping our laws current and relevant is one of the Marshall Liberal government's key justice priorities. This bill will ensure that our laws capture modern-day methods of perpetrating identity theft crimes and, most importantly, provide greater protections to the victims. I commend the bill to members and I seek leave to insert the detailed explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Criminal Law Consolidation Act 1935

4—Amendment of section 144A—Interpretation

This clause makes consequential changes to the definitions in Part 5A of the Act.

5—Amendment of section 144B—False identity etc

This clause gets rid of references to 'serious' criminal offences so the offence in section 144B will apply in relation to an intention to commit, or facilitate the commission of, any criminal offence.

6—Amendment of section 144C—Misuse of personal identification information

This clause gets rid of references to 'serious' criminal offences so the offence in section 144C will apply in relation to an intention to commit, or facilitate the commission of, any criminal offence.

7—Amendment of section 144D—Prohibited material

This clause increases the penalties from 3 years imprisonment to 5 years imprisonment.

8—Insertion of section 144DA

This clause inserts a new summary offence of possession, without reasonable excuse, of personal identification information.

9—Amendment of section 144F—Application of Part

This clause applies Part 5A to misrepresentation by a minor for the purpose of obtaining access to on-line gambling products or services and publications, films or computer games, where they are not lawfully allowed to be made available or supplied to persons under the age of 18.

Part 3—Amendment of Criminal Procedure Act 1921

10—Insertion of Part 4 Division 6

This clause inserts a new Division allowing the Magistrates Court to issue a person with a certificate if satisfied, on the balance of probabilities, that the person is an identity theft victim.

Part 4—Amendment of Sentencing Act 2017

11—Amendment of section 125—Certificate for identity theft victims

This clause makes a consequential amendment to section 125 to recognise the new identity theft certificate procedure.

Part 5—Amendment of Youth Court Act 1993

12—Amendment of section 7—Jurisdiction

This clause allows the Youth Court to exercise the same jurisdiction as the Magistrates Court to issue an identity theft certificate to an applicant who is a child or youth.

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

STATUTES AMENDMENT (CIVIL ENFORCEMENT) BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (15:35): Obtained leave and introduced a bill for an act to amend the Enforcement of Judgments Act 1991 and the Sherriff's Act 1978. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:36): I move:

That this bill be now read a second time.

I am pleased to introduce the Statutes Amendment (Civil Enforcement) Bill 2021. The bill amends the Enforcement of Judgments Act 1991 and the Sheriff's Act 1978 to implement a number of recommendations of a review undertaken by the Courts Administration Authority into civil enforcement processes in South Australia.

The courts review was undertaken by a review panel, which included representatives of the judiciary and the Courts Administration Authority, representatives of the Sheriff's Office, the then President of the Law Society, representatives of the Attorney-General's Department and relevant

solicitors with expertise in civil enforcement proceedings. A supplementary report was also prepared by the Sheriff's Office.

The courts undertook the review with the intention of modernising and streamlining civil enforcement procedures in this state, in line with other Australian jurisdictions. Several recommendations entail legislative change. The bill inserts a new provision into the Enforcement of Judgments Act to enable a judgement creditor to serve a notice, to be termed an 'investigation notice', on a judgement debtor prior to an investigation summons.

Where monetary judgement has been ordered by a court against a judgement debtor, section 4 of the Enforcement of Judgments Act allows for the court, upon application by a judgement creditor, to investigate the judgment debtor's means of satisfying the debt. The investigation hearing is usually the first stage of enforcement proceedings and requires the court to issue a summons for the debtor to appear before the court for examination and to produce any documents relevant to assessing the debtor's capacity to repay the judgement debt. Failure to appear for an investigation hearing may render the debtor liable for arrest.

The courts review of civil enforcement procedures considered the use of investigation hearings to be unnecessarily adversarial and an inefficient use of the court's time and resources as the initial stage of the enforcement process. It was recommended that investigation hearings be replaced wherever possible with an informal process to allow creditors to attempt to directly obtain information about the financial circumstances of the debtor without the need for court attendance.

The proposed investigation notice is modelled on part 38 of the Uniform Civil Procedure Rules of New South Wales. Unlike the NSW examination notice, the investigation notice will not be a compulsory first step before a court-summonsed investigation proceeding; rather, the incentive for debtors to comply with the informal notice will be reduced court costs, since the costs of formal court investigation proceedings are otherwise added to the amount of a judgement debt under section 3 of the Enforcement of Judgments Act.

It is anticipated that introducing this investigation notice option will encourage a collaborative approach to resolving the judgement debt, reduce costs of parties and the use of court resources, as well as expedite the enforcement process. The bill will also amend the Enforcement of Judgments Act to expand the scope of garnishee orders as a means of enforcing judgement debts.

Subsection 6(2) of the Enforcement of Judgments Act only permits garnishee orders to be made against a debtor's salary or wages with the debtor's consent. The courts review considered this requirement to be outdated and inconsistent with current civil enforcement procedure in other jurisdictions, noting that South Australia remains the only jurisdiction to still require a debtor's consent to a garnishee order attaching salary or wages.

In relation to concerns about potential financial hardship being caused to low income earners and welfare recipients as a result of garnishee orders, section 6(4) of the Enforcement of Judgments Act requires the court, before making a garnishee order, to take into account evidence of the necessary living expenses of the debtor and any dependents, and of any other liabilities that may affect their means of satisfying the debt. It is appropriate that section 6(4) be retained to preserve the court's discretion to set an appropriate amount for a garnishee order, which has regard to the individual circumstances of the debtor.

A further amendment is made, as recommended in the courts' review, to section 6 of the Enforcement of Judgments Act to allow for garnishee orders to be made against funds held in a term deposit, regardless of whether the term deposit has matured. While existing section 6(1) allows a garnishee order over moneys in a term deposit account, there is some doubt that it authorises immediate payment of those moneys where the term deposit is yet to mature.

Section 6(5) of the Enforcement of Judgments Act allows the court to authorise the garnishee to retain an amount from the money subject to a garnishee order as compensation for the garnishee's expenses in complying with the order. This will ensure that in cases where a financial institution (the garnishee) incurs costs in terminating a term deposit early, the financial institution is able to recover the costs of complying with the order.

The bill amends section 7 of the Enforcement of Judgments Act to empower the Sheriff, by written notice, to require a judgement debtor or third party to provide relevant information or documents disclosing the interests of third parties in real or personal property subject to a warrant for seizure or sale.

Section 7 of the Enforcement of Judgments Act enables the court, on application by a judgement creditor, to issue a warrant of sale authorising seizure and sale of a judgement debtor's real or personal property (or both) to satisfy a judgement debt. However, before a warrant for sale can be executed, the Sheriff must establish the extent of the defendant's interest in the property and the proprietary interest of any other third parties, as well as their written agreement as to the proportions in which the net proceeds of the sale will be divided.

Despite these requirements, the Sheriff has advised that financial institutions (for example, a bank which holds a mortgage over the property) are increasingly refusing to provide details of their proprietary interests due to breach of privacy concerns. This has made it extremely difficult for the Sheriff to establish the judgement debtor's interest in the property subject to the sale order. This amendment to section 7 should address this problem.

The bill also amends section 7 of the Enforcement of Judgments Act to clarify and broaden the Sheriff's powers to eject persons from, and proactively direct persons not to enter, land where the Sheriff is exercising a warrant for the sale of the land to enforce a judgement.

Presently, section 7(3a) authorises the Sheriff to eject a person not lawfully entitled to be on the land but does not authorise the Sheriff to issue a direction to prevent a person from entering the land that has been seized for sale. The Sheriff advises that this has led to situations whereby the Sheriff, having already ejected a person from the land at the time of the seizure, has been unable to lawfully direct a person to stay off the land or remove the person from the land until the person has re-entered the land, for example during an open inspection. These amendments will address this deficiency in the Sheriff's powers.

This bill amends the Sheriff's Act 1978, as requested by the Chief Justice, to give the Sheriff an express power to request the Commissioner of Police to provide assistance with respect to any enforcement of judgement. The amendment, inserting a new section 9DA into the Sheriff's Act, will also provide for a police officer rendering such assistance to have all the powers of a sheriff under the Enforcement of Judgments Act.

The amendments in this bill will impact positively on the community's level of confidence in the justice system and its ability to enforce civil court judgements. They will improve outcomes for judgement creditors in being able to recover amounts owed to them after successfully enforcing their rights in court. The amendments will also improve court efficiency in enforcing civil court judgements on behalf of judgement creditors. In this way, the bill will support a key priority of the government's justice agenda, that is, to ensure 'a courts system built to last'.

I commend the bill to members, and I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Enforcement of Judgments Act 1991

4—Insertion of section 3A

This clause inserts new section 3A into the principal Act.

3A—Investigation notices

Proposed clause 3A makes provision for an investigation notice requiring a judgment debtor to answer material questions and provide for inspection by the judgment creditor of specified documents.

5—Amendment of section 6—Garnishee orders

This clause amends section 6 to provide for the making of certain payments (including in the form of salary, wages or money held in a term deposit) to the judgment creditor.

6—Amendment of section 7—Seizure and sale of property

This clause amends section 7 of the principal Act so that a warrant may include a requirement for the judgment debtor to provide the sheriff with information relating to the interests of third parties in property owned by the debtor as well as a requirement for any such third party to provide relevant information to the sheriff.

The proposed amendments to section 7 also set out a series of powers (including powers of direction) that the sheriff may exercise in relation to a warrant.

Part 3—Amendment of *Sheriff's Act 1978*

7—Insertion of section 9DA

This clause inserts proposed section 9DA into the principal Act

9DA—Sheriff etc may be assisted by police officers

Proposed section 9DA provides that the sheriff or deputy sheriff may be assisted by a police officer in the performance or exercise of their statutory functions. Proposed section 9DA makes specific provision for a police officer to be taken to have the powers of the sheriff under the *Enforcement of Judgments Act 1991*.

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

LEGISLATION INTERPRETATION BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (15:44): Obtained leave and introduced a bill for an act to provide general rules for the interpretation of acts and legislative instruments of the state, to define certain terms used in the acts and legislative instruments of the state, to make related amendments to various acts, to repeal the Acts Interpretation Act 1915 and for other purposes. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:45): I move:

That this bill be now read a second time.

I am pleased to introduce the Legislation Interpretation Bill 2021, which will repeal and replace the Acts Interpretation Act 1915. The Acts Interpretation Act was first enacted when I had just entered the parliament—over 100 years ago! It sets out the rules for interpreting acts of parliament and legislative instruments, as well as the rules around the operation and effect of legislation and legislative instruments. It contains a dictionary that applies to the entire statute book and rules about services and penalties that also apply across the board. Over the years, the act has been amended many times in a piecemeal way.

As part of a review of the Acts Interpretation Act, the Office of Parliamentary Counsel identified anomalies, as well as provisions that required updating, and opportunities for harmonisation with the interpretation acts of other jurisdictions. In general terms, the bill improves the order and layout of the provisions to make them easier to find and use, moves some provisions to other more appropriate legislation, adds new provisions to reflect developments in statutory law and society and uses consistent language.

The explanation of clauses prepared by parliamentary counsel that accompanies this bill is of a much more detailed nature than usual practice. This is to assist the legal profession and others in the future interpretation of this bill and to ensure that the intention behind any of the changes that have been made is very clear.

The explanation of clauses identifies those clauses of the bill that are a direct transfer from the Acts Interpretation Act into the bill and those clauses of the bill where changes of substance are being made. I will not go through each clause of the bill in this speech; however, I will briefly mention those clauses of the bill where the more notable changes are made.

Clause 18 provides that everything forms part of the act or legislative instrument. The exceptions to this are editorial notes, the legislative history and appendices that are present for reference only. This is different from the Acts Interpretation Act, which provides that section headings, notes and lists of content do not form part of an act.

