LEGISLATIVE COUNCIL

Wednesday, 22 September 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.

Parliamentary Procedure

VISITORS

The PRESIDENT: Before calling the Hon. Dr Centofanti, I would like to acknowledge the presence in the gallery of the Hon. Mark Parnell.

Honourable members: Hear, hear!

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. N.J. CENTOFANTI (14:17): I bring up the 44th report of the committee.

Report received.

The Hon. N.J. CENTOFANTI: I bring up the 45th report of the committee.

Report received and read.

SELECT COMMITTEE ON DAMAGE, HARM OR ADVERSE OUTCOMES RESULTING FROM ICAC INVESTIGATIONS

The Hon. F. PANGALLO (14:18): I bring up the interim report of the committee.

Report received.

Question Time

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking a question of the minister for the public sector regarding corruption, maladministration and misconduct by the Premier.

Leave granted.

The Hon. K.J. MAHER: Today, in startling revelations, the Ombudsman revealed that he had referred concerns about corruption, maladministration or misconduct specifically in relation to the alleged misuse of data to the Office for Public Integrity. In relation to this, today the Ombudsman was asked, 'You have found corruption, maladministration or misconduct and referred it to the OPI?' The Ombudsman replied with the single word yes.

When asked who was responsible for this corruption, maladministration or misconduct, it was stated to the committee, 'This is all coming out of a political party and the Premier's office.' This quote was attributed to the Premier's own department. My question to the minister for the public sector is: as the person responsible in government for the public sector, exactly what code of ethics, code of conduct or behavioural standards apply to employees who work within the Premier's office?

The Hon. R.I. LUCAS (Treasurer) (14:21): I am advised that the Ombudsman (later today), after presenting before the parliamentary committee evidently, issued a clarifying statement or a statement, which in part says as follows I should say:

While it is true that the Ombudsman has referred a matter of potential corruption, maladministration or misconduct to the Office for Public Integrity, the Ombudsman did not intend to indicate that he had formally 'found' that corruption, maladministration or misconduct had occurred.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It continues:

As is clear from the totality of the Ombudsman's evidence at the hearing, no conclusions have been made in that regard, only that there are concerns needed to be referred to OPI for assessment.

Members interjecting:

The PRESIDENT: Order!

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:21): Supplementary: in relation to the statements that the Ombudsman made and the clarification that the minister has read out, is the minister able to inform the chamber what code of ethics or standards apply to people who work in the Premier's office?

The Hon. R.I. LUCAS (Treasurer) (14:22): I will take advice on that, but my understanding is that it's the same code of ethics that applies to public sector workers. I think this issue has been explored not only in this chamber but in another chamber on a number of occasions. I think that has been the totality of the advice that has been provided to both chambers. Again, in relation to any particular issue that might appertain to the matters raised this morning in a parliamentary committee, there is an established process which is being followed, and we will all await with interest the results of that process.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking a question of the minister for the public sector regarding corruption, maladministration or misconduct by the Premier.

Leave granted.

The Hon. K.J. MAHER: Today, the Ombudsman revealed concerns that he had referred matters of potential corruption, maladministration or misconduct about the misuse of data in the Premier's office and the Liberal Party to the Office for Public Integrity. Previously in this place, the Treasurer has said:

It is certainly my belief that most things that go on within a minister's department, either they know about it or they are negligent if they don't know about it...

My question to the minister is: as the minister for the public sector with responsibility for the conduct of the public sector, exactly when was the minister first aware of this investigation by the Ombudsman and the referral to the Office for Public Integrity, and exactly what discussions has the minister had with the Premier or anyone from his office either before the startling revelations today or afterwards about this matter?

The Hon. R.I. LUCAS (Treasurer) (14:24): I became aware of the issue when it was publicised as a result of the evidence taken, evidently, in a parliamentary committee this morning. That was my first knowledge.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Supplementary arising from the answer given: since becoming aware of the potential corruption by the Premier or his office, has the minister had any discussions with the Premier or any of the staff in his office?

The Hon. R.I. LUCAS (Treasurer) (14:24): I haven't had a discussion with the Premier, but even if I did the nature of discussions I have with my ministerial colleagues or indeed staff in

government administration will stay with me and whoever I have those conversations with. I haven't made a practice and I don't intend to make a practice—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —of revealing the nature of those discussions that I might have with ministerial colleagues.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Further supplementary arising from the answer: as the minister responsible for the public sector, what action does the minister propose to take in relation to these matters to assure himself about matters to do with corruption in the public sector?

The Hon. R.I. LUCAS (Treasurer) (14:25): I will do as all of us should do and that is await the processes that have been established by this parliament in relation to any allegation that might be made. The Office for Public Integrity evidently has been given carriage of the matter. We should all await patiently for the results of their deliberations.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:25): Final supplementary arising from the original answer: is the minister confirming that he intends to take absolutely no action to ascertain the veracity of any of these claims or provide any education to make sure this potential corruption isn't continuing to occur?

The Hon. R.I. LUCAS (Treasurer) (14:25): The Leader of the Opposition is paddling furiously trying to get a story up, but he can continue to paddle furiously. There is an established process—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —in the Office for Public Integrity—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and I have nothing further to add.

The Hon. E.S. Bourke interjecting:

The PRESIDENT: Third question, the Leader of the Opposition.

The Hon. E.S. Bourke: Sixteen years in the making.

The PRESIDENT: Order! The Hon. Ms Bourke will allow her leader to ask his question.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): My final question to the minister for the public sector regarding corruption, maladministration and misconduct by the Premier is: as the minister for the public sector, what assurances can the minister provide that all documents and communications regarding the use of NationBuilder, the misuse of data in the Premier's office and the Premier's involvement in corruption are properly recorded and preserved so that no evidence of wrongdoing can be destroyed or will disappear?

Members interjecting:

The PRESIDENT: The Treasurer has the call and will be heard in silence.

The Hon. R.I. LUCAS (Treasurer) (14:26): There are established processes which all public servants, ministers and ministerial advisors will follow, as would be expected.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:27): Supplementary arising directly from the answer: what are those processes, minister?

The Hon. R.I. LUCAS (Treasurer) (14:27): The Leader of the Opposition, as a former minister, is well aware of those processes.

DATA HARVESTING

The Hon. K.J. MAHER (Leader of the Opposition) (14:27): Final supplementary—

Members interjecting:

The PRESIDENT: I will listen to it. Order!

The Hon. K.J. MAHER: —arising directly from the answer and I will give the minister one more opportunity: does he in fact—

The PRESIDENT: No, you will come directly to your question.

The Hon. K.J. MAHER: Does the minister know what processes ought to be followed for the preservation of records and data or not?

The Hon. R.I. LUCAS (Treasurer) (14:27): Yes.

Members interjecting:

The PRESIDENT: The Hon. Mr Stephens has the call and will be heard in silence. No conversations across the chamber.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order, the leader!

PRIORITY CARE CENTRES

The Hon. T.J. STEPHENS (14:27): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding hospital presentations.

Leave granted.

The Hon. T.J. STEPHENS: As we move through the COVID-19 pandemic, there are reports of increased pressures on hospitals around Australia. We have seen the same here in South Australia. Will the minister please update the council on efforts to reduce avoidable hospital presentations and ease the pressure on South Australia's public health system.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:28): I would like to thank the honourable member for his question. After the former Labor government downgraded metropolitan hospitals and cut around 100 beds from the system with the closure of the Repat, South Australian metropolitan hospitals continued to experience significant challenges to meet growing demand—

Members interjecting:

The PRESIDENT: Order! I would like to hear. Order! I would like to hear the minister.

The Hon. S.G. WADE: The Marshall Liberal government is committed to implementing strategies to address Labor's legacy and provide quality care to South Australians through alternative pathways. One of the most significant opportunities to improve care—

Members interjecting:

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

The Hon. S.G. WADE: —is to provide care.

Members interjecting:

The PRESIDENT: Order! The minister has been asked a question. The member who asked the question and the rest of the chamber should have the opportunity to hear it. I can't hear the answer at the moment and I would like to hear it. The minister has the call.

The Hon. S.G. WADE: Thank you, Mr President. One of the most significant opportunities to improve care is to provide care in the community where that is more appropriate than an ED presentation. Priority care centres provide an alternative community based healthcare pathway—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —for patients with lower acuity needs, low acuity conditions—

The Hon. K.J. Maher interjecting:

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

The Hon. K.J. Maher interjecting:

The PRESIDENT: The leader is out of order.