This change is the most significant change proposed by the bill. To mitigate any risk that may arise as a result of the change, a savings provision has been added to allow section headings and the like, which had not previously formed part of the act and which had not been enacted by parliament, to be amended once administratively. The amendment would be undertaken by or under the supervision of the Commissioner for Legislation Revision and Publication. This is to ensure any errors in headings that had been inserted administratively can be corrected without having to undertake legislative amendments.

Part 9 of the bill updates the schedule of divisional penalties to reflect the current scale that is used for penalties that have a monetary value. There are still a number of older acts that use divisional penalties rather than a monetary amount and this change reflects the current scale that is used.

Clause 39 of the bill is a new provision that will allow certain meetings to be held remotely. The definition of 'gazette' has been amended in a way that will allow the *Government Gazette* to be published electronically. These two amendments reflect changes in society to an increased reliance on digital and electronic means of undertaking work.

Part 7 of the bill contains the provisions relating to the calculation of time periods, which have been updated and set out in a different format to improve their useability. It is important to emphasise that there is absolutely no intention for the bill to override the provisions of other acts or instruments where there is a contrary intention, and there has been no change from the current act in that regard.

The new Legislation Interpretation Act will sit on the statute book and index adjacent to the Legislation Revision and Publication Act 2002 and the Legislative Instruments Act 1978, which was formerly known as the Subordinate Legislation Act 1978. This is so all of the acts that guide the interpretation, operation and making of legislation and subordinate legislation sit together and can be easily found.

In closing, I would like to acknowledge the significant contribution of the Office of Parliamentary Counsel to the development of this bill. They are, of course, involved in the development of every bill; however, the nature of the work they do has meant that they are uniquely placed to contribute to the development of this bill and I thank them for their efforts. I commend the bill to members and I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

The title of the measure reflects the fact that it applies to all legislative instruments as well as to Acts (so it refers to the general term 'Legislation' rather than the specific term 'Acts'). The measure will standardise the language used across the Acts that relate to the making of legislation or that have interpretative provisions of general application to legislation, so they will all refer to subordinate instruments consistently as 'legislative instruments' and they will all have titles commencing with the word 'Legislation' or 'Legislative'. This means they will all be grouped together for indexing purposes and will appear in sequence on the legislation website. Currently these Acts are the *Acts Interpretation Act 1915* (now to be the Legislation Interpretation Act 2021), the *Legislation (Fees) Act 2019*, the *Legislation Revision and Publication Act 2002* and the *Subordinate Legislation Act 1978* (now to be the Legislative Instruments Act 1978).

2—Commencement

This clause is formal.

3—Application of Act

The measure applies to all Acts and legislative instruments whenever made but (like the current Acts Interpretation Act) is liable to be displaced by a contrary intention.

Part 2—Definitions and rules about the meaning of words

4—Standard definitions

This clause sets out standard definitions for Acts and statutory instruments. It includes (and updates where necessary) the existing standard definitions currently in section 4 of the Acts Interpretation Act and adds new definitions of amend, appoint, Australia, business day, calendar month, calendar year, certified mail, confer, contravene, council or local council, Crown, day, District Court, DPP, entity, external territory, foreign country, function, individual, internal territory, Jervis Bay Territory, legislative instrument, Magistrates Court, make, motor vehicle, Northern Territory, office, repeal, SAPOL, SACAT, SAET, year and Youth Court. The inclusive definition of 'record' is now located in clause 8 of the measure along with other provisions relating to digital material.

Some of these definitions are being added because they appear (in one form or another) in multiple Acts across the statute book and having them in the Legislation Interpretation Act will avoid unnecessary repetition. Examples of this would be the definitions of contravene, council or local council, District Court, DPP, function, Magistrates Court, motor vehicle, SAPOL, SACAT, SAET and Youth Court.

Other terms that are used fairly frequently but currently are not usually defined (and therefore have their ordinary meaning or the meaning necessary in the context in which they are used) are now being defined in order to provide readers with greater clarity. Examples of this are appoint, certified mail, confer, Crown, make and office.

Certain other definitions (Australia, external territory, foreign country, internal territory, Jervis Bay Territory and Northern Territory) are included to ensure that we are defining geographical areas consistently with the Commonwealth definitions.

The definitions of amend, repeal and legislative instrument are included with the aim of standardising some of the language we use in relation to legislation. Currently we refer to 'amending' or 'repealing' Acts but for legislative instruments we refer to 'varying' or 'revoking' them. This difference in terminology serves no purpose and so the intent in future is to just refer to 'amending' and 'repealing' both Acts and legislative instruments. It is also intended to use the term 'legislative instrument' to refer to all forms of instruments of a legislative character made under Acts (which currently can be referred to by various terms such as subordinate legislation, delegated legislation, statutory instruments and so on).

The definitions of entity and individual are also being added with the aim of adopting them as standard terms in legislation. 'Individual' will mean a natural person. 'Person' will be defined in the same way as it currently is (and therefore includes both an individual and a corporation) and the umbrella term will be 'entity' which will mean a person (as defined), a partnership or an unincorporated body.

A final group of definitions is included to provide greater clarity in provisions about time, or provisions setting a period within which things need to be done etc. These are the definitions of business day, calendar month, calendar year, day and year.

5—References to professions registered under Health Practitioner Regulation National Law

This clause provides standard definitions of various health professions in keeping with the Health Practitioner National Law.

6—Definitions to be read in context

This clause provides that definitions in an Act or a legislative instrument apply to the construction of the Act or instrument except in so far as a contrary intention appears. Currently each Act individually provides this message (e.g. interpretation provisions in Acts will generally say: 'In this Act, unless the contrary intention appears—' before setting out the definitions).

7—Parts of speech and grammatical forms

This clause is equivalent to section 4AA of the current Acts Interpretation Act.

8—Inclusion of digital material

The Acts Interpretation Act currently (via the definition of *record* in section 4(1) and section 4(2) of that Act) deals with the interpretation of various specific terms that have traditionally referred to hard copy or analog material and extends the meaning of those terms to digital material. This clause replaces those current definitions with a provision that aims to provide a more complete coverage of the topic by stating the principle that, if any type of information or material is capable of being produced in digital form, a word that describes the information or material in its physical form includes a reference to the information or material in its digital form. The clause then uses the currently defined terms as examples of this general principle. The clause also deals with the interpretation of legislative requirements to produce, or make available for inspection, information or a document in cases where the information or document is kept in digital form.

9—Words relating to gender

This clause includes the interpretative provisions currently located in section 26(a), (d) and (e) of the Acts Interpretation Act but updates it to include a reference to individuals who do not identify as having any particular gender.

10—Use of singular and plural

This clause includes the interpretative provisions currently located in section 26(b), (c) and (d) of the Acts Interpretation Act.

11—Meaning of may, must and shall

This clause includes the interpretative provisions currently located in section 34 of the Acts Interpretation Act but adds further interpretative provisions for the term 'may not' and the word 'must'. These new provisions are merely added for completeness and do not alter the current position.

12—Meaning of expressions used in legislative instruments

This clause provides an equivalent to the current section 14 of the Acts Interpretation Act (and does not alter the current position).

13—References to signing or execution of documents

This clause provides for the signing or execution of a document by a body corporate. This is currently dealt with in section 52 of the Acts Interpretation Act but the proposed new provision also specifies that a body corporate may sign or execute a document 'in any other manner permitted by law' to allow for particular schemes that might prescribe or permit different signing and execution regimes.

Part 3—General interpretative provisions

14—Interpretation best achieving purpose or object

This clause provides an equivalent to the current section 22 of the Acts Interpretation Act. The current section operates 'where a provision of an Act is reasonably open to more than one construction'. The new provision does not include that threshold test but operates whenever a person is 'interpreting a provision of an Act or a legislative instrument'. In practice, this produces the same result because if the meaning of the provision is clear on its face then the task of 'interpreting' is unnecessary.

15—Interpretation so as not to exceed legislative power

This clause provides an equivalent to the current section 22A of the Acts Interpretation Act but also states that Acts and legislative instruments are to be interpreted as operating to the full extent of the legislative power of the State and provides that legislative instruments are to be interpreted as operating to the full extent of, but so as not to exceed, the power to make the instrument.

16—Act or instrument deemed always speaking

This clause provides an equivalent to the current section 21 of the Acts Interpretation Act.

17—Abrogation of presumption that re-enactment etc constitutes Parliamentary approval of prior interpretation

This clause provides an equivalent to the current section 18 of the Acts Interpretation Act.

18—Material that is part of Act or instrument

This clause replaces section 19 of the Acts Interpretation Act but, unlike the existing provision, the new clause provides that everything appearing in an Act or a legislative instrument is part of the Act or instrument, with the exception of certain material that gets included for public information purposes in the course of publishing legislation, namely, editorial notes, legislative history notes (which are prepared by the Commissioner for Legislation Revision and Publication under section 7(4) of the *Legislation Revision and Publication Act 2002*) and any divisional penalty appendix (which are included at the back of the Acts that still have divisional penalties, for information purposes only). This means, in particular, that section headings will now form part of an Act. A related amendment in Schedule 1 Part 4 clause 11 will provide a mechanism for alteration of any incorrect or inaccurate headings etc that were included in legislation administratively before the enactment of this new provision.

19—Use of examples

This clause provides an equivalent to the current section 19A of the Acts Interpretation Act.

20—Things to be done by Governor to mean by Governor with advice of Executive Council

This clause provides an equivalent to the current section 23 of the Acts Interpretation Act.

21—Determining whether Act or instrument binds Crown

This clause provides an equivalent to the current section 20 of the Acts Interpretation Act but includes a provision spelling out the position in relation to Acts passed, or instruments made, on or before 20 June 1990 (and amendments to such Acts and instruments). This new provision does not alter the position in relation to these Acts and instruments but merely states the common law position.

22—Date of establishment of State

This clause is equivalent to section 4A of the current Acts Interpretation Act.

23—Declaration of validity of laws made before Australia Acts

This clause is equivalent to section 22B of the current Acts Interpretation Act.

24—Acts taken to be public Acts

This clause is equivalent to section 5 of the current Acts Interpretation Act.

25—No requirement for separate enacting words

This clause is equivalent to section 6 of the current Acts Interpretation Act.

Part 4—Commencement, amendment, replacement, repeal and expiry

26—Commencement of Acts

This clause provides an equivalent to the current section 7 of the Acts Interpretation Act but would allow a proclamation amending a commencement proclamation to fix an earlier date for commencement (where currently such a proclamation can only fix a later commencement date). The provision also specifies that the default 2 year rule (currently in section 7(5) of the Acts Interpretation Act and now in subclause (6) of this clause) can be disapplied in relation to a particular Act or provision. This is merely an explicit statement of the current position.

27—Time of commencement

This clause is equivalent to section 14D of the current Acts Interpretation Act but instead of saying that an Act or part of an Act that comes into operation on a particular day will be taken to have come into operation as from 12 o'clock midnight of the preceding day, the new provision states that it is taken to come into operation at the start of the day on which it commences (bearing in mind that a 'day' is defined in clause 4 as a period of 24 hours ending at the stroke of midnight so, in effect, this is the same as the current provision but is a more logical formulation).

28—Expiry

This clause makes it clear that a sunsetting provision may be included in any Act or legislative instrument. Currently section 39(3) of the Acts Interpretation Act makes a similar provision only for regulations, rules and by-laws but there is no reason not to have this provision apply to all legislation (and doing so does not change the current legal position).

29—Time of expiry

This clause provides clarity about the time at which a sunsetting provision takes effect.