The Hon. S.G. WADE: Priority care centres provide an alternative community based healthcare pathway for patients with lower acuity conditions—

The Hon. E.S. Bourke interjecting:

The PRESIDENT: The Hon. Ms Bourke!

The Hon. S.G. WADE: —who need urgent care but not emergency care.

The Hon. E.S. Bourke interjecting:

The PRESIDENT: If the Hon. Ms Bourke wants to have a conversation with the leader, she should ask him to take it out to the lobby.

The Hon. S.G. WADE: Priority care centres commenced as a pilot in August 2019 and have quickly become an integral part of our state's healthcare system. Patients with less serious and more minor conditions, such as minor sprains, suspected fractures—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —UTIs, wounds and cuts are diverted away from EDs, preserving EDs for those who need emergency care. This week, the priority care centres hit a major milestone of treating 20,000 patients since the launch. I would like to congratulate everybody involved in helping those 20,000 people receive the care they needed. Sixty per cent of patients attended a PCC—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —for an hour or less. That includes waiting time—

The Hon. I.K. Hunter interjecting:

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

The Hon. S.G. WADE: —and treatment time. In comparison, low acuity patients average a 3.6-hour wait at EDs. I would also like to thank our healthcare professionals for their professionalism and outstanding care, which have resulted in patient satisfaction—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —with the service continuing to be high. More than 90 per cent of respondents said they were very satisfied—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: The Hon. Mr Hunter!

The Hon. S.G. WADE: —with the service they received, and 96 per cent said they would recommend priority care centres to family and friends.

Members interjecting:

The PRESIDENT: The Leader of the Opposition and the Hon. Ms Bourke will remain silent.

The Hon. S.G. WADE: South Australians will be pleased that this successful Marshall government initiative will not only be continuing but expanding further in a new three-year agreement. A centralised referral system and new pathways will enhance the priority care centres at Hindmarsh, Para Hills West, Elizabeth and Marion as a vital alternative to emergency departments.

There is considerable scope for priority care centres to help further alleviate pressure on emergency departments as we continue to streamline pathways, with an average of 377 lower acuity patients presenting to a metropolitan Adelaide ED each day during 2020-21. These out-of-hospital initiatives are helping to complement the Marshall Liberal government's efforts to reduce pressure on our EDs, which includes upgrading every suburban ED in Adelaide as part of our $3 billion health infrastructure program and our $7.4 billion health services investment.

PRIORITY CARE CENTRES

The Hon. K.J. MAHER (Leader of the Opposition) (14:32): Supplementary: can the minister outline which private companies are involved in the scheme to which he referred in his answer?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:32): I am happy to take that question on notice.

PRIORITY CARE CENTRES

The Hon. K.J. MAHER (Leader of the Opposition) (14:33): Further supplementary, sir.

The PRESIDENT: Arising out of the original answer?

The Hon. K.J. MAHER: Arising out of the original answer. Can the minister assure the chamber that on this occasion his chief executive did not have any conflicts of interest when signing contracts in relation to this particular scheme?

The PRESIDENT: I am going to rule that out of order.

LEGAL PROFESSION CONDUCT COMMISSIONER

The Hon. F. PANGALLO (14:33): I seek leave to make a brief explanation before asking the Treasurer, representing the Attorney-General in the other place, a question about the Legal Profession Conduct Commissioner, Greg May.

Leave granted.

The Hon. F. PANGALLO: I have asked the Attorney a number of specific questions in recent times regarding Mr May, who was found by a majority judgement of the Full Court guilty of several breaches of section 17 of the Public Sector (Honesty and Accountability) Act 1995. The Attorney-General herself, when in opposition, was aware of and seemed concerned about at least one breach when she posed questions about Mr May to the then Labor Attorney-General, Mr Rau. Now the tally is five. The Attorney has failed to adequately answer in detail the questions I put to her on notice about Mr May's conduct, including whether she intends to pursue the matter, especially considering that breaches of the act carry significant penalties, including imprisonment.

My question to the Attorney-General is: is Mr May and his office immune from prosecution for breaking the law, specifically the Public Sector (Honesty and Accountability) Act and, if not, why isn't the Attorney-General pursuing the matter or referring it to an integrity body as part of her responsibility and duty as the state's top legal officer?

The Hon. R.I. LUCAS (Treasurer) (14:34): I am happy to refer the honourable member's question to the Attorney-General and bring back a reply.

HOMELESSNESS

The Hon. C.M. SCRIVEN (14:35): My question is to the Minister for Human Services regarding homelessness. Since the commencement of the new homelessness alliances, how many critical incident reports has the minister received from the homelessness system about sexual assault or death of people who use that system?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:35): I would need to check the record as to what is the actual number of any of the critical incidents. Most of the critical incidents I receive via the housing system relate to fires and the occasional stabbing within our public housing system, but I would need to double-check what data we have that has come from the homelessness system.

HOMELESSNESS

The Hon. C.M. SCRIVEN (14:35): Given the minister's answer that most relate to things such as fires and stabbings, why is she not aware of how many serious incidents, such as sexual assault or death, have occurred?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:36): The human services portfolio has quite a number of reportings in the critical incident system.

The Hon. C.M. Scriven: We're talking about sexual assault and death.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: If the honourable member casts her mind back to the areas I have talked about, particularly in relation to the disability services system, the threshold is quite low. The example I often use—and we were the ones who lowered the threshold in terms of critical incidents to ensure that, if one of our clients is grabbed by, for instance, a staff member, that is registered as a critical incident, and there may have been a couple of reasons for it.

One may well have been that the staff member was trying to prevent someone falling, in which case, if that was found through the process to have been the cause, then that would be a mitigating circumstance, but, if it was a staff member acting aggressively, that would continue to be considered a critical incident. We have quite a low threshold in terms of the incident management system across human services, and I do receive a number of reports. I don't have the data to hand on the exact number for every category.

HOMELESSNESS

The Hon. C.M. SCRIVEN (14:37): Supplementary arising from the original answer: has the minister asked to be kept informed of sexual assault or death incidents and, if so, how often is she apprised of them?

The PRESIDENT: I am not sure that arises from the original answer. If the minister wants to answer, I am happy to let her do so.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:38): I am happy to remind members of the Labor Party that their ministers were specifically excluded from receiving any critical incidents. I remind the honourable member about the former premier, who was not advised by his Chief of Staff about a sexual assault at a children's school, and I will remind the honourable member—

The Hon. C.M. Scriven interjecting:

The PRESIDENT: Order! The deputy leader has had the courtesy of having an answer given to something I think I could have ruled out of order, so she might like to listen.

The Hon. J.M.A. LENSINK: I will remind the Labor Party—and I do love the fact that they like to hold this government to standards they could never uphold—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —actively engaged in plausible deniability.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley is out of order, and so is the leader. I would like to hear the answer.

The Hon. E.S. Bourke interjecting:

The PRESIDENT: Order, the Hon. Ms Bourke!

The Hon. J.M.A. LENSINK: They treated their ministers as if they were royalty and they needed to be protected from everything.

The Hon. C.M. Scriven: So, why don't you know the answer then?

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: We have lowered the threshold. We have indeed revised our critical incident systems in Human Services, so that I am advised when there are critical incidents.

PUBLIC HOUSING

The Hon. N.J. CENTOFANTI (14:39): My question is to the Minister for Human Services regarding housing. Can the minister please update the council about how the Marshall Liberal government is working with community housing providers to improve housing outcomes for South Australians?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:39): I thank the honourable member for her question. Last week, it was my great privilege to attend a launch of a UnitingSA Housing project at Ferryden Park. In attendance we had the Leader of the Opposition, as I understand it is in his electorate. UnitingSA is chaired by Ms Gael Fraser, and Jenny Hall is their recently installed CEO.

I should say actually at the outset that UnitingSA Housing was first registered as a tier 2 community housing provider under the national regulatory scheme for community housing in 2014. UnitingSA Housing has 351 properties under a Master Community Housing Agreement, and a further 11 leased properties. UnitingSA Housing support almost 15,000 people every year across regional and metropolitan South Australia through the many services that they offer.

Some of the cohorts that they provide services to include older people, youth and families, people facing mental health issues and/or disability, and those from culturally diverse backgrounds. They assist a number of people to find long-term affordable housing with appropriate supports in place.

In November 2019, an invitation was issued from the SA Housing Authority for expressions of interest in a program called MATCH (More Affordable Tenancies in Community Housing), particularly tier 2 organisations. From this process, a grant of $1 million was provided to UnitingSA Housing for the project, which overall is $16.6 million and has involved constructing six two-bedroom single-storey social housing dwellings and two two-bedroom single-storey affordable dwellings on vacant land.

The story behind the land was quite special because the site is actually the former Days Road Gospel Mission. Mission members had spent many years advocating for the land to be gifted to UnitingSA. Judy Bynoe from the mission worked tirelessly with UnitingSA minister Les Underwood to ensure that the land could be gifted to UnitingSA, including having to take the issue to the Supreme Court, where it was ruled the land could be gifted to UnitingSA.

It was my great privilege to meet some of the new tenants who have some stories that would be familiar to many people who have worked with people in this space in that there are often relationship breakdowns, particularly for older women, for whom these houses are intended. A number of those tenants are now getting on with their lives and are very happily there, which is a beautiful space and a fantastic project, so congratulations to everybody who was involved.

PUBLIC HOUSING

The Hon. J.E. HANSON (14:43): Supplementary: how much money did the state contribute to the project?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:43): I am not sure if the honourable member was listening or not. As I have said before, I don't expect the Labor Party to hang off my every word, but I did say in my response that there was $1 million provided through the SA Housing Authority.

PUBLIC HOUSING

The Hon. J.E. HANSON (14:43): Supplementary: given that $900 million is available to SAHA for public housing, how does $1 million stack up in regard to that?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:44): I am happy to answer that, Mr President, because I think it demonstrates that the shadow minister can't do maths. I have heard the member for Hurtle Vale make these sorts of comments. It has been explained repeatedly how the funding of the organisation works in that the grant funding of SAHA was provided several years ago in an up-front payment.

What she is referring to is money that is used for staffing and maintenance. There is a component of that which contributes to us actually employing our staff, as we should, through the maintenance program. So there is not a bunch of cash sitting lazily on our balance sheet; in fact, we are using the money through this strategy as working capital to build our affordable homes and it is actively being used. The honourable member needs to go and ask the shadow minister if she can go back and perhaps check the public record where she will find answers to all these things.

HILLS PARKING

The Hon. R.A. SIMMS (14:45): I seek leave to make a brief explanation before addressing a question without notice to the minister representing the Minister for Transport, the Treasurer, on the topic of the proposed park-and-ride in Bridgewater.

Leave granted.

The Hon. R.A. SIMMS: Reports in today's *Advertiser* reveal that government land that was flagged for a park-and-ride service in Bridgewater has been sold off to a private investor. The South Australian Transport Action Group and the Stirling Business Association have both claimed that the government is not listening to the community needs when it comes to better transport options for Hills residents.

My question to the Treasurer is: will the government reconsider this land sale and, if not, has the government got another plan for further park-and-ride developments in the Hills, given the region is only serviced by two, in Crafers and Mount Barker, and these are not enough to service community needs?

The Hon. R.I. LUCAS (Treasurer) (14:46): I am happy to take the member's question on notice and consult with my colleague and bring back a reply.

HOMELESSNESS

The Hon. E.S. BOURKE (14:46): I seek leave to make a brief explanation before asking a question of the Minister for Human Services regarding homelessness.

Leave granted.

The Hon. E.S. BOURKE: Kate and her son Liam, a school student with autism, became homeless when the house they rented was sold out from underneath them. They have been living in a caravan park, but they will be moved out by Monday to make room for holiday-makers during the school holidays. The opposition understands that Kate and Liam first contacted Toward Home Alliance, which manages homelessness services in the city and southern areas, five weeks ago.

Despite the weeks fast turning into months, Kate and Liam haven't even been allocated a caseworker. My questions to the minister are:

1. What does the minister have to say to Kate and Liam, who have done nothing wrong and find themselves being evicted from multiple forms of accommodation in a short period?

2. Will the minister now admit that the transition period of just a few weeks for the new alliance model was completely inadequate and has placed people at risk?

3. Exactly how many other people, who are waiting for help from homelessness services, will be kicked out of the caravan park by Monday?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:47): I thank the honourable member for her question and of course, again, I would offer to the honourable member—I don't know whether Kate and Liam have been in contact with my office to get further assistance or indeed with the South Australian Housing Authority to be placed on the waiting list for public housing—if the Labor Party have known about this information I would urge them to provide those details to my office straightaway so that we can follow those up and we would seek to provide services to this family.

BUSINESS SUPPORT GRANT PROGRAM

The Hon. D.G.E. HOOD (14:48): My question is to the Treasurer. Can the Treasurer advise the chamber whether the latest round of business support grants will be assessable for taxation purposes?

The Hon. R.I. LUCAS (Treasurer) (14:48): I am pleased to be able to report to the house that only this week I have received correspondence from the federal Treasurer, Mr Frydenberg, in response to an earlier letter from me to the federal Treasurer dated 3 September. That letter sought, on behalf of South Australian recipients of the business support grants recently announced, as to whether or not they would be eligible to be treated as non-assessable, non-exempt grants for income tax purposes.

As members will be aware, the earlier rounds of similar grants last year and earlier this year, the commonwealth government hadn't agreed that they would be non-assessable, non-exempt income for income tax purposes but I am pleased to say that I think there have been some recent legislative changes from the commonwealth government which are to be welcomed.

The federal Treasurer has now agreed that the most recent grants that have been provided to businesses, which range from $1,000 to $3,000 to $6,000 and then also $10,000 and $20,000 grants, depending on eligibility, will, for the first time in terms of these grant programs in South Australia, be non-assessable, non-exempt for income tax purposes, which is a good result for those small business recipients who receive them.

I do note that certainly in New South Wales and Victoria, there has been a similar treatment in relation to similar grant programs in their jurisdiction and it may well be the case in the other states and territories as well. We are not indicating that South Australia is being treated any differently here. We are pleased to say that, with the new arrangements from the commonwealth, grant programs like this in states and territories that are eligible for this new tax treatment will be treated in that particular way. There are certain requirements that we have to go through. Just briefly:

> The formal process for declaring these grants is underway and Commonwealth Treasury officials will be in contact with officials from your Department when a formal instrument of declaration has been registered on the Federal Register of Legislation.

That process is underway and we welcome the decision of the federal Treasurer in this respect.

SKYCITY ADELAIDE

The Hon. C. BONAROS (14:51): I seek leave to make a brief explanation before asking the Treasurer, representing the Attorney-General as minister for consumer and business affairs in the other place, a question about SkyCity Adelaide Casino.

Leave granted.

The Hon. C. BONAROS: In early June, it was revealed that AUSTRAC, Australia's financial crimes watchdog, was investigating the Casino after it identified potential serious compliance with the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006. AUSTRAC's concerns were identified as part of a compliance assessment it commenced almost two years ago

focusing on the Casino's management of customers identified as high risk and politically exposed persons (PEPs).

We know the commissioner for business and consumer services has suspended his own review of the commission pending the completion of AUSTRAC's investigations, and the Treasurer has addressed that in this chamber previously. My questions to the Treasurer are:

1. Has AUSTRAC yet been briefed by the state government on its ongoing investigation into SkyCity Adelaide Casino?

2. Has the government sought a meeting to be briefed by AUSTRAC on its investigation into the Casino?

3. If so, what was the extent of the information given?

4. If not, why has that not occurred, especially given the potential serious threat posed by AUSTRAC's concerns over the Casino's management of customers identified as PEPs?

The Hon. R.I. LUCAS (Treasurer) (14:52): I am happy to refer the honourable member's question to the Attorney-General and bring back a reply.

MID-AUTUMN FESTIVAL

The Hon. R.P. WORTLEY (14:52): My question is to the Assistant Minister to the Premier regarding multicultural affairs. Can the assistant minister understand why so many people in the multicultural community are angry after she recently held a massive fundraising dinner in honour of herself, no-one knew the dinner was a Liberal fundraiser, and then yesterday claimed that she attended a Chinese business dinner last weekend on behalf of the Premier so that people could, and I quote, 'pay tribute to me'?

Having published a sum total of just three media releases in almost four years, how does the assistant minister think her work compares to the people that this parliament often pays tribute to, including police, nurses and people who have spent decades fighting for justice for vulnerable people?

The PRESIDENT: I call the assistant minister. There was some request for your opinion in that and I think you need to address that, as the assistant minister would normally do.

The Hon. J.S. LEE (14:53): I think the opposition has run out of questions and is wasting parliament's question time. These questions, over and over again, about attending events, have been canvassed by the opposition and answers have been placed in this chamber and you can look up *Hansard*.