30—Use of headings to indicate amending provisions

Currently every Act or regulation that amends another Act or regulation includes a provision explaining that a provision under a heading referring to the amendment of a specified Act, or a specified regulation (as the case may be) amends the Act or regulation so specified. An example of such a clause can be found in Schedule 1 clause 1 of this measure. The inclusion of this provision in the Legislation Interpretation Act will avoid the need for this repetition.

31—Effect of repeal, amendment or expiry

This clause is equivalent to section 16 of the current Acts Interpretation Act. Some aspects of the wording have been updated and direct amendments made by the Act, instrument or provision that is repealed, amended or has expired are specifically preserved (this is currently just covered by the more general wording of (b)).

Subclause (6) is new and is included to provide greater certainty of the continuing operation of transitional and validating provisions.

32—Saving of administrative acts and instruments when provisions replaced

This clause is equivalent to sections 11 and 15 of the current Acts Interpretation Act.

33—Amendment or repeal of Act in session in which it was passed

This clause is equivalent to section 7A of the current Acts Interpretation Act.

Part 5—Citation and references

34—Citation and references to other enactments

This clause includes equivalents to section 14B(1), (4) and (5) and section 14BA of the current Acts Interpretation Act.

35—References to amended or replaced Acts, legislative instruments and provisions

This clause is equivalent to section 14B(3) of the current Acts Interpretation Act.

Part 6—Functions and powers

36—Performance of functions

This clause is equivalent to sections 35 and 37 of the current Acts Interpretation Act and adds a new subclause (3) providing that where an Act or a legislative instrument confers a function on a body, the performance of the function is not affected merely because of a vacancy in the membership of the body or a defect in appointment of a member of the body. Currently a provision to this effect is included in each Act that creates a body to carry out statutory functions (see, for example, section 8 of the *Adelaide Park Lands Act 2005*). It is worth noting also that the new definition of 'function' in clause 4 of the measure includes a power or a duty.

37—Performance of functions under provision before commencement

This clause is equivalent to section 14C of the current Acts Interpretation Act.

38—Certain meetings etc may occur remotely

This clause was originally included in the section 17 of the *COVID-19 Emergency Response Act 2020* but now includes a further subclause clarifying that a person remotely attending a meeting is counted as present at the meeting (including for quorum purposes).

39—Power to make instrument includes power to amend or repeal

This clause provides that a power to make an instrument includes a power to amend or repeal the instrument in the same way, and subject to the same conditions. Currently section 39(1) and (2) of the Acts Interpretation Act makes a similar provision for regulations, rules and by-laws but there is no reason not to have this provision apply to all instruments.

40—Powers of appointment

This clause incorporates the matters dealt with by section 36 of the current Acts Interpretation Act but provides a more complete statement of the rules and principles connected with appointments. Whereas the current provision only applies to appointment to a specific 'office or position', the proposed new provision applies also to the appointment of a person to perform a function or do any other thing. This means the provision is focused more on the substance of the role being played by the person rather than whether the person's role is formally designated as an 'office or position'.

41—Gender balance in nomination of persons for appointment to statutory bodies

This clause is equivalent to section 36A of the current Acts Interpretation Act.

42—Powers of delegation

This clause incorporates the matters dealt with by section 37A of the current Acts Interpretation Act but provides a more complete statement of the rules and principles connected with delegations.

Part 7—Time, distance, age and amounts

43—Calculating time

This clause replaces section 27 of the current Acts Interpretation Act but attempts to provide more helpful guidance by setting out the various ways in which periods of time can be expressed in legislation and specifying the rules to be applied in calculating the period in each case.

44—References to time

This provision is new.

45—Part-day public holidays and periods of time

This clause is equivalent to section 4(4) of the current Acts Interpretation Act.

46—References to number of sitting days

This clause is equivalent to section 27A of the current Acts Interpretation Act.

47—Measuring distance

This clause is equivalent to section 28 of the current Acts Interpretation Act.

48—Attaining particular age

This clause clarifies when a person is taken to attain a particular age. This does not change the (unstated) current position.

49—Rounding down of monetary amounts

This clause is equivalent to section 45 of the current Acts Interpretation Act.

Part 8—Documents provided under an Act

50—Service of documents

This clause replaces section 33 of the current Acts Interpretation Act but also includes a standard form of service provision allowing service by post and so on. Currently individual Acts and legislative instruments each need to have their own service provision to allow other forms of service and this will avoid the need for that repetition across the State's legislation.

51—Compliance with forms

This clause is equivalent to section 25 of the current Acts Interpretation Act.

Part 9—Penalties and proceedings for offences

52—Penalties

This clause replaces section 30 of the current Acts Interpretation Act.

53—Standard scales for penalties and expiation fees

This clause specifies the amounts that are represented by divisional penalties and divisional expiation fees in some of the older Acts. The amounts have been updated from those that currently appear in the table in section 28A of the Acts Interpretation Act to match the scale currently applied for Acts that do not use divisional penalties but specify monetary amounts instead.

54—Fines etc to be paid into Treasury

This clause is equivalent to section 29 of the current Acts Interpretation Act.

55—References to offences

This clause is new but does not change the (unstated) current position. Things like definitions of 'serious offence', for example, can sometimes refer to offences punishable by a term of imprisonment of 5 years or more (or some other number of years) and this provision merely clarifies that life imprisonment or imprisonment for an indefinite term are captured by such provisions.

56—Who may proceed for recovery of penalties

This clause is equivalent to section 42 of the current Acts Interpretation Act.

57—Interpretation of references to summary proceedings, complaints etc

This clause is equivalent to section 44 of the current Acts Interpretation Act.

58—Offences punishable under more than 1 law

This clause is equivalent to section 50 of the current Acts Interpretation Act.

Part 10—Miscellaneous

59—Regulations

This clause is a regulation making power. It is not anticipated that there would be many regulations made under this measure but there is an ability to prescribe additional classes of 'legislative instrument' by regulation if that becomes appropriate in the future.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Related amendments to *Evidence Act 1929*

2—Insertion of section 35A

This clause is equivalent to the current section 10 of the Acts Interpretation Act but was thought to be more appropriately located in the Evidence Act.

3—Amendment of section 36—Proof of votes and proceedings of Parliament

4—Amendment of section 37A—Proof of Gazette

5—Amendment of section 37B—Proof of printing or publishing by Government Printer

These clauses give evidentiary value to electronic versions of certain publications produced by the Government Printer.

Part 3—Related amendments to *Legislation (Fees) Act 2019*

6—Amendment of section 3—Interpretation

This clause makes consequential amendments (to refer to this measure instead of the Acts Interpretation Act and also to reflect the new standardised terminology of 'legislative instrument' instead of 'statutory instrument').

7—Amendment of section 5—Fee notices

This is consequential to clause 16 of the Schedule.

Part 4—Related amendments to Legislation Revision and Publication Act 2002

8—Amendment of section 3—Interpretation

This is a related amendment to reflect the new standardised terminology of 'legislative instrument'.

9—Insertion of section 4A

This clause inserts a new provision that would allow publication under the *Legislation Revision and Publication Act 2002* (which is publication on the legislation.sa.gov.au website) as an alternative to a legal requirement for publication in the Gazette.

10—Amendment of section 5—Program for revision and publication of legislation

This clause makes a related amendment that reflects the adoption of new standardised terminology relating to amendment and repeal of legislation (rather that retaining the different terms of 'variation' and 'revocation' for regulations). The amendment would also allow for the making of regulations excluding a class of legislation from the legislation revision and publication program. No regulations are currently planned under this provision but there may be classes of legislation in the future that are not suitable for consolidation and publication as part of the program and this would cater for that.

11—Amendment of section 7—Alterations that may be made in revising legislation

This clause makes related amendments to:

- reflect the adoption of new standardised terminology relating to amendment and repeal of legislation;
- refer to this measure instead of the Acts Interpretation Act;
- give the Commissioner power to omitted or vary material (such as section headings) that was formerly included in legislation administratively and did not form part of legislation (but such material may not be so omitted or varied by the Commissioner more than once).

12—Amendment of section 8—Publication of legislation

This clause inserts a new provision that would allow an alternative temporary method of publication to be determined if it was not possible for some reason to publish in the usual ways (eg. if there was some large scale natural disaster that made access to the usual publishing facilities impossible).

13—Insertion of section 8A

This provision requires that, if legislation is published only in electronic form, it must continue to be made available while it is in force.

14—Amendment of section 9—Evidence

This provision gives evidentiary value to the legislative history information published on legislation.sa.gov.au that specifies the day on which legislation was published under the Act.

Part 5—Related amendments to Subordinate Legislation Act 1978

15—Amendment of long title

This amendment deletes an unnecessary reference to printing in the long title.

16—Amendment of section 1—Short title

This clause changes the short title of the Act to reflect the new standardised terminology of 'legislative instrument'.

17—Substitution of section 9

This clause substitutes section 9 so that it will reflect the new standardised terminology of 'legislative instrument'. The existing conferral of a power to 'amend, vary or revoke' a proclamation made under the provision is no longer necessary because of clause 39.

18—Amendment of section 11—Publishing of regulations

This amendment allows regulations to be published under the *Legislation Revision and Publication Act 2002* (which is publication on the legislation.sa.gov.au website) as an alternative to a legal requirement for publication forthwith in the Gazette.

19—Amendment of section 16A—Regulations to which this Part applies

This clause makes a related amendment to reflect the new standardised wording of amend/repeal for all legislation (instead of using vary/revoke for regulations) and also makes it clear that regulations operating pursuant to savings provisions or transitional arrangements under a repealed Act are not captured by the expiry program.

Sometimes, on repeal of an Act, certain regulations made under the Act are continued by transitional provisions in the repealing Act. It is assumed that such specific provisions in a later Act would apply to the exclusion of this earlier general provision for expiry under the *Subordinate Legislation Act 1978* but this amendment makes that position clear. If the expiry provisions under the *Subordinate Legislation Act 1978* were to apply to such regulations, there would be no power to remake the expiring regulations because of the repeal of the Act under which they were made, so application of the expiry program to such regulations would effectively frustrate the savings or transitional provision passed by Parliament in the repealing Act.

20—Amendment of section 16B—Expiry of regulations to which this Part applies

This clause makes a related amendment to reflect the new standardised wording of amend/repeal for all legislation (instead of using vary/revoke for regulations) and also makes an amendment that is consequential to clause 18 of this Schedule.

21—Insertion of Part 3B

This clause inserts a new section that is equivalent to the current section 10A of the Acts Interpretation Act.

22—Insertion of sections 16E to 16G

This clause inserts new sections as follows:

16E—General provisions relating to all legislative instruments

This proposed section contains an evidentiary presumption (in proposed subsection (1)) relating to conditions and preliminary steps required in the making of a legislative instrument, a clarifying provision (in proposed subsection (2)) that makes is clear that a power to regulate a matter by legislative instrument includes a power to impose a prohibition by the legislative instrument and a provision (in proposed subsection (3)) that is equivalent to the current section 40 of the Acts Interpretation Act.

16F—Disallowance of repealing legislative instrument revives repealed instrument

This is equivalent to the current section 12 of the Acts Interpretation Act.

16G—Time of disallowance

This provision is new but clarifies the exact time at which a disallowance will take effect.

Part 6—Repeal of Acts Interpretation Act 1915

23—Repeal of Act

This clause repeals the current Acts Interpretation Act.

Part 7—Transitional provisions

24—Bills introduced before commencement of section 18

This clause ensures that headings in amending Bills that are introduced before the commencement of clause 18 will not form part of the Bill. Amending Bills prepared before the commencement of that provision will have been prepared in accordance with the current law and therefore will not include appropriate amending commands in relation to any headings that require consequential amendment as a result of the amending Bill. To avoid confusion and ensure a seamless transition it is intended that where a heading in principal legislation needs altering as a result of amendments in such a Bill, the Commissioner of Statute Law Revision will exercise power under proposed section 7(3) of the *Legislation Revision and Publication Act 2002* to correct the heading.