We all, as members of parliament, get invited to many, many events. I am not the only member of parliament who gets invited to multicultural events. Crossbench MPs and other members—whether it is frontbench, shadow ministers, ministers—all get invited to multicultural events, but nobody gets picked up the way that the Labor opposition keeps having a personal attack on me. I think these bullying tactics are unacceptable, unacceptable in a place like this—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S. LEE: —when we hold the standards of our politicians in the highest regard. It's really disappointing. In terms of particularly answering the questions about the CBNSA event, government members are invited, opposition members are invited. I cannot stop or reorganise a program of the organising committee. What they wished to do wasn't something informed to me. It was spontaneous by the president on the night. I didn't even know my name was called when he just came and said, 'The Hon. Jing Lee, please come to the front.'

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S. LEE: Just because—

Members interjecting:

The PRESIDENT: Order! The opposition might want to listen to the answer.

The Hon. J.S. LEE: Just because the Leader of the Opposition did not understand Chinese language and perhaps not had a translator on hand to interpret matters—

The Hon. R.P. Wortley interjecting:

The Hon. J.S. LEE: Did the Hon. Russell Wortley attend the event? He was not there. Does he have all the facts correct? No. Maybe he wanted to be there but he was not invited.

The PRESIDENT: A supplementary, the Hon. Mr Wortley, arising from the answer?

MID-AUTUMN FESTIVAL

The Hon. R.P. WORTLEY (14:56): From the answer. Can the assistant minister see how conceited this conduct appears in the community? It's not about you; it's about the community.

The PRESIDENT: Order! That's out of order. If you want to rephrase a supplementary question you can, but I am going to rule that out of order.

The Hon. R.P. Wortley: I don't want to be accused of bullying.

The PRESIDENT: Order! The Hon. Ms Girolamo has the call.

REPAT HEALTH PRECINCT

The Hon. H.M. GIROLAMO (14:57): Will the Minister for Health and Wellbeing please update the council on the recent work the government has done at the Repat Health Precinct and how that supports reduction in ramping and increased capacity in tertiary hospitals?

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:57): I would like to thank the honourable member for her question and recognise her interest in the government's work to develop the Repat Health Precinct. I am delighted to advise the council that 30 additional beds started operating at the Repat this week. Whether it's reopening, rebuilding, revitalising and renewing, the Repat Health Precinct is emerging as a world-class health precinct. Whether it's codesigning, building and opening—

The Hon. K.J. Maher interjecting:

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

The Hon. S.G. WADE: —the 18-bed neurobehavioural unit, or NBU as it's called, for people living with advanced dementia, or ensuring elderly patients have access to the new Complex and RestorativE (CARE) service at the Repat, this government is taking action.

The state and federal governments in partnership have invested $125 million at the health precinct, which also provides a brand-new brain and spinal unit at the Repat and a return of surgical services to the campus through a partnership with Nexus, with $5 million of capital works to prepare the site for a surgical facility.

On Sunday, along with my colleagues the Hon. Michelle Lensink and the Premier from the other place, I was very pleased to mark a $3 million investment by this government, which culminates in the opening of 30 beds across wards 5 and 6. These beds will enable National Disability Insurance Scheme participants who no longer require acute hospital care to transition out of hospital on their way home or back into the community.

Sometimes NDIS participants find themselves delayed in their discharge after the medical need to be an inpatient has ended. They are ready for discharge. However, perhaps due to delays in increased funding being approved in the participant's NDIS plan, or delays in home modifications, or issues coordinating new support workers, or changed support needs, people can often find their discharge is delayed, sometimes for days, weeks, months, or longer.

As at 17 September 2021, there were 64 general health patients languishing in our hospitals awaiting NDIS processes so that they can move back into their homes and the community. These 64 discharge-ready participants represent combined discharge delays of 4,989 bed days, and 16 of the 64 had a discharge delay of more than 100 days.

People remaining in hospital after they have been declared fit for discharge is not good for anybody, and it is not good for the health system. For the patient, they are at higher risk of hospital-grade infection, they cannot easily resume or relearn the activities of daily living and they are disconnected from friends, families and community networks. For health system staff, it is frustrating to see their patients unable to transition into more appropriate accommodation and activities of daily living back in the community when these patients are well enough to leave the hospital.

For the health system, beds remain used by people who no longer need them, preventing access to those who do. Acute hospital beds are equipped and staffed to provide acute care, and we must ensure that people can move to transitional care arrangements as soon as they are able to do so.

I would like to thank SA Health, Wellbeing SA, the local health networks, the Office of the Chief Psychiatrist and the Department of Human Services for the collaborative work on Transition to Home since March 2020 and for this recent intensive work providing a new transition option for NDIS participants leaving hospital.

RENTAL AFFORDABILITY

The Hon. R.A. SIMMS (15:01): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Human Services on the topic of rental affordability.

Leave granted.

The Hon. R.A. SIMMS: Reports in *The Advertiser* today suggest that hundreds of South Australians are at risk of becoming homeless this year as an average of 10 properties a week come off the National Rental Affordability Scheme. This comes at a time when the rental crisis in South Australia is squeezing even moderate income earners out of the housing market. SACOSS and Shelter SA have expressed concern that low income families and individuals will be left without a roof over their heads when the NRAS program progressively comes to an end. My question to the Minister for Human Services is:

1. What is the government doing to ensure our public housing stock is increased to ensure we don't see families end up on the street?

2. Will the government commit to a state government rent subsidy, even as an interim measure, to avoid this impending disaster?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:02): I thank the honourable member for his question and acknowledge his interest in the issue of potential homelessness. I have been hearing impending predictions of gloom and disaster in the homelessness space for a long time. With that in mind, monitoring what's happening across the environment of the private rental, private purchase, community housing and public housing space and homelessness services is something that we are very, very mindful of through the South Australian Housing Authority.

In terms of the services that we provide, we do, of course, have the private rental assistance program, which provides a bond and rent in advance to people who are in the private rental market. In addition to that, people who are on commonwealth Centrelink benefits have access to commonwealth rental assistance to assist them in the private rental market.

The number of people in rental and mortgage stress is something that we have been very mindful of, which is why we came up with the original strategy. So the Housing Authority has been active, returning to its heritage, if you like, of not just providing public housing to people but also building affordable properties for sale, as it used to many decades ago. The effect of that is to provide those people who get their foot in the private property market, which only ever goes up, particularly in Adelaide—it gets them out of the private rental system and reduces the demand in that space.

Bearing in mind that the private rental market is a very large component of what many households rely on, I did note some comments quite recently from someone in the industry that they believed that some of the demand in that space was easing. I think, as we also see the HomeBuilder grants and those projects being completed, there will be people who will move into those properties and, again, that will reduce demand on the rental market, but this is something that we constantly monitor.

As I said yesterday, I think we have been tracking the homelessness data and certainly across the state the overall data doesn't show that homelessness has been increasing. In fact, the trend data shows that it has been reducing over several years. However, we do always monitor what is happening in this space to ensure that we're providing the best suite of services available.

RENTAL AFFORDABILITY

The Hon. R.A. SIMMS (15:05): Supplementary question: noting the minister's reply, will the minister commit, on behalf of the government, to introduce a state-based rent subsidy scheme. I'm not talking about the federal scheme: will the minister commit to a state-based rent subsidy scheme?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:06): As I said in my original response, we already have the private rental assistance program.

RENTAL AFFORDABILITY

The Hon. J.E. HANSON (15:06): My question is to the Minister for Human Services regarding homelessness. Given that the federal Productivity Commission has found record overcrowding in remote communities every year of this government, and the minister plans to build exactly zero extra homes in the APY lands over the next four years, can the minister understand why the latest Adelaide Zero Project numbers show a record high proportion of Aboriginal homeless people in Adelaide? Secondly, can the minister understand why the community was so concerned recently about her department's attempts to shut down a street kitchen that was set up to help homeless people from remote communities, even while the minister's own policies aren't helping alleviate their homelessness?

The PRESIDENT: That was a very long question rather than an explanation. I also indicate that the honourable member and other honourable members might wish to reflect on the phrasing of their questions when they are seeking what a minister understands, which could well be a minister's view, and that's out of order. But I will give the minister the opportunity to answer.

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): I thank the honourable member for his question. I have to agree with my colleague, the Hon. Jing Lee, that I think the Labor Party have demonstrated that they are running out of questions, because all of these questions have been asked previously.

Members interjecting:

The PRESIDENT: Order! The minister has hardly started. Allow her to answer the question from a member of your backbench.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: Indeed, in relation to the APY housing program where this government put its own money in—

The Hon. K.J. Maher interjecting:

The PRESIDENT: The leader will be silent.