25—References to time

This clause ensures that new clause 43 will not operate to alter the period of time provided or allowed for the doing of anything under an Act or a statutory instrument where the period commenced before the commencement of the measure.

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

COVID-19 EMERGENCY RESPONSE (EXPIRY) (NO 2) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:50): I move:

That this bill be now read a second time.

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

Leave granted.

Mr President, I am pleased to introduce the COVID-19 Emergency Response (Expiry) (No 2) Amendment Bill 2021.

Measures to reduce the spread of COVID-19 have been fundamental to this State's ongoing successful response to the pandemic to keep the community safe.

The Declaration of Major Emergency, in place since 22 March 2020 last year, provides the authorising context for the important social distancing and public health measures issued by the State Coordinator through Directions.

The *COVID-19 Emergency Response Act 2020* amended South Australian legislation to temporarily adjust some legislative requirements that are difficult to satisfy during a pandemic.

The COVID Act came into effect in April 2020 last year and will expire on 31 May.

This Bill proposes to extend the operation of the COVID Act to 28 days after the day on which all relevant declarations relating to the outbreak of COVID-19 within South Australia have ceased or 17 September 2021, whichever is the earlier.

While it is essential that the COVID Act be extended, there are a number of measures that were implemented in the early days of the pandemic that are no longer necessary. As a result, the Attorney will be expiring the following provisions of the COVID Act as of 31 May 2021:

- Section 14 which allowed for extension of time limits and terms of appointment;
- Schedule 1 which contains special provisions relating to the detention of certain protected persons during the COVID-19 pandemic;
- Part A1 of Schedule 2 which reverses the presumption of bail for certain offences;
- Part B1 of Schedule 2 which amends the Development Act 1993;
- Clause 3(a) of Part 3 of Schedule 2 which modifies the process of the Parliamentary Works Committee;
- Part 3A of Schedule 2 which amends the Planning, Development and Infrastructure Act 2016.

Sections 8, 9 and 10 which deal with residential tenancies, residential parks and supported residential facilities will also be expired on 30 June. This gives a reasonable notice period for those who are still using these provisions. This will also allow transitional regulations to be made for SACAT orders made under these provisions.

There is also a Bill currently before the Parliament which makes a number of the provisions of the COVID Act permanent. Once that Bill passes through the Parliament, the respective provisions of the COVID Act will also be expired.

Once the provisions that are no longer necessary are expired, there will be just a few provisions left in the COVID Act that include the following:

- Amendments to the Criminal Law Consolidation Act 1935 to expand the offences against prescribed emergency workers to include people working in pharmacies and providing pharmacy services.
- Amendments to the Emergency Management Act 2004 to clarify the scope of directions given by the State Co-ordinator and authorised officers under section 25.

Extending these provisions is necessary for the ongoing management of the risk of COVID-19 in South Australia. When the COVID Act was first introduced a number of initiatives were needed to support South Australians who were doing it tough and better protect the community. Things have changed significantly and there is now no need for many of these measures. However we have not yet returned to a pre-pandemic way of life, and it is necessary to have certain measures in place to assist in the management of the pandemic by the State Co-ordinator and to protect our emergency workers, especially for those who will be administering the vaccine.

Mr President, our emergency response to date has kept South Australia safe and strong.

I commend the Bill to Members and I table the Explanation of Clauses.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *COVID-19 Emergency Response Act 2020*

3—Amendment of section 6—Expiry of Act

This clause amends section 6 of the principal Act to extend the date on which the Act expires to 17 September 2021.

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

DISABILITY INCLUSION (RESTRICTIVE PRACTICES - NDIS) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 4 May 2021.)

Clause 5

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

Amendment No 25 [Scriven–1]—

Page 13, lines 8 to 15 [clause 5, inserted section 23N(5)(b) and (c)]—Delete paragraphs (b) and (c)

Amendment No. 26 is also linked to this amendment, so I will not proceed with that if this one fails. It removes the search powers from the restrictive practices orders. Notwithstanding the comments that were made by the minister at clause 1, these amendments do respond to serious concerns from a number of stakeholders.

The power to search a person's space or body rightly rests with police and should remain that way, is the strong view of those stakeholders. Further, disability care staff may place themselves at risk by conducting searches without appropriate safety training and they also damage their trust relationship with the people they care for. Therefore, I commend the amendment to the committee.

The Hon. J.M.A. LENSINK: The amendment is not supported. The provisions are aimed at supporting the safety of prescribed persons, which indeed is underpinning the entire bill. Prescribed persons include NDS participants who may obtain and conceal food, which may pose a choking hazard or serious health risk, or obtain and conceal unsafe items, including sharp objects, that place themselves and others at risk. The provisions in this bill reflect similar provisions in other legislation such as the Mental Health Act.

I think the honourable member did ask me a specific question about the feedback in relation to search powers. I should nuance that. The consultation did not identify that the proposed search powers were a significant theme across all the feedback received. However, there were a few concerns from some people. Any concerns that stakeholders have can be addressed via the regulations and the guidelines.

The government intends to provide additional requirements through regulations and guidelines about safe and respectful conduct of these processes to maintain the dignity of prescribed persons, which will include limitations on bodily contact.

The Hon. C. BONAROS: We have canvassed this issue earlier in the debate—the reasons why these search powers are important, and I agree wholeheartedly they are important and they are necessary for the reasons the minister has outlined. I, again, know firsthand about the dangers that food in particular can cause to someone in these situations. It can be the difference literally between life and death for someone who is very ill, and it is something that takes place very often.

So it is absolutely necessary to be able to, within defined parameters, search someone's clothing or possessions and remove from them things which pose an extremely dangerous risk. I do

not accept the arguments that have been put by the Deputy Leader of the Opposition; in fact, I categorically reject them. I think the minister has hit the nail on the head with this provision.

I also look forward to the additional requirements that will apply in relation to these provisions through regulations and guidelines about the safe and respectful conduct of these processes to maintain the dignity of the prescribed person in question, and particularly how they will be drafted in terms of the limitations of bodily contact with the individual concerned. For those reasons, I and SA-Best will be opposing the amendment.

The Hon. C.M. SCRIVEN: I do not think the opposition has any arguments in regard to the need to search for things such as food. My question to the minister would be: has anyone got into trouble, as it were, for doing a search for food?

The Hon. J.M.A. LENSINK: Can the honourable member clarify whether she is asking whether somebody has been in trouble with the law for an assault charge or something of that nature; is that what she means?

The Hon. C.M. SCRIVEN: Any trouble of that nature, if the person was a worker, yes.

The Hon. J.M.A. LENSINK: The advice I have received is: not that we are aware of, but that does not necessarily mean it has not been the case. We have line of sight these days over our own disability accommodation, as we no longer regulate or fund the rest of the sector; that is done by the Quality and Safeguards Commission. Furthermore, even if that had been the case—if we were still the regulator—these are matters that are before the courts and not necessarily fed back to disability services within DHS.

The Hon. C. BONAROS: Can I just add something to those comments, Chair, because I think it is important, again speaking from the experience I know of? I think we need to be mindful that each and every time one of these persons has something removed from them there has always been the obligation on those workers to notify the families and the guardians of those individuals, even if it is something as simple as, 'Jane stole a biscuit today and put it in her pocket.'

My experience has been that, even in those simple cases, guardians will receive a call to let them know that there has been an incident where somebody has had to remove something from that individual. I think that goes some way towards the reason for this amendment, because they are frightened of being in trouble for the sort of behaviour they have undertaken to protect the person in question. So I think the reasons for these amendments really speak for themselves in terms of protecting the workers as much as protecting the individuals who are being cared for.

Amendment negatived.

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

Amendment No 27 [Scriven–1]—

Page 13, after line 29 [clause 5, inserted section 23N]—Insert:

(7a) An Authorised Program Officer who authorises the use of level 1 restrictive practices in relation to a prescribed person must, in accordance with any requirements set out in the regulations, cause a written notice to be given to the Senior Authorising Practitioner setting out—

(a) the name of the Authorised Program Officer and the relevant prescribed NDIS provider; and

(b) the name of the prescribed person in relation to whom the authorisation relates; and

(c) the restrictive practices that were authorised; and

(d) the reason why the restrictive practices were authorised; and

(e) the steps, if any, taken by the Authorised Program Officer or the relevant prescribed NDIS provider to review the use of the restrictive practices used pursuant to the authorisation; and

(f) any other information required by the regulations.

This creates reporting arrangements from authorised program officers to senior authorising officers. The original bill was silent on requirements for record keeping or reporting by authorised program officers, but this amendment ensures that decisions are justified, that they are recorded and that they are reported. This also links to my amendment No. 74 to require reporting by the senior authorised officer. I think it is very important in terms of making sure that, when we have such intrusive powers, they are not only justified but are recorded and reported appropriately so that there is a level of transparency and accountability around them.

The Hon. J.M.A. LENSINK: While the government agrees with the intent of the honourable member, we do not agree with the method, so I will not be supporting this amendment. We have sought to minimise the administrative burden on NDIS services, and we are in the process of procuring an ICT system that supports data collection and reporting functions. While the government supports measures that increase accountability in the use of restrictive practices, it was intended that this be incorporated into the regulations, consistent with what we have said all along, to support consultation with providers on the best way to do this so that there is no doubling up of effort.

Amendment negatived.

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

Amendment No 72 [Scriven–1]—

Page 20, after line 15 [clause 5, inserted section 23ZB]—Insert:

(3) Subsections (1) and (2) do not apply to a prescribed person in relation to whom the Senior Authorising Officer or an Authorised Program Officer is performing a function or exercising a power, or restrictive practices are to be used (as the case requires).

This amendment relates to not issuing a fine to a person who is subject to a restrictive practices order if they resist it. This amendment ensures that third parties may be fined if they interfere with an authorised restrictive practice but ensures that a person with a disability who is the subject of that practice and who may object is not guilty of an offence. I think it is an important clarification that we hope the chamber will support.

The Hon. J.M.A. LENSINK: The honourable member will be pleased to know that we will be supporting this amendment. There was not any intention to apply these provisions to prescribed persons, such as NDIS participants.

The Hon. C. BONAROS: I indicate for the record SA-Best's support for this amendment.

Amendment carried.

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

Amendment No 74 [Scriven–1]—

Page 20, after line 38—Insert:

23ZE—Minister to provide annual report on operation of Part to Parliament

(1) The Senior Authorising Officer must, not later than 31 October in each year, cause a report on the operation of this Part during the preceding financial year to be prepared and provided to the Minister, setting out—

(a) the number of Authorised Program Officers authorised by the Senior Authorising Practitioner during that financial year; and

(b) the number of authorisations of the use of level 1 or 2 restrictive practices by the Senior Authorising Officer during that financial year (including any authorisations of the further use of such restrictive practices); and

(c) the kinds of restrictive practices authorised to be used by the Senior Authorising Officer during that financial year; and

(d) any other information required by the regulations.

(2) The Minister must, within 6 sitting days after receiving a report under this section, lay a copy of the report before both Houses of Parliament.

As mentioned, the original bill was silent on reporting. This amendment requires that the minister provide an annual report on the operation of this part to parliament and requests that that record a number of items. Again, it is an important aspect in terms of accountability.

I understand the government intends to move three amendments to this amendment and we think that those amendments weaken our amendment slightly. We would certainly prefer our amendment in its position, but will listen carefully to why the government believes their changes to our amendment is critical. In Labor's view, reports should be standalone and timely, which is why we prefer the amendment as I moved it today.