The Hon. J.M.A. LENSINK: —to support the rebuilds on the APY lands—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order, leader!

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

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: So the SA Labor government didn't expend any of its own money—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: They received a nice $290 million from the commonwealth to do a building program. The APY program, as I think I have said before—I do get tired of repeating myself but it seems that I have to do it a lot in question time these days—is that the rebuild program that we're engaged in actually increases the number of bedrooms in those houses, so there is some expansion of capacity there, but there are also issues in places like Ernabella where the plots have reached capacity, so there are other issues at play.

I think that trying to draw the distinction with the data that's on the AZP program that is reported through the Adelaide Zero Project is also misleading because there are a number of people who come from other communities who are represented through those statistics. Indeed, I do thank the honourable member for raising the fact that—I will get the right name of the title in a minute, but I think it is the wellbeing task force that we are running—the Safety and Wellbeing Taskforce, which the Department of Human Services and the South Australian Housing Authority and a number of other cross-agencies are involved in, is working to provide assistance and support to people to ensure that they can either safely remain here in Adelaide or they can safely return to their community.

It is very important work. I think it is disappointing that the Labor Party has chosen to take the issue of Whitmore Square, where some of their friends in, I think, the Communist League have been running an unauthorised site, an unauthorised service. Indeed, we are advised by the council that the Community Union Defence League, I think they are known as, were advised in June, from memory, that they needed to get permits and have not done so. If the Labor Party wishes to defend the sort of activity, where operating a food service without a permit is something that they support, then they should place that in one of their election policies. I am sure that would be of great interest to the general community.

RENTAL AFFORDABILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:11): Supplementary arising from the answer where the minister talked about—

The PRESIDENT: Ask the question.

The Hon. K.J. MAHER: What land constraint issues are there in building brand-new housing in the communities of Iwantja, Mimili, Kaltjiti, Amata, Kanpi, Nyapari, Murputja or Pipalyatjara in the APY lands?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:11): I don't have all of those details available, but I am aware that it is—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —an issue.

Members interjecting:

The PRESIDENT: Order! The leader asked a question. Listen to the answer. Has the minister concluded her answer? The Hon. Jing Lee has the call.

Members interjecting:

The PRESIDENT: Order! Conversations across the chamber are out of order, leader and minister.

WOMEN'S SUPPORT SERVICES

The Hon. J.S. LEE (15:12): My question is to the Minister for Human Services regarding respectful relationships and empowering women. Can the minister please provide an update to the council on how the Marshall Liberal government is promoting respectful relationships and empowering women?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:12): I thank the honourable member for her question. Indeed, we do run a range of services. We issued a media release in May about all of the initiatives that the government has already issued, which is quite a long list, if anybody wants to go through the complete program.

Since May, we have been able to announce some new initiatives. In particular, these are to assist victim survivors of domestic and family violence. One is the Supporting Parents' and Children's Emotions (SPACE) program, which commenced on 9 August. It provides early intervention support to young parents aged between 12 and 25 years who experience or perpetrate domestic and family violence. The program aims to reduce the risk of children being exposed to domestic and family violence.

What we have been working through, particularly with our interstate and national colleagues through the upcoming safety plan, is we know that children as victims is an area that all governments need to provide more focus on. The drivers in domestic and family violence and the child protection system are often the same and so working together to bring those systems closer together so that we can provide joined-up responses is something that we are very keen on doing.

Also, younger people who are first-time parents is a particular focus of the DHS suite of Safer Family Services. We know that the risk for that cohort of young parents is higher and therefore they are a priority to ensure that they are able to receive support so that they provide safe places for their children. The SPACE program has already been receiving referrals. In its first month, it received 13 new referrals for one-on-one therapeutic counselling, and 40 young parents and children have had the benefit of the program.

It is being delivered through the Women's and Children's Health Network. It is an add-on, as I mentioned, to the Young Parents Program, which is another service delivered through the network. Young parents who are victims have previously fallen into a service delivery gap, so we are very keen on ensuring that this particular group of people, who may otherwise experience significant and ongoing disadvantage, get the support they need.

LAND SUPPLY

The Hon. J.A. DARLEY (15:15): I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Planning, a question about land supply.

Leave granted.

The Hon. J.A. DARLEY: It is understood that the Adelaide urban growth boundary limits urban sprawl whilst meeting residential land requirements for the planning period. The land made available is also to be sufficient to put downward pressure or contain the rise of land prices. My question to the minister is:

1. Has adequate consideration been given to sufficient availability of residential land in the different areas around the Adelaide region—north, south, east and west of the city—in a mix of land in terms of size and design code potential?

2. Can the minister provide an estimate of how many vacant residential allotments exist south of the Adelaide CBD, north of the Adelaide CBD, east of the Adelaide CBD and west of the Adelaide CBD, and the average market value of these allotments for each of these areas?

The Hon. R.I. LUCAS (Treasurer) (15:16): I am happy to take the honourable member's question on notice and bring back a reply.

COVID-19 HOSPITAL RESPONSE

The Hon. I. PNEVMATIKOS (15:16): My question is to the Minister for Health and Wellbeing regarding health. What is the maximum number of positive COVID-19 cases requiring hospitalisation

that our public health system can handle? How many COVID patients in ICU can our health system handle before it is overwhelmed? How many COVID patients on ventilators can our health system handle before it is overwhelmed?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:17): I thank the honourable member for her question. As I have indicated, I think in a previous answer to the Hon. Frank Pangallo, SA Health has been doing planning right through this pandemic in terms of the readiness of both the public health system and the acute health system for COVID-19 outbreaks.

It is sobering to be mindful of the situation that our nation is in today. There are three outbreak states and territories and, as of 21 September (yesterday), between them they had 19,435 active cases. The other five jurisdictions, including South Australia, have between them 43 active cases. South Australia has seven active cases.

The situation is serious. The 19,435 that I referred to is basically one-fifth of cases Australia has had during the pandemic. Certainly, the situation is putting pressure on the hospital networks there. For example, in New South Wales, whilst they have 13,000 active cases, they have 1,268—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. I.K. Hunter: How many can our system handle, Steve?

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

The Hon. I.K. Hunter: Answer the question. Not Victoria or New South Wales—

The PRESIDENT: Order! The minister is answering the question.

The Hon. I.K. Hunter: No, he's not.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The minister will continue and the Hon. Mr Hunter will remain silent.

The Hon. S.G. WADE: And in New South Wales, of those—

The Hon. I.K. Hunter: What about the South Australian health system? That was the question. Why are you avoiding answering?

The PRESIDENT: Order! I am sure the minister is addressing his answer to the question as was asked. The minister will continue.

The Hon. S.G. WADE: As I was saying, of the 1,268 current cases in hospital, 242 of those are currently in intensive care units. As I said earlier in my answer to the Hon. Frank Pangallo, SA Health has been continually looking at the experience overseas and interstate. We are certainly learning from the response that the New South Wales, the Victorian and the ACT authorities are responding to.

One thing that we have learnt through that experience is that it is not simply a matter of how many ventilators and how many ICU beds. It is very important to have the workforce to actually operate that equipment and operate those hospitals. The honourable member asked me how many South Australians in hospital are in ICU. None.

Matters of Interest

WORLD PEACE DAY

The Hon. T.A. FRANKS (15:20): I rise today to talk about peace and about our priorities, both here in our state and in our nation. At least $2 billion was just squandered on the now scrapped French submarine program in South Australia. It is unbelievable to see the scrapping of this program, the wastage of billions of dollars, of people's work and effort and time, spun as something positive.

Though of course I guess if anyone was going to have a crack at spinning that as a positive it would be 'that fella from down under' of the many monikers.

Do not get me wrong: I have no intention of pretending that such an intense spend on building machines of war and violence was ever something I was a fan of. Indeed, I was not thrilled when we were going to throw all of our eggs into the defence basket and spend a cool $50 billion on the submarines at the start of the project and I certainly was not thrilled as that rose up to $90 billion. I never thought that was particularly good for our community.

But we have effectively wasted all of that, only to replace it with another deal, this time for nuclear-powered submarines, which we were told was impossible with the French deal. Indeed, we were retrofitting what were nuclear submarines to make them non-nuclear submarines back at the start of this debate to make that palatable for the public.

So what do we get in response to having wasted that cool $2 billion? And that is putting it mildly. We know that the figure is probably far larger than that. We have increased international tension, we have angry trade partners and we have a back door through which the nuclear industry can now sneak through into our state, not to mention all of the local jobs that are thrown into uncertainty and jeopardy.

I cannot help but stand here and reflect that yesterday (21 September) marked World Peace Day. This is a day that emerged from the horrors of World War II, where countries made a commitment to the principle of world peace. The day recognises that peace is found through fostering connections between people and between nations, and putting in the effort to understand each other. I therefore find it pretty jarring that this day, juxtaposed against last weekend in Australia and international politics, was when the Morrison government has steadfastly done just the opposite.

In announcing the purchase of nuclear-powered submarines, the government did much more than just tear up a $90 billion contract with the French government. Such announcements come at a bigger price, and I do not just mean those additional billions of dollars it will cost to build those nuclear submarines. We know that price is probably going to go up.

The AUKUS partnership comes at a price and that is the potential for escalation of violence this deal invokes. It makes Australians less safe, it aggravates already tense relationships with China and it creates new tensions internationally. It comes with a price of driving further wedges between Australia and our neighbours. I want us to consider the words of Felicity Gray, who, among other things, is writing her PhD on non-violent conflict resolution. In her response to last year's Defence Strategic Update she stated:

> There is no evidence that shows having a bigger and 'better' defence arsenal actually deters violence or creates peace. In fact, there is lots of evidence to the contrary.

I am proud to be a member of the Greens and have as one of our four core pillars: peace and non-violence. We should be and could be doing better as a nation to pursue peace, rather than engaging in further warmongering.

If you want your region—and I want our region—to be safe and peaceful, you do not invest in these machines of war, you do communicate with your neighbours, you provide foreign aid, and not only do you address inequality within your own country but you also meaningfully tackle issues like climate change. As Tim Hollo, Director of the Green Institute, states:

> Australia has to renew its commitment to peace. In a world of nuclear-armed militaries fronting up across the South China Sea, in a world increasingly destabilised by climate disruption, in a world of pandemics, we need the deepest possible commitment to cooperation and respect.

Surely we have to be thinking, 'What else could we have done with this money?' We could have invested in eliminating inequality, supporting and working with our near neighbours, building social housing, investing in public transport, making sure that everyone in this state has a place to call home, not squandering it all on a deal that has now been ripped up at a cost far more expensive than that price tag.

GOVERNMENT GRANTS

The Hon. J.S. LEE (15:25): I rise today to speak about the government grants to support businesses and our multicultural community. We know that South Australian businesses and our community are facing many challenges caused by COVID. The Marshall Liberal government has been a responsible and responsive government since the beginning of the pandemic. We reached out to hardworking South Australians by providing government grants to ensure businesses and community centres stayed open and local jobs were protected.

I would like to highlight how the Marshall government is continuing to support the ongoing COVID recovery. As part of a sweeping joint federal-state government small business support package announced recently, I am pleased that hundreds of local tourism and hospitality businesses, including restaurants, cafes, pubs and travel and tour operators, have already started receiving the new $3,000 and $1,000 cash grants.

So far, $4.8 million worth of COVID-19 tourism and hospitality support grants has been automatically paid into the bank accounts of 1,859 eligible South Australian businesses. Furthermore, the generous support is in addition to the first round of grants they received last month, meaning employing businesses in this sector that are continuing to do it tough could have received $9,000 in the past nine weeks alone, or $10,000 if they operate in the CBD.

When I am out and about with my family and friends at various cafes and restaurants, business owners have come up to me to thank the Marshall Liberal government for saving their businesses and staff have thanked the government for saving their jobs. In addition to supporting the hospitality small businesses, larger businesses in these eligible sectors, including performing arts, creative artists, taxis and car rental businesses, can apply for top-up grants, which will take the total grant to $10,000 where turnover is greater than $2 million and $20,000 where turnover is greater than $5 million.

I am proud that the Marshall Liberal government, under the leadership of Premier Marshall and Treasurer Lucas, are doing absolutely the best that we can to back our business sector, tourism industry and local jobs as we emerge from COVID-19. I want to take this opportunity to acknowledge the hardworking member for Adelaide, the Hon. Rachel Sanderson, for her strong advocacy and active role to support and to continue working with city businesses to ensure that patronage, jobs and economic activities in Adelaide continue to bounce back as we recover from the COVID-19 pandemic.

In addition to supporting the business sector, the Marshall government has also been working alongside our wonderfully diverse multicultural community to ensure that they have the support they need to maintain their community centres and to ensure that they stay safe and connected, doing things that are important to them.

In the state budget 2021-22, I am proud that the Marshall Liberal government has injected into multicultural affairs an additional budget of $2 million. Our government is committed to building stronger and more vibrant communities by working in partnership to advance, to celebrate, to expand and to be stronger and safer together.

There were four types of grants that we already had since coming to government: Advance Together, Celebrate Together, Expand Together and Stronger Together. To pave the way for multicultural communities to strengthen capacity and community resilience, we have also opened the second round of our Expand Together grants program, and that has really benefited many community associations in the multicultural sector.

Furthermore, a new grants program, called Connect Together, was created out of the funding boost to support high-priority and meaningful initiatives for multicultural communities to deliver better services for COVID recovery. It is important to note that in our first term of government between 2018 and 2022 the Marshall Liberal government has invested more than $14 million to support our multicultural communities. In contrast, historical budget papers and estimate reports show that the former Labor government only allocated around $11 million specifically for multicultural affairs between 2014 and 2018.

I believe community members in South Australia are smart enough to differentiate which political party is doing a better job looking after the people of South Australia. It is my privilege to bring the matters to the attention of members and I thank the business community and the multicultural community for their strength and resilience.

Time expired.

SUBMARINE CONTRACT

The Hon. J.E. HANSON (15:30): It may not be legal in some venues until tomorrow, but we have seen a lot of dancing by many politicians recently. Images of dancing politicians is not something that often serves as a good metaphor in speeches, but today I think it is very apt. We have seen a lot of tap dancing this week by many politicians so that they can get their five seconds of sunshine. From our PM Scott Morrison, it was five seconds on the world stage where not only was he dancing to someone else's tune, but the fact is no-one even bothered to remember his name.

We also saw a lot of dancing back home, where local Liberals, who previously had happily said we could not even build a canoe, could not now wait to bask in the five seconds of uranium-powered sunshine. But like so many pollies, like Hockey and Rudd in 2004, who danced to tunes that so quickly drop out of fashion, we may all soon be asking ourselves: where is the love?

The fact is that the current announcement is the single biggest loss of jobs since the Liberals closed Holden in South Australia. There are 750 South Australians who now find their jobs in limbo as the announcement to kill off the now somewhat ironically named Attack-class submarines was blasted out of existence by foreign leaders. Scenes of our Premier actually celebrating the demise of a $90 billion project, which was set to cut steel next year, without so much as a nod to the workers, let alone the French, with hundreds of workers now working in France, beggars belief.

While footage of the American President started rolling, while he was forgetting our PM's name, our Premier was actually, as usual, presumably getting faxed the dancing instructions from Canberra. No doubt, those instructions would have made one thing very clear, and that is: 'Don't mention the war.' Do not mention the thousands of jobs that we just scrapped. Do not mention the billions we have already spent getting the subs project that we just scrapped, money now wasted—do not mention that.

Do not mention our largest trading partner in China and definitely do not mention the French. Do not mention the fact that less than two years ago our Premier stood alongside industry, defence officials, foreign diplomats and our PM to celebrate an alleged 2,800 jobs that were going to be created with the 12 submarines of a $90 billion contract that we were going to deliver, starting next year. All gone. Do not mention any of it.

The fact is, our Premier and the local Liberals should have heeded that excellent political dancing and, frankly, relationship advice to 'dance with the one that brung ya'. Whilst we do not ever want to endorse the now well-known American maxim of 'known knowns', the fact is there are more questions about ScoMo's new deal than there are new jobs created.

The PRESIDENT: The honourable member ought to refer to the Prime Minister by his proper name and title.

The Hon. R.A. Simms: Who?

The Hon. J.E. HANSON: Who? An adequate question, Mr Simms.

The PRESIDENT: The Prime Minister.

The Hon. J.E. HANSON: The Prime Minister. Instead, we are told by Steven Marshall, our Premier, to wait 18 months while the Prime Minister—who likes to call himself ScoMo—works out the detail. Put simply, this should have already been sorted out before the Liberals scrapped the deal.

It is basic common sense, things like: how many jobs will the project now deliver? What is the cost of the new subs project? When will work begin on the new subs project? Has anyone spoken to the EU to make sure walking out on a $90 billion project, literally almost a decade in the making, will not affect other trade deals that we have with them? Why is our Premier, once again, waiting by

the phone for someone else to tell us their plan for South Australia? With thousands of jobs lost and a $90 billion project gone with nothing to replace it yet, where is Steven Marshall's plan for South Australia?