The Hon. J.M.A. LENSINK: I move to amend the Hon. Ms Scriven's amendment as follows:

Amendment No 1 [HumanServ–2]—

Clause 5, page 20, after line 38—

Inserted section 23ZE(1)—delete 'Senior Authorising Officer' and substitute:

Chief Executive

Amendment No 2 [HumanServ–2]—

Clause 5, page 20, after line 38—

Inserted section 23ZE(2)—delete '6' and substitute:

12

Amendment No 3 [HumanServ–2]—

Clause 5, page 20, after line 38—

After inserted section 23ZE(2) insert:

(3) A report under this section may be combined with the annual report of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of this Act (in which case the Minister need not lay a copy of the report before both Houses of Parliament under subsection (2)).

The Department of Human Services has some annual reporting requirements already about their statutory functions, and that is a fairly common thing across government. We obviously support any accountability that means that we are publicly reporting on those matters. Our preference is that, because this is a function within the Department of Human Services, the reporting would take place through that annual report. We can make sure that there will be annual reporting requirements to take effect after the appropriate transition period.

Furthermore, I note that there is a provision in the honourable member's amendment which is a requirement for six days. My understanding is that the standard period is 12 sitting days, so it is just an additional administrative set of things that, rather than it happening as part of the normal functions of the reporting of the department, would mean that it would need to be done separately. Our preference is that this form part of DHS's other statutory reporting requirements.

The Hon. C. BONAROS: I will indicate for the record that we support the minister's amendments to the Hon. Clare Scriven's amendment.

The Hon. C.M. SCRIVEN: As mentioned, we are not too unhappy with the minister's amendments to the amendment, whilst noting that unamended I assume it would be a little bit stronger, but it is not a considerable difference.

The ACTING CHAIR (Hon. D.G.E. Hood): So you are not opposing the amendments to your amendment?

The Hon. C.M. SCRIVEN: We will still oppose the amendments because we think that our amendment is stronger, but if it is the will of the chamber that the amendments to the amendment be accepted, we of course still will support the amendment.

The ACTING CHAIR (Hon. D.G.E. Hood): Then I will need to clarify. The Hon. Ms Bonaros, you are supporting all of the minister's amendments to the amendment?

The Hon. C. BONAROS: Yes, I just want to clarify, though: I do not think it is a matter of not being as strong as what the deputy leader is proposing but rather one of consistency and reducing the duplication of having to report. So it is one of streamlining rather than weakening or watering down any of these provisions.

The ACTING CHAIR (Hon. D.G.E. Hood): I would like to hear at least one more contribution. That is 10 votes according to my mathematics, so we will need one more if we are to proceed. The Hon. Mr Darley, what is your position?

The Hon. J.A. DARLEY: I will be supporting the amendment.

The ACTING CHAIR (Hon. D.G.E. Hood): You will be supporting the three amendments to the deputy leader's amendment? That makes things a little clearer. In that case, I will put the question that the amendments standing in the name of the Minister for Human Services to amend the amendment of the deputy leader be agreed to.

Amendments to amendment carried; amendment as amended carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:11): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LANDSCAPE SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 March 2020.)

The Hon. K.J. MAHER (Leader of the Opposition) (16:12): I will be mercifully brief on this. I rise to indicate that we will be supporting this bill. This bill is an administrative adjustment to the Landscape South Australia Act 2019. It allows compliance action to be taken for unauthorised or unlawful water use in each of the state's prescribed water sources over a period that best suits that resource rather than the period gazetted in the respective water delivery notice.

This amendment reflects the intention of the current Landscape South Australia Act and the former NRM Act by enabling compliance action to be undertaken within a time frame that best suits the respective water resource. I understand that some water users have complained that the 2019 changes were not communicated well enough, which has left them in a situation of noncompliance. I hope the government does a better job this time around in communicating these current ones.

The South Australian Labor Party has a strong record of protecting precious natural resources and particularly ensuring that we lead the way on efficient and sustainable use of water. South Australia's leadership on irrigation practices in the early years of the Murray-Darling Basin Plan is evidence of this.

It would be difficult for us to advocate strongly for better practices in the Eastern States if we did not have our own house in order. In keeping with a proud history and legacy of Labor, we will be supporting this bill.

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:13): I thank the honourable speaker from the Labor Party, the Leader of the Opposition, Kyam Maher, in relation to support for this bill, which corrects something that has an impact on things on a technical basis, and look forward to the committee stage of the debate.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:16): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 February 2021.)

The Hon. C. BONAROS (16:16): I rise to speak in support of the second reading of the Statutes Amendment (Transport Portfolio) Bill. From the outset, I express SA-Best's strong support for any initiatives designed to improve road safety. As such, we welcome this bill, as limited as it is. My enthusiasm, however, is somewhat tempered by a niggling concern that a key driver for these initiatives is for this government to further reduce and restrict resourcing to SAPOL and Forensic Science SA.

The bill includes a number of sensible minor tweaks to the Road Traffic Act, which I support. These include extending the blood alcohol presumptive period from two to three hours to reduce the Forensic Science SA back calculation workload by approximately 30 per cent. Apparently this has no detrimental effect, so we support it. Restricting the post-incident consumption defence, which does not exist in any other jurisdiction, is another sensible change, but again it has come about because SAPOL has been unable to contest the defence due to a lack of resources.

Irrespective of the logic of removing this defence, I am nevertheless concerned that SAPOL and Forensic Science SA resourcing have been the catalyst for this amendment. This makes me wonder how many other offences are not prosecuted because of a lack of proper SAPOL and Forensic Science SA resourcing. We have no issue with blood and oral fluid samples being taken by nurses and those de-identified samples being used to screen for a wider range of prescription and illicit drugs. We support more research into this issue, especially in regard to prescription drugs, using these samples, given the privacy assurances provided for in the bill.

As members of this council will know, we have long questioned why we in SA limit our roadside screening tests to a few of the more commonly used substances, whereas New South Wales and other states test for more illicit substances. Similarly, taking into account periods of both licence disqualification and suspension when determining periods required to qualify for a licence category such as P1 or a full licence improves clarity for law enforcement officers and, indeed, the courts.

The bill's new online nomination system for offences detected by camera will undoubtedly be more efficient, but we are concerned it will lead to an increase in false declarations, given a person will not have to swear a statutory declaration, as you do at present, unless SAPOL suspects fraud and seeks a declaration.

I am sure SAPOL will not have the resources to check the bona fides of all online nominations it will receive. This could have the unintended consequence of facilitating more fraud when non-drivers nominate themselves to assist the driver to retain their demerit points. We know there are related associated offences that will be committed if that occurs, but it does raise some questions that I think are warranted. I will be asking the government to closely monitor this and to report back to parliament with data on any increases in fraudulent nominations being made.

The extension of the subsuming period for expiation notices from seven to 14 days and enabling parking fees to be paid by smart phone are minor administrative improvements that SA-Best supports. A most welcome and overdue provision in this bill is the power to prevent the display of

offensive materials on a vehicle, and most of us will immediately think of the Wicked Campers slogans as the worst example of why this law has been sorely needed for a very long time.

I commend all honourable members of this chamber and the other chamber who have actively voiced their opposition, disdain and disgust at many of those slogans that we have seen, particularly on the Wicked Campers campervans. We will not give Wicked Campers any credit at all by quoting some of their disgusting slogans.

SA is one of the last jurisdictions to legislate to prevent companies such as them displaying what can only be described as vile and deeply offensive sexist, racist, homophobic and generally demeaning messages on their fleet of hire vehicles. We do not allow numberplates to be offensive, so we should not allow this sort of indecent advertising either. In particular, I congratulate the Hon. Katrine Hildyard for her persistence over many years to see these displays removed from our community. I am sure Collective Shout and the public will be relieved to hear that parliament finally has acted on their calls for action, even if South Australia is, as I said, very late to the party.

A more substantive provision of the bill is one that I had in my private member's bill, the Road Traffic (Drug Screening) Amendment Bill that I introduced on 9 September this year, that is, to make it unlawful for drug test screening to be relied upon as one of the factors SAPOL can take into account to support searching persons and vehicles. At present, the Road Traffic Act currently specifically excludes this. I know the Hon. Mr Lee Odenwalder in the other place and SAPOL have long championed this clause, and I thank them for their persistence to see this long overdue initiative finally pursued by the government and incorporated into these measures.

SAPOL will now be able to allow the results of a positive drug test to be an additional factor in forming a reasonable suspicion as the grounds for conducting a search. It does not give SAPOL an automatic right of search, but it does mean that it can be used as consideration in establishing whether police officers had sufficient grounds to form a reasonable suspicion.

While I have filed a number of substantial amendments that SA-Best believes would significantly improve this bill, I indicate now that I am not going to move those amendments, and I will tell you why. It is on the basis that I have been taking part in ongoing and very lengthy discussions with the minister's office to see those initiatives incorporated into legislation, either via a private member's bill or, as initially proposed, by amendments.

We have agreed, and I have been assured—and I am seeking some guarantee of that assurance on the record, which I am told I will get—that it is intending imminently to introduce a more comprehensive road traffic bill, in which the government is contemplating incorporating provisions consistent with the amendments I have filed to this bill, and those amendments are consistent with the private member's bill that I have introduced into this place.

Anyone who tunes into Leon Byner and FIVEaa will know that I am a regular on that show talking about the dire state of our road statistics when it comes to drug use on our roads: driving under the influence of drugs, the number of detections and the frustration that SAPOL have in not being able to disqualify those drivers from driving on the spot as they do with drink-driving. They also have the frustration of knowing that those drivers repeatedly get back behind the wheel of a car and continue to present a very real risk to lives and danger on our roads.

We know that innocent people have been killed as a result of drug driving on our roads, and we know that SAPOL have willingly given us this information because they are, I believe, at their wits' end. I believe from conversations I have had directly with them—many a conversation—that they are frustrated and they need some help from this parliament to strengthen our laws to make our roads safer for all road users, including us.

So I have sought the government's commitment that we will do this in the second tranche of changes, which is expected very soon. They have given me that assurance and I am seeking for that commitment to be made on the record before we proceed with this bill today. I suppose the main reason for doing that is it is better placed in the next round of changes that we are going to consider rather than the ones that we have been considering here.

The amendments that I had were, as I said, focused on addressing South Australia's consistently shocking road toll and alarming stats related to driving whilst disqualified and drug and

drink-driving. I will be insisting on seeing these amendments adequately addressed in the government's bill in line with the amendments that I have moved both to this bill but also in the private member's bill.

My commitment to more comprehensive reform to the Road Traffic Act is in response to the increasing carnage on our roads caused by people who continue to behave appallingly, with blatant disregard for themselves and others. The 2019 road toll was the worst we have experienced in a decade. In the first 79 days of this year we had 28 fatalities on our roads—that is one person every three days. This is the deadliest start to the year since 2010. Thirty-seven people have already died on our roads this year, the same as last year, not to mention the 178 serious injuries that have already occurred on our roads this year and the 740 injuries that occurred last year.

These are the less visible victims and casualties who may be still in rehab, may never work again, may have a debilitating temporary or permanent disability. They could be the drivers, the passengers or the pedestrians involved in these terrible road collisions. This is despite airbags, despite ABS braking and other technological improvements to cars, SAPOL traffic blitzes and increased community awareness campaigns. I am sure, Mr Acting President, that you share my complete disbelief when I read SAPOL's reports after the campaigns and blitzes they regularly mount.

I cannot comprehend how a woman who crashed her car with two children inside it on Monday 29 March chose to drive when she was more than seven times over the alcohol limit. That same week, another 32 drivers were detected for either an alcohol or drug-driving offence during a statewide operation targeting drink and drug driving over the weekend. Sixty-one per cent were tested for drugs, out of which 10 tested positive, which is 16.4 per cent of those tested on the recent ANZAC Day long weekend.

SAPOL reported that, of the 363 drug tests conducted, 34 drivers, or just over 9 per cent, returned positive tests. On the same ANZAC Day long weekend, 17,421 alcohol tests were conducted with 66 positive results, a strike rate of 0.38 per cent. It is patently obvious to me that, while we may be getting the drink-driving message, drug driving is out of control. Imagine the public outrage if 9.3 per cent of the total 17,421 alcohol tests were positive.

Because SAPOL conduct far fewer drug tests than alcohol tests, we do not understand the true extent of the problem but the indicators we have are absolutely shocking. The front page of *The Advertiser* yesterday, or the day before, made for very sobering reading. It revealed new SAPOL figures that show one in six motorists tested by police is driving with drugs in their system. That is a 140 per cent increase over the past decade, when the rate of drug driving was just one in 19. I heard SAPOL's Officer in Charge, Traffic Services Branch, Superintendent Bob Gray, say just last week that this issue is the most concerning he has seen in his entire time in charge.

It is becoming increasingly concerning that, unlike alcohol-related road fatalities, the number of motorists killed in road crashes who test positive to drugs is steadily increasing. Each year since 2014, the number of drivers and riders killed on our roads who tested positive for drugs has overtaken the number of drivers and riders killed with an illegal blood alcohol concentration level. According to SAPOL, about 24 per cent or one in four of those killed in road crashes over the past two years returned positive drug tests.

We need to take whatever steps are necessary to make sure our roads are safer than they are at present, and we now have those commitments from this government. In particular, I want to ensure the penalties for drug and drink-driving are treated equally seriously, with the same loss of licence on the spot and the same fines and penalties for those offences as drink-drivers. It is time road users detected with illicit drugs in their system are treated the same as drink-drivers and lose their licence on the spot for more than the current 24 hours. In most cases, as we know, those same drug drivers are back on our roads just after one day. If they elect to be prosecuted, they can stay on the roads until their matter is resolved.

Many of these offenders know they can game the court system with adjournments to maximise the period they can stay on the road. I think the longest period we have heard of in one instance was 12 months. Someone returned a positive roadside drug test and returned a positive forensic test and the matter was referred to court. There were a number of adjournments and some

12 months later they finally reached the day when they had to face their charges. But throughout that 12-month period they were allowed to drive each and every day, so they managed to game the system for their benefit very well.

The amendments that I have proposed mean that these drivers would have automatically lost their licence until the matter had been dealt with by the courts or they expiated the fine. Therein lies the incentive in terms of dealing with this matter very quickly: if you are going to face the penalty, suck it up, face it quickly and stop presenting a danger on our roads.

When we have six drivers detected for drug driving while taking children to and from schools, like we did in just one SAPOL blitz in February this year, we have to conclude that these people have no regard for themselves, for their own children and, most certainly, could not care less about other motorists or pedestrians. This is despite penalties for drug driving with children in cars increasing in 2017. These penalties are clearly not working as a deterrent. As Dr Baldock, the Director of the Centre for Automotive Safety Research, concludes, most drug drivers do not think they will get caught.

It is truly shocking to me that drink-driving has decreased while drug driving has increased exponentially. When we consider that roadside testing stations administer drug tests in only a small proportion of roadside tests because of the prohibitive costs, it becomes even more alarming that drug driving has absolutely eclipsed drink-driving. I shudder to think at what the positive roadside test numbers would be if every driver stopped at an RBT were tested for drink and drugs, something I believe we must introduce if we are genuinely serious about reducing our road toll.

I understand that, unlike for alcohol, a drug test can only show a detectable level or not; it is not calibrated like prescribed blood concentration of alcohol in our system. I also very clearly understand that only 2.7 per cent of motorists detected roadside with drugs in their system go on to return a negative test to a detectable level. So 163 of the 6,064 positive roadside samples went on to test negative, known as false positives, in the Forensic Science SA lab in 2019. Based on this SAPOL data, I reject the Law Society of South Australia's claim that there is a high rate of false positives.

I get it that in theory 163 people could have been disadvantaged by not having their licence for up to 10 to 14 days while forensics conducted secondary tests on those samples obtained on the roadside, but the greater good of protecting the other 97 per cent of us on the roads is, to me, more important and should take precedence over the 3 per cent who may be inadvertently deprived of their licence until those results come through.

I am pretty sure the public would agree that this is a small price to pay. The obvious answer to dealing with any opposition to this initiative is to speed up the tests from 10 to 14 days down to, say, three to five days. That can be done. There is nothing stopping us from doing that other than political will and a bit of resourcing. It is purely a resourcing issue. If that is what it takes to keep the other 5,901 drivers with detectable levels of drugs in their system off the road then, again, that is a very small price to pay for keeping the majority of us safe.

If you commit both drink and driving offences, I also want to ensure the penalties for these offences are served cumulatively and not concurrently. You should not receive any discount on the respective penalties for committing two offences concurrently. I believe you should serve each penalty as they were each intended to be penalised, that is, cumulatively.

The New South Wales parliament recently passed legislation creating a new combined alcohol and drug-driving offence. I know this is something that I have put to the government and we are working through it. Given many offenders are driving with detectable levels of drugs in their system and prescribed concentrations of alcohol over the legal limits, I think we all have a duty to ensure that both offences are penalised as they were intended to be.

I read and hear about too many cases—in fact, we all do—where the minor offence penalty is treated as a subset of a main offence and one penalty either is suspended or ordered to be served concurrently. That is what this amendment seeks to address. We need to make it very clear to the courts that this is what parliament intends in section 47B offences.

I am calling on the government to do a bit here. I am calling on the government to increase the penalty for driving while disqualified from holding a licence or learner's permit from the current six months for a first offence to 12 months. For a subsequent offence, the penalty would be increased from two to three years. These increased penalties would not apply when the licence or learner's permit has been suspended under section 38 of the Fines Enforcement and Debt Recovery Act 2017.

I was staggered to learn from SAPOL that one motorist was reported or arrested 43 times over a 12-month period for driving while disqualified. In 12 other separate instances, drivers were busted driving while their licences were disqualified 22 or more times over a five-year period from 2015-16. So we will be looking to have these issues addressed by ensuring SAPOL has the power to get these drivers off our roads immediately and we will be looking to the government to ensure that it extends its end of the deal and drafts these provisions accordingly.

We all always do what we can to combat the number of families that are forced to endure the grief and loss of losing a loved one or having a loved one seriously injured in a car accident. No initiative will ever be able to completely negate human error to reduce the road toll to zero. But where we do have legislative power to introduce amendments that will have a positive and measurable impact on making our roads safer, then I think it is incumbent on us to do just that.

It is very clear that the community has had enough of what can only be described as irresponsible, careless and reckless behaviour. The current penalties clearly do not work as a deterrent or to protect us. Sadly, we are living in a drug pandemic that is having a huge impact on road safety. The bill and incorporating these amendments into a subsequent government bill are immediately capable of having a real and measurable positive impact on our shocking road toll.

All that said, I do want to acknowledge that the Hon. Tammy Franks also has a bill that deals with driving with medicinal cannabis. They are also conversations I have had both with the minister but more importantly, in my view, with SAPOL. I do believe there is a road forward and that a compromise can be reached between illicit drug use and driving and medicinal cannabis use and driving. We as a parliament must act to protect our citizens in whatever way can.

With those words, I indicate our support for the second reading of this bill and look forward to the government's commitment as outlined in my contribution.

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

STATUTES AMENDMENT (RECOMMENDATIONS OF INDEPENDENT INQUIRY INTO CHILD PROTECTION) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 April 2021.)

The Hon. E.S. BOURKE (16:41): I rise as the lead speaker for the opposition to support the amendments to the Statutes Amendment (Recommendations of Independent Inquiry into Child Protection) Bill. Labor welcomes any measures that will better protect children and young people from neglect, violence and sexual abuse. In fact, Labor had itself drafted two similar amendments based on the recommendations of retired judge Paul Rice's scathing review of the failures of this government and its child protection minister.

I would like to take this moment to thank the member for Reynell, Katrine Hildyard, in the other place for her pursuit and dedication to holding the government and the minister to account on these recommendations.

Given the government's amendments cover off on Labor's proposed measures, we have chosen to support the government's position. As per Mr Rice's recommendations, the maximum penalty for a breach of written directions will be increased from three years to four for a first contravention. Mr Rice also recommended that a person arrested for the breach of a written direction be a prescribed applicant for the purpose of the Bail Act 1985.

What happened to the two 13-year-old girls in care who were abused by paedophiles, which led to the Rice review, is utterly shocking. Further, that the minister responsible for keeping children

in state care safe had absolutely no idea that this had even occurred until the paedophiles were convicted and she was contacted by the media, not once but twice, is beyond comprehension.

Mr Rice found that the minister, the member for Adelaide, the Hon. Rachel Sanderson, failed to inform the department that she wanted to know about the serious sexual abuse of children under guardianship. Instead of taking responsibility and formally probing for answers, the minister has had more responsibilities taken from her.

In 2019, significant functions focusing on early intervention and prevention were stripped from the responsibility of Minister Sanderson and allocated to the Department of Human Services. In the wake of this damning review, the minister has had the responsibility for critical incident reporting taken from her and given to the Department of the Premier and Cabinet.

The Guardian for Children and Young People warned the government in her last annual report that children in residential care continue to be targeted by paedophiles. Despite this, Minister Sanderson has not agreed to the guardian's request for a community visitor scheme for children in residential care, which would provide them with an extra layer of protection and support.

Increases in missing person reports is another heartbreaking example of a child protection system under extreme stress that is not keeping kids safe. We have also learnt recently that workers in residential care homes are so understaffed that they are unable to fulfil their responsibilities under a memorandum of understanding with SAPOL to help look for children who go missing from care. This is just unacceptable. Children in care should be able to thrive, and this means being safe, cared for and having someone know where they are.

Ministers are at the decision-making table to be a voice for the South Australians they have been sworn in to protect. Mistakes can happen, but this was not a mistake; it was a proven failing. I am all for community engagement, but it beggars belief that the Minister for Child Protection was out in her electorate only hours after finding out through the media that a second young girl was abused in state care. Was this not the time to be with your department to formally question and ask and put steps in process so that this could not happen again? Instead, the minister, the member for Adelaide, was out in her electorate, taking happy snaps. This is a sad example of a minister putting their personal interests before the interests of children in state care.

The Marshall government must lift its game on child protection. They need a strong voice that will listen, act and deliver. The South Australian community must be assured that everything possible is being done to ensure this never happens again.

The Hon. C. BONAROS (16:46): I rise to speak on behalf of SA-Best on the Statutes Amendment (Recommendations of Independent Inquiry into Child Protection) Bill 2021 and to indicate our support for the bill. As we know, the bill seeks to implement two very sensible recommendations for change, stemming from Paul Rice QC's independent inquiry into the Department for Child Protection. Of course, that review was commissioned by the Attorney-General, following the sentencing of two paedophiles late last year. Both were convicted of sexual offences against teenage girls under the guardianship of the chief executive.

I might just pause here to point out that, despite guardianship shifting from the chief executive under the relatively new Children and Young People (Safety) Act, the minister continues to be responsible to parliament for the administration and supervision of the department. The buck still stops with the minister, as it should. It became apparent, following the sentencing of both offenders, that the minister had no prior knowledge of these extremely serious incidents. How on earth she was not told or why she did not ensure she was adequately informed on the first occasion is troubling, to say the least. Even more troubling, given the intense media spotlight following the first case, is that it again happened under her watch three months later. For the second time, the minister found out when we all did.