DRIVING OFFENCES

The Hon. C. BONAROS (15:35): For the second time in two years, special investigations by SA-Best have revealed the growing number of idiot drivers on South Australian roads. I call them idiots because their selfish actions endanger the lives of innocent people. In our latest investigations, statistics uncovered as part of an FOI request found that only one in nine motorists convicted by the courts of driving a vehicle while disqualified actually serves time in prison—one in nine, or about 11 per cent of all motorists convicted by our courts.

These startling statistics reveal that, of the near 11,000 motorists convicted for driving while disqualified over the past five years, up until 31 May of this year, only 1,243 were sent to gaol. In anyone's language, that simply is not good enough, especially when current laws allow our courts to sentence anyone found guilty of driving while disqualified to a maximum of six months in gaol for the first offence and two years' imprisonment for subsequent offending.

Conversely, 4,910, or nearly 45 per cent of motorists convicted of driving while disqualified, received only a fine and/or a good behaviour bond and/or had their vehicles impounded for a period of time. A further 4,248 motorists, or 39 per cent of convicted disqualified motorists, received a suspended sentence while another 870 were sentenced without a conviction being recorded. So the majority of these motorists are getting a slap on the wrist—a clear sign of the failings of our system to meet community expectations. We are talking about the worst of the worst offending in terms of these driving offences.

These statistics are further proof that we are often being too soft on disqualified drivers who deliberately and blatantly ignore our road rules and put innocent lives at risk, which often results in the killing of innocent people. Tragic stories of disqualified drivers killing and/or seriously injuring innocent motorists and other road users come constantly before the courts, and the very same courts give those disqualified drivers slaps on the wrist, according to the information that has been received in this FOI. So it is time, I think, that we start to hand out tougher, more appropriate prison terms for habitual disqualified drivers who create those risks and to maybe include compulsory terms of imprisonment for those repeat offenders.

The statistics reveal that the 2020 to 2021 period is on track to be the worst for disqualified drivers being sent to prison, with only 8.9 per cent of the convicted offenders being imprisoned up until 31 May. The worst offender over the five-year period was a motorist charged with 21 counts of driving while disqualified over two separate court cases. For their first conviction in 2018, they were sentenced to a term of imprisonment of eight months and three weeks, for their second in 2020 they received eight months and three weeks' imprisonment. Another motorist was sentenced for 19 charges of driving while disqualified on four separate occasions and received prison sentences of five months and 18 days, 21 days, two months, and seven months respectively.

While SA-Best welcomes the plans by the state government to increase maximum penalties for motorists who drive while disqualified, these latest stats are further evidence that more needs to be done, that we cannot shy away from imposing the full wrath of our current laws. The increased penalties being proposed by the state government will also fail the grade if the court system continues the trend of failing to take a tough stance against motorists who deliberately and blatantly get behind a vehicle wheel, knowingly disqualified from doing so and creating a menace on our roads.

We need a shift, just like we need a shift for drug drivers, who are also becoming an increasingly dangerous menace on our roads. Another SA-Best investigation late last year led me to introduce a private member's bill, which would see motorists and motorcyclists detected with illicit drugs in their systems being treated the same way as drink drivers.

I am pleased to see that those laws are due to be introduced in this place very shortly. This followed an FOI which exposed 97 per cent of roadside-detected drug drivers also had the follow-up saliva tests confirm a positive for drug use. I think it is high time that this matter be dealt with more

appropriately and much more vigorously than it has been dealt with by our parliaments and by our courts to date.

METHAMPHETAMINES

The Hon. D.G.E. HOOD (15:40): Methamphetamine use and addiction in South Australia today is amongst some of the highest levels in the world. Australians have spent an estimated $11.3 billion on methamphetamines, cocaine, MDMA and heroin from August 2018 to August 2019. Of this, $8.63 billion was spent on methamphetamines alone. Largely coinciding with the rising use of crystal forms of meth, these statistics reveal the radical damage drug abuse is having on our state.

Crystal meth is the most psychologically damaging, I am told, and addictive drug in widespread use today. It behaves differently to the other drugs, apparently, subjecting people to hallucinations and aggression and compelling them to high levels of violence during psychosis or commonly so. They become susceptible to a range of complex health issues, including memory loss, sleeping difficulties and paranoia, all of which exist long after the so-called high is gone.

The death rate involving methamphetamines was four times higher in 2019 than in the year 2000. Only 2 per cent of the users ever break free, with 98 per cent relapsing. So that is 98 per cent. The statistics, the numbers and the reality say it all and I firmly believe that something more needs to be done, something substantial.

The issues of drug addiction in South Australia are not confined to a singular democratic or stereotype. The Australian Institute for Health and Wellbeing states that in 2019 there was:

> …little variation in the recent use of methamphetamines for those living in the lowest socioeconomic areas, compared with those living in the highest—1.4% and 1.5%, respectively.

In fact of all Australians using methamphetamines, 81 per cent of them are employed, so-called 'functioning addicts', leading an outwardly normal life.

According to the Australian Criminal Intelligence Commission, between 2013 and 2014 approximately $5 billion was spent across Australia to do with the impacts of methamphetamines. This number includes the costs of the criminal justice system, premature deaths, road crash costs, and other similar quantitative figures. The strain created on government expenditure through workplace accidents, child mistreatment, rehabilitation and counselling services are all high-cost factors. It is probably not unreasonable to say that $5 million is just the tip of the iceberg.

The safety of those who are living near locations of illicit drug trade are clearly at risk. Often the most vulnerable who are affected by these behaviours are the children of the addicts themselves. In the wake of drug-related wreckage on families, people give precedence to attaining drugs in some cases over putting food on the table for their families or paying for their weekly living expenses.

Despite community usage in South Australia hitting an all-time low in October 2020, the use of methamphetamines is on the rise again. The effect of the COVID-19 pandemic has unquestionably affected drug dependency, with people reaching out to methamphetamines apparently as a coping mechanism to deal with isolation, uncertainty and issues of hardship.

It is also important to note that people living in 'remote' or 'very remote' areas are 2.1 times more likely than the general population to abuse methamphetamines. Aboriginal and Torres Strait Islander people are 1.5 times more likely. The crossover between these two cohorts indicates the need to prioritise the provision of culturally approved services and facilities to these specific areas.

Despite these grave statistics, the Marshall Liberal government is working hard to change these facts. In cooperation with the national Liberal government, the Marshall Liberal government is implementing the 10-year National Drug Strategy—set between 2017 to 2026 right here in South Australia. Some $20 million from the national budget has also been allocated to provide rehabilitation services in rural and regional South Australia, with around $2.5 million set aside for each identifiable area of need.

Government-supported campaigns like 'The Story Behind the Stereotype' and 'Cracks in the Ice' have proven successful in reaching out to young people in schools and challenging the misconceptions of illicit drug use.

With $8.4 million in the 2021 budget assigned to provide treatment services for drug use this year, we are beginning to see the results of our investments. The use of methamphetamines in South Australia decreased significantly between 2016 and 2019, from 1.9 per cent to around 1 per cent. I commend the government for their hard work and commitment in this area and I fully expect and hope we will continue to see this kind of change in future for our state.

TAME, MS G.

The Hon. I. PNEVMATIKOS (15:44): I rise this afternoon to speak about the courageous Grace Tame. Over the past year, Grace Tame has become a household name, with her story being heard across the country. However, for a long time, Grace could not publicly discuss her case. Tasmania's archaic gag law prevented Grace from speaking out. The laws, in fact, prevented victims of sexual abuse from speaking about their experiences, even if they wanted to.

This led to the creation of the #LetHerSpeak campaign. Led by journalist Nina Funnell and supported by Grace, the #LetHerSpeak campaign gained national and international attention as well as support from celebrities and leaders across the globe. Survivors and allies used their voice to support reform of the gag laws and won a repeal of the Tasmanian laws in 2020.

Although a momentous win, the #LetHerSpeak campaign has continued, with its focus now on gag laws in the Northern Territory and fighting alongside families of deceased rape victims in Victoria to prevent gag laws which would erase survivors' legacies. While the #LetHerSpeak campaign was growing, Grace was fighting to have her story heard. After two years and a $10,000 legal bill, the courts granted Grace an exemption to publicly self-identify.