These were extremely serious incidents. One of the teenage victims became pregnant as a result of the offending and the other was already pregnant. There were red flags everywhere. The review considered the gaps in internal operating procedures and protocols, especially when it came to information sharing, that culminated in these two disturbing incidents occurring. The recommendations relating to those gaps are not under our consideration for the purposes of this bill. It is the circumstances of the second case that have largely prompted the amendments before us.

Briefly, Philip McIntosh was about 20 years old when he met the already pregnant teenage victim living in a placement, and an unlawful sexual relationship followed. The victim was 28 weeks pregnant when she moved in with McIntosh and his partner. At the time, he was abusing drugs and alcohol and was the subject of a domestic violence intervention order in relation to his partner. He also had unmanaged mental health issues.

The four-year-old child he had with his partner had already been removed by the department. It was an extremely dangerous situation. The department found it difficult to forcibly remove the victim from the situation she was in, and she continually absconded from her placement in favour of residing with her abuser. As we all know, a 13 or 14 year old cannot lawfully consent to a sexual relationship with a 20-year-old man.

McIntosh was served by the CE with two written directions pursuant to section 86 of the act. The first directed him not to harbour or conceal, or attempt to harbour or conceal, or assist any other person to harbour or conceal the victim. Two months later, he was also issued with a direction to not communicate or attempt to communicate with a minor. The written directions clearly had little effect. He was arrested but released on bail after five days in custody, only to resume contact with the victim once again. The threat of a 12-month maximum penalty was clearly no deterrent at all.

As Rice considered in making the recommendation to increase the penalty, a written direction is similar to an intervention order but, in contrast, the maximum penalty for breaching an intervention order is two years' imprisonment. The current 12-month penalty for breaching a written direction is on par with careless driving or interfering with the vehicle identification plate. It should certainly attract a more serious penalty than those comparatively minor offences and I believe this bill goes some way to addressing that by proposing three years for a first contravention and four years for second and subsequent contraventions.

I think it is also really important at this stage to highlight that this is by no means the first time these sorts of instances have occurred. As many of us in this place would know well, this has occurred and we have been advised that this is occurring historically in this jurisdiction and has continued to occur without any appropriate action in some instances.

In 2017, Mr John Ternezis's fight for justice for his daughter, who was trapped and became the victim of a perpetrator from the age of 14, was finally vindicated by the District Court after a long 17-year battle. For all of those 17 years, Mr Ternezis fought for his daughter who, as I said, was in an illegal sexual relationship from age 14 with a much older male predator who gave her drugs and who ultimately fathered her child.

He was twice her age and, at the time, authorities across the board failed to intervene. All this happened while she was a ward of the state. It was only following findings of the Royal Commission into Institutional Responses to Child Sexual Abuse that the perpetrator, Andrew Charles Smith, was charged with one count of unlawful sexual intercourse with a minor. I remember Mr Ternezis well. I remember when he visited our offices at the time and his frustration at not getting any action. I remember the attempts that were made to help him and I remember at every turn the answer was always, 'There is nothing for us to do.'

It was very difficult because you had a very frustrated father in front of you and every effort that he and others made seemed to be in vain. He failed to convince the former FAYS authorities to act. He failed to convince successive welfare ministers, including Dean Brown, Jay Weatherill, Jennifer Rankine, the former Premier Mike Rann, and two state ombudsmen, to act and to investigate the handling of his daughter's case as a state ward and her relationship with her perpetrator. Mr Ternezis failed to convince them all, even though welfare authorities were aware of prior convictions that this man had concerning another minor. He failed to convince the Office for Public Integrity. He took knock after knock after knock but, thankfully, he did not give up.

When news first broke of these pregnancies, the first thing that I thought of was Mr Ternezis. Our combined failures to help him get justice for his daughter has and always will stay with me. I am pleased that after 17 long years it finally resulted in vindication for him and his daughter and their family. But I am disappointed that at every step of the way we failed them.

I am also horrified that in preceding years the same sorts of instances—the precise same sorts of instances as those highlighted for so long by Mr Ternezis—were able to continue again and again, and to go unaccounted for, and for ministers to shield themselves of any responsibility or accountability in relation to those cases.

They have let it continue unchecked for a very long time. This is not something that arose last year. It is not something that arose this year. It is something that we know historically has been taking place for a very long time, and we know it has been going unaddressed by our authorities for a very long time.

In February of this year, it was revealed that there were five minors in state care who were pregnant. It was revealed that the Department for Child Protection conceded that it did not even keep records of the number of pregnancies involving minors under the guardianship of the state. It did so knowing full well of many other cases involving sexual offending against minors. That, to me, simply beggars belief. I think Mr Ternezis's case goes to the very heart of what we are doing here and is illustrative of our failures to act over a very long period of time.

The second recommendation adopted in this bill is the inclusion of a person arrested for breaching a written direction as a prescribed applicant under the Bail Act. Whereas ordinarily bail is presumed in the absence of compelling reasons, in the future an offender like McIntosh or Smith will not easily be given the opportunity to reoffend in the community. A person who breaches a written direction will need to establish special circumstances to justify his or her release on bail, and that is a very welcome step.

Reversing the onus against the presumption of bail is another very useful tool in the toolkit, providing an additional layer of protection for vulnerable children. I think we all know that children under guardianship are uniquely vulnerable. They depend on us to get it right, and for too long we have got it absolutely wrong. The Rice review has highlighted some of the deficiencies within the department, including what is known as 'child protection fatigue'. It is certainly indicative of a desensitised department when children become pregnant while in state care and they are not red flagged to the minister, whatever the reason.

We will certainly have more to say about the Department for Child Protection when we consider the children and young people amendment bill coming our way. With those words today, and until the committee stage of the debate, I indicate our wholehearted support for the bill before us.

The Hon. R.I. LUCAS (Treasurer) (16:57): I thank honourable members for their contributions to the second reading and for their indications of support for the legislation.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (16:59): I move:

That this bill be now read a third time.

Bill read a third time and passed.

FIRE AND EMERGENCY SERVICES (GOVERNANCE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 March 2021.)

The Hon. K.J. MAHER (Leader of the Opposition) (17:00): I rise to indicate that I will be the lead speaker for the opposition. As South Australia prepares for yet another bushfire season and deals with the combined effects of climate change and more severe fires, there is always value in improving the management and operations of our emergency services.

Just before the COVID pandemic, we were emerging from a horror fire season around Australia. While the pandemic has understandably taken much of our attention, we cannot lose focus on the other challenges we face. This bill does two things. First and probably most important, it establishes an independent chair for the South Australian Fire and Emergency Services Commission, often referred to as SAFECOM. A number of stakeholders have raised concerns about SAFECOM's conduct, including that it may have tried to assert itself beyond its legislative remit and into a more operational role. An independent chair will assist with these concerns.

The existing arrangement where SAFECOM's chief executive presides over the SAFECOM board has echoes of the poacher and gamekeeper dilemma. The arrangement is not in line with the more traditional board-CEO relationship in either the public or private sectors. It will operate better under the normal conventions of a board, with an independent chair appointed by the minister, and the agency responding to the board's direction in accordance with the minister's intent.

Under the Corporations Act 2001, there are good reasons why this is normally the case. It is to avoid the organisation in effect checking its own homework. Both in ASX listed companies and the Public Service, it is not recommended that the managing director or the chief executive also chair the board.

This bill also makes a very important change to the reporting requirements of the State Bushfire Coordination Committee. Under the changes proposed, it will report directly to the minister, who, in return, must report to parliament on an annual basis. This is a positive move towards more transparent bushfire management in South Australia. The opposition supports this bill and the proposed amendment, although I will have a couple of questions about the amendment, which I shall raise in the committee stage.

The Hon. T.A. FRANKS (17:03): I rise on behalf of the Greens to support the Fire and Emergency Services (Governance) Amendment Bill. The bushfire season of 2019-20 was horrendous for South Australia. Following that, the state government commissioned a review led by former Australian Federal Police commissioner Mr Mick Keelty AO. It was provided in June 2020 with over 570 submissions and 60 video and teleconferences. That review provided 15 recommendations based on almost 70 findings. Those findings had an emphasis on new equipment, better protection of assets, updated technology, improved information and an improvement in governance.

The state government announced their $97.5 million comprehensive action plan to fund these recommendations. The State Bushfire Coordination Committee chairman and CFS chief officer, Mark Jones, stated at the time:

> As a community, we have grown accustomed to living with bushfires, and as a state we need to work together to better prepare and prevent these disasters from happening.

While the additional support that has been provided by the government, including those extra resources and funding, has been vital in addressing the recommendations of the Keelty review, I do note that there needs to be ongoing and continuous work in order to meet all the recommendations, as well as the noted points for improvement.

This bill goes some way to starting that journey. This bill enables the appointment of an independent chair of the South Australian Fire and Emergency Services Commission, the SAFECOM board. Currently, the chair is also the chief executive of SAFECOM, an unusual and I believe unacceptable situation to continue into the future. I am glad it is being rectified in this bill.

This bill also requires the State Bushfire Coordination Committee to provide an annual report for tabling in parliament. Again, no such requirement currently exists—quite an extraordinary state of affairs I would have thought, and I strongly welcome that measure in this piece of legislation as well. These are two out of the 15 recommendations for improvement based on those almost 70 recommendations made by the Keelty review.

The Keelty review, I have to say, did note that SAFECOM has been marked by what you might call 'mission creep'. The Keelty review noted quite serious concerns about SAFECOM overstepping its legislated role and function, and the SAFECOM board convention has been quite unusual. Unlike other board conventions, the SAFECOM chief executive also chairing the SAFECOM

board raised questions about why this arrangement was in place, and certainly I think very fair questions about whether it was delivering the best outcomes for emergency services agencies.

As members would be aware, I have long enjoyed a collaborative relationship with the CFS Volunteers Association and the SES Volunteers Association. I think that some of their concerns raised over many years now have been vindicated, not just by the Keelty review but by this legislation. I welcome this debate and the leadership shown by the current minister, the member for Hartley.

The Keelty review did commend the CFS for its recognition of community engagement and education programs. However, it was noted by many of the submissions that there was a need for further education and assistance in bushfire survival plans and in defending property and emergency assistance. One must also look to the Victorian 2009 bushfire royal commission, which there noted, 'that transfer of responsibility has probably gone too far; individuals are no longer taking sufficient responsibility for their own risk management'.

The Greens would agree: it is the role of government to prompt change and encourage taking personal responsibility, as well as, most importantly, allocating funding to community programs and engagement. As that royal commission goes on to state:

> Without professional support, landowners are highly unlikely to conduct these strategic burns and instead opt for inappropriate alternatives such as mechanical land clearance, which can compromise environmental assets or choose to undertake no hazard reduction activities at all.

That desperately shows the need for leadership by government, and it is leadership that I hope we will be seeing, regardless of which of the political parties holds government in this state ongoing.

Professor Lesley Hughes found that this fire season in South Australia—and Professor Hughes is no stranger in observing this—is now starting earlier and lasting longer. Professor Hughes has also predicted that the economic costs of South Australia's bushfires will have doubled by the year 2050—that is, doubled in that short period of time. In order to meet these increasing demands and this increased challenge, the resources available to emergency services also need to be doubled, but they need to be doubled by 2030 compared with our current rate.

The next 10 years are vital for our planet, but the next 10 years will also be critical in reducing the risk of extreme bushfires in our state. The review found that previous amendments in introducing a bushfire management framework to the Fire and Emergency Services Act has failed to be fully implemented. That is to our shame.

Of more concern, the review also found that in regard to the Kangaroo Island bushfires there was a 'disproportionate amount of attention' paid to misguided priorities and, despite the threat to private properties, there was a disparate level of attention given to the Flinders Chase National Park, with over 96 per cent being burnt during that fire in January 2020. The Keelty review stated that the current state bushfire management plan failed to incorporate risk management into practice and, therefore, has compromised the effectiveness of the applicable framework.

In 2010, SAFECOM conducted an audit of the coronial inquest into the 2007 Wangary fires and found that 26 out of 34 recommendations had not been actioned. I must say, let's hope that this Keelty review is not yet another example of where the good work following these emergencies is undertaken, the lack of preparedness or the gaps in administration, resourcing or frameworks are identified, yet the recommendations are filed away to gather dust on a shelf and not enacted, not just into legislation such as this but into the very ongoing daily workings that are funded to ensure that they are effected day to day.

The Greens welcome this. We have long had concerns, which I have publicly raised, about the structure of SAFECOM. I believe that the long-held concerns, particularly of the volunteer associations of both the CFS and the SES, have been vindicated in this piece of legislation. With that, we look forward to its swift passage.

The Hon. C. BONAROS (17:11): I rise to speak on behalf of SA-Best on the Fire and Emergency Services (Governance) Amendment Bill. As we have heard, the independent review into the 2019-20 bushfire season was undertaken by former Australian Federal Police commissioner Mick Keelty AO, following one of our most devastating and heartbreaking bushfire seasons on record. Fifteen recommendations arose from the 68 findings of the review. The bill seeks to address the

suggested legislative amendments, namely, the appointment of an independent chair to the SAFECOM board and the introduction of a new reporting requirement to parliament, which means the annual report of the State Bushfire Coordination Committee will become a public document.

The review, as many things have been, was challenged by COVID-19 restrictions. I believe six intended regional town hall events had to be cancelled; nevertheless, consideration was still given to 576 admissions, and 60 targeted stakeholder interviews were conducted remotely. Particular attention was given to expert evidence in fire behaviour and reduction strategies. The review heard that the 2019-20 fire season was particularly catastrophic. It began two weeks early and the soil was unusually dry.

The numbers paint a horrific picture: three fatalities; 196 homes destroyed, with 104 also damaged; 660 vehicles destroyed or damaged; not to mention the horrendous impact on wildlife. Sadly, an estimated 40,000 to 50,000 koalas perished, as did about 68,000 livestock. There will of course always be immeasurable long-term psychological impacts for many people and also for the children of those families.

In October last year, I saw firsthand the absolute devastation caused by the bushfire on Kangaroo Island earlier that year. It is hard to imagine what that would have been like. When I visited Flinders Chase National Park on Cape Du Couedic, what struck me was the char but also, and perhaps more than that, it was the lack of anywhere to go to escape the raging fires other than open waters. I tried to imagine what that would have been like and I can assure you it felt like the end of the earth and it filled me with fear but also tremendous sadness. Of course, we are very fortunate that we did not have to experience any of that firsthand.

The amendments before us are a good start. They are relatively simple but warranted changes. Currently, the chair of the nine-member SAFECOM board also wears a second hat as the chief executive of the commission itself. This certainly raises questions of independence and goes against the grain of modern corporate governance standards. The review described it as, and I quote, 'akin to marking your own homework'. I am sure I do not need to remind you, Mr President, of the genesis of the board and the act; indeed, your involvement in the comprehensive review into emergency services, culminating in the introduction of the act and the establishment of the commission and the board, is well documented.

The SAFECOM board mandate includes responsibility for establishing and monitoring the strategic direction of the commission, ensuring the effective exercise of its functions and developing and monitoring the annual budget. Concerns were raised before the review that the board was directing more than enabling, in essence performing outside its legislative scope. As the review found, to do nothing risks SAFECOM becoming a fourth arm of emergency service providers. The appointment of an independent chair certainly goes a long way in addressing this concern and it is something we welcome.

One issue we did have real concerns about, which was something raised during our consultation process, was the seemingly non-transparent register of assets. We had considered introducing an amendment to compel the publication of an up-to-date asset management plan. We were, however, assured by the current SAFECOM chief executive and chair of the board at a briefing in April that an asset management framework was in the pipeline awaiting board approval, which was music to our ears. It is to include information such as equipment life cycles and maintenance regimes, all things that the unions have expressed very serious concerns about, not only with me but other honourable members in this place.

There needs to be a transparent program for the continuing modernisation of the fleet. There needs to be accountability and there needs to be scrutiny and a clear plan going forward. What we do not want, especially given the level of risk in our regions, and what we have certainly heard reports of, is our ageing urban fleet being palmed off to our country cousins. Equipment needs to be fit for purpose and properly maintained. It needs to be reliable in extreme life-threatening conditions and I am pleased to report that our concerns insofar as they relate to the asset management plan have been addressed.

The government filed an amendment last week that will expand the functions and powers of the commission and this will allow members of the board, which include representatives from the

volunteer associations and the United Firefighters Union, to have oversight over the financial and asset management plans of the three organisations.

The inclusion of these provisions in particular is something that the unions consider extremely important, for obvious reasons. I think it is fair to say that the agency heads that I met with acknowledged and agreed that they did so but also thought it was very important. My feedback from the stakeholders who raised this issue with me is that this a most welcome amendment.

I thank the minister and his staff and in particular Mr Oliver Everett, who is fast becoming a favourite in our office for his level-headed approach to these issues when it comes to compromises and dealing with issues. I thank them for listening but also for moving very swiftly in relation to drafting this proposal and getting the government to agree to it and seeing it as part of this package. With those words, I indicate again SA-Best's support for the bill and look forward to its passage through this place.

The Hon. R.I. LUCAS (Treasurer) (17:18): I thank honourable members for their contributions to the second reading and indications of support for the bill.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 4 passed.

New clause 4A.

The Hon. R.I. LUCAS: On behalf of the government, I move:

Amendment No 1 [HealthWell–1]—

Page 2, after line 15—After clause 4 insert:

4A—Amendment of section 8—Functions and powers

Section 8(1)—after paragraph (e) insert:

(ea) to ensure that the emergency services organisations have appropriate financial and asset management plans in place;

I am advised that collectively the emergency services sector manages approximately $448 million worth of assets to deliver emergency services to South Australia. The sector is committed to and has been working towards strengthening governance relating to financial and asset management. For example, a strategic asset framework was recently developed, which is being consulted on, to ensure there is strong alignment between the strategic and operational objectives of the sector and how assets will be managed in line with those objectives.

Given the sector's strong focus on sound governance practices, the government is introducing this additional amendment for inclusion in the bill. The amendment will legislate that emergency services have appropriate financial and asset management plans in place to ensure the most efficient and effective use of public funds and assets. This is an important amendment that provides a legislative role for the SAFECOM board on which union and volunteer association representative sit on asset management planning. The initial amendment will be inserted in part 2, division 2, section 8(1) of the act, which provides funding and powers of SAFECOM.

The Hon. C. BONAROS: For the reasons just outlined, we indicate our support for the amendment..

The Hon. K.J. MAHER: I have just a couple of questions on the amendment. If I can ask the Treasurer: will the government provide the current asset management plans and financial plans for each year for each of the emergency services? Will the asset management plans that are put in place pursuant to the amendment be provided in some way for each of the services?

The Hon. R.I. LUCAS: I am advised that the plans will be tabled or presented to the SAFECOM board. As I outlined in my explanation to the amendment, the SAFECOM board has both

volunteer associations and union associations represented on it. Certainly, the unions, volunteer associations and others who sit on the board will be fully aware of the plans that are being discussed.

The Hon. K.J. MAHER: I have a further question. This might be a better way to describe it. Will the asset management and financial plans linked to the emergency services be made public and transparent?

The Hon. R.I. LUCAS: My experience with these things is they would have been public anyway. I am advised that the government is prepared to give that undertaking. I can give the undertaking on behalf of the government. I would imagine, after appropriate discussion at the SAFECOM board, they will be made public in some way once approved.

The Hon. K.J. MAHER: Can the Treasurer describe what gave rise to this amendment? What has happened such that it was not included in the bill but it has now been decided it needs to be included, and what consultations occurred with representative groups such as the UFU, the SESVA and the CFSVA?

The Hon. R.I. LUCAS: I am advised that, as I am sure the honourable Leader of the Opposition would acknowledge, we are an open, transparent and consultative government, and in the consultation this issue was raised by stakeholders. The government saw the good sense of it and has proceeded down the path, which seems to be warmly endorsed by all and sundry. So it is just part of good government and good consultation, being open and transparent, and this is the end product of that.

The Hon. K.J. MAHER: I will ask a question, but I will make the observation that when one has to proclaim their openness and transparency so often it is often because they in fact may not be as they say. When the Treasurer mentions stakeholders, who are they?

The Hon. R.I. LUCAS: I need to take some further advice on that. I understand there has been some discussion with members of parliament in relation to this particular provision, and there have been some other individuals who have been involved, as I understand it, but obviously I do not have full knowledge of the background of how we have arrived at where we have arrived. It just seems to be a good position we have arrived at, and there will be, as I understand it now, full consultation with all and sundry in relation to how this will be implemented.

As the leader has winkled out of me, as Leader of the Government, a commitment to have these plans made public, I am sure that will give comfort to all stakeholders, whether they are union representatives, volunteer representatives or indeed individuals who are just interested in good sensible asset management planning in what is a critical sector.

The Hon. K.J. MAHER: I thank the Leader of the Government for acknowledging he is being forced into major concessions, and I will continue to pull no punches in my fiercely holding the government to account. Can the Treasurer outline: will the asset management plans for each of the emergency services have regard to the age of the fleet and the redundancy of vehicles and appliances beyond a certain age?

The Hon. R.I. LUCAS: The answer is obviously yes. Any sensible asset management plan is obviously looking at the age of the fleet and the condition of the fleet and a variety of other issues like that. I do not want to ruin the pleasant ambience of this particular debate by saying we might have inherited stock which is massively under maintained, but we seem to be in a pleasant state of mind.

The answer to the honourable member's question is that clearly any asset management plan would have to take into account those sorts of factors. In terms of ongoing planning, in terms of asset replacement, clearly you cannot fix the whole world overnight. You need to look at how quickly you can do it and over what period of time you are going to be able to maintain and replace those particular assets.

The Hon. K.J. MAHER: This is effectively my last question. Given the Treasurer has outlined, which I thank him for, that they will take into account things like the age of the fleet and redundancy of vehicles beyond a certain age—given that that will be in there and the government

and its agencies have turned their mind to that—what is considered to be the acceptable working age, for instance, of a firefighting appliance?

The Hon. R.I. LUCAS: I knew the answer to this one before I even asked. It just depends. There are so many different circumstances. I have learnt a little bit more about this area given the recent debates we have had with enterprise bargaining negotiations. We have things called big pumpers, or something, whatever they are, and what is that big thing called? Pronto or something? Brontos. There are all sorts of things.

The reality is that the asset management plan is going to have to look at all those things, from regional appliances that the Hon. Ms Bonaros has referred to to all the different forms of appliances that metropolitan services utilise as well. Then, in terms of aircraft access and those sorts of things, there are the various services that we lease or share the costs of because they are so expensive. So there is no one simple answer to it, but clearly they are the sorts of issues the asset management plans are going to have to address.

The Hon. K.J. MAHER: Might the Treasurer give a commitment to take this question on notice—not for every single different type of firefighting appliance but maybe for the major categories, the four or five they have the most of—and provide a reply, if he can, to myself and the shadow minister, Lee Odenwalder, in another place. What is the accepted working age for the four or five most numerous categories of appliance, according to these reports?

The Hon. R.I. LUCAS: I am happy to take the question on notice and see what information the minister and his advisers are in a position to provide for the most frequently purchased or most popular pieces of equipment within the arsenal that the services have.

New clause inserted.

Remaining clauses (5 to 8) and title passed.

Bill reported with amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (17:32): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 17:33 the council adjourned until Tuesday 11 May 2021 at 14:15.