Since then, Grace has been sharing her story. No matter how many times you hear her story it is just as harrowing as the first. Grace was groomed and raped by her maths teacher when she was in year 10, just 15 years old. Her story has taught all Australians about the experience of sexual abuse survivors and the effects of child grooming. Her campaign has stretched further than her experience and has led to a national reckoning on the social and political barriers sexual abuse survivors face. Grace said in an interview:

> It's so important for people to own their own story, their own narrative and to take back control of who they are. And it's so important that survivors know that it's not their fault and to have the support of the community and the support of the law.

Grace laid all her experiences on the table. She shared her journey through her trauma and her journey since the incident. Hearing her speak made me think about the women in my life who have been affected by sexual violence, abuse and harassment. Many in this place can relate.

Grace spoke briefly about the women's safety summit that was recently held. Like many of us, she did not think much of it. She shared that it feeds straight into the federal government's pattern of denial and dismissal of women's issues and served as a band-aid solution to hopefully make the issues go away.

Highly critical of the government for their lack of inaction, Grace mentioned that the Respect@Work report had been sitting on the government's desk for more than a year, with no real action implemented. I cannot help but think about how similar the situation is in our parliament with the equal opportunity commissioner's report into harassment within the parliamentary workplace.

Grace shared that it is not because we do not know the solutions to the problems we face; it is because of the political will that things in the system are not changed. She said at the end of the day it always comes back to power and control. Why would the government want to give up power? There is no political will from the coalition to give up control. How long will it take for this government to realise that Grace and women marching alongside her will not be silent until change is made?

WORLD CAR FREE DAY

The Hon. R.A. SIMMS (15:49): I rise to speak on the topic of World Car Free Day. Today is globally recognised as World Car Free Day. I want to reflect on the action being taken by the state government to reduce our reliance on cars, so obviously this will be a very short speech because we know they are doing very little indeed. I have spoken previously about the failure to show leadership in the City of Adelaide and the government's #GoToTown campaign, which focused exclusively on

going to town by car, through the provision of free car parking in partnership with the Adelaide City Council.

Today, I want to talk about some of the opportunities that have been missed in the Adelaide Hills. Earlier, I asked a question without notice of the Treasurer, the minister representing the Minister for Transport, on the question of the park-and-ride site in Bridgewater, which, as has been noted by the South Australian Transport Action Group and the Stirling Business Association, has now been turned over for private development and made available to a private investor.

This is just one of a number of examples where this government has failed to actually invest in alternatives to car travel and to encourage public transport infrastructure. I spent the weekend in Mount Barker, doorknocking and talking to residents there. One of the issues that was raised with me consistently was the failure of the state government to appropriately invest in public transport infrastructure. Where is the consideration for park-and-ride services? Where is the plan for a passenger rail service to that area? Where has been the long-term consideration by governments, both Labor and Liberal, over a long period of time for public infrastructure?

We have a planning system that serves the interests of large developers and allows those developers to construct buildings and build neighbourhoods to suit their whims but totally disregards the needs of the community. It does not consider their views and it does not ensure that appropriate infrastructure is put in place. Really, we need to see that being front and centre for future development. So more money for public transport infrastructure is essential, but so is more consideration of the needs of the community when it comes to planning.

The issues in Mount Barker really are the tip of the iceberg. There are a lot of communities in South Australia that have been neglected when it comes to public transport investment. Indeed, the area where I grew up in the southern suburbs is a case in point. When I was a kid there used to be one bus, the 218, that would take you straight from the south into the CBD and now you have to take several buses to get there, and I know that many residents in that area find that to be a significant disincentive.

If we want to get to a situation where we are reducing reliance on car travel and encouraging green alternatives, then we really need to invest in public transport, and that is an issue that I intend to continue to promote, not only on World Car Free Day today but into the future as well.

Parliamentary Committees

JOINT COMMITTEE ON THE STATUTES AMENDMENT (ANIMAL WELFARE REFORMS) BILL

The Hon. T.A. FRANKS (15:53): I move:

That the report of the committee be noted.

It is with pleasure that I stand here to note the final report of the Joint Committee on the Statutes Amendment (Animal Welfare Reforms) Bill 2020. Before I spend some time going through the work of this committee, I also want to acknowledge the work that went into the formation of the bill that the committee looked at and, of course, the subsequent committee process.

In particular, I would like to thank Mia Aukland, an ICU nurse who is passionate about this issue. In her day job she takes on some hard tasks and in her volunteer time she has taken on this task, a very challenging one but I hope a very rewarding one. She has worked on this bill with me and my office for many years.

I also want to thank Paul Stevenson, who is the current CEO of the RSPCA in South Australia, as well as Richard Mussell, who was at the time we started this process the CEO of the Animal Welfare League in this state but is now actually the CEO of the RSPCA nationally. I would also like to take this opportunity to acknowledge the outstanding work of my former adviser, Yesha Joshi, who put many hours into this particular issue and was a vital part of bringing forward this legislation.

My thoughts are also with many animal welfare advocates, activists and organisations who helped create the foundation of the bill that this committee chose to inquire into. The joint committee was established pursuant to a resolution that was passed in this place, in the Legislative Council, on

22 July 2020 and concurred to by the House of Assembly the following day. I thank the government for their cooperation with that.

The joint committee's function was to consider and report on the Statutes Amendment (Animal Welfare Reforms) Bill 2020. I recognise and thank the following members from the Legislative Council and that other place for their contribution to the report, namely, the Hon. Dr Nicola Centofanti MLC, Dr Susan Close MP, the member for Port Adelaide, and the member for Newland, Dr Richard Harvey MP. I was the only non-doctor on the entire committee. The committee staff performed their roles admirably, and I particularly want to thank Dr Merry Brown and the other non-doctor, Mr Phil Frensham.

The committee received 18 written submissions and we heard evidence from 25 different witnesses. The report makes 21 recommendations and they aim to improve the bill. They support the bill, but the aim of the bill to amend the Animal Welfare Act 1985 and the Dog and Cat Management Act 1995 primarily found favour with the committee. That seeks to reduce the number of dogs and cats needlessly euthanased by rescues and shelters. It will create a code of practice and licensing requirements for animal rescues, for shelters and for rehousing organisations. It inserts civil provisions to enable proactive actions that will better protect the welfare of animals and it creates special provisions in relation to the transparency around the reporting of data on greyhounds in our state.

Those who made submissions were strongly supportive of the bill in the main, but some raised concerns about some aspects of the bill in its then form, including a lack of clarity on some of the terms contained within the bill and that some of the terms were inconsistent between the bill, the Animal Welfare Act 1985 and the Dog and Cat Management Act 1995, particularly the definition of 'owner' in clause 5 of the bill. Stakeholders were keen to ensure that we explored including joint owners and organisations that were responsible for animals in that definition of owner, as well as seeing a consistency in the definition of owner between the acts, which does not currently exist.

The lack of provision to mandate the requirement to develop a code of practice was also of concern. Stakeholders pointed out that it was a critical provision in the bill that should be mandated, and highlighted their interest in being involved in the development of such a code of practice. So there is some work ahead, I believe.

Regarding the regulation and administration of licensing arrangements, although there were concerns raised about the amount of the licensing fee and ability of the regulators to carry out inspections, most submitters were supportive of licensing arrangements for animal rescues, for shelters and for rehousing organisations.

There was an exploration of the provisions for interim and intervention orders to protect animals. Stakeholders, and particularly the regulators, were really supportive of civil provisions to proactively enable the better protection of the welfare of animals in this state. The committee heard from the RSPCA that around 35 per cent of animal welfare cases could potentially be directed from the criminal jurisdiction into a civil one.

The committee investigated the methods of euthanasia, and stakeholders were passionate in their comments on the methods of euthanasia and with ensuring that clarity was sought for a number of terms regarding that in the bill. The committee was very keen to ensure that the provision did not constrain veterinarians from carrying out the most appropriate practices when euthanasing animals. I must again acknowledge the work of the Hon. Dr Nicola Centofanti in bringing that wealth of experience to this committee.

The committee explored provisions on the responsibility of providing publicly available data on greyhounds. Greyhound Racing SA told the committee that the publication of data on greyhounds in their report negated the need for legislation to reinforce that publication. They have voluntarily been reporting some of this data in recent years. The committee, although acknowledging the volunteer efforts of Greyhound Racing SA in this regard, and improved practice in recent years, found that the transparency and consistency of data provision would be much more improved by the mandating of that data in its annual reporting to the minister.

The committee also heard about a number of issues relating of breeders of cats and dogs, and we acknowledge that a review of the Dog and Cat Management Act 1995 will be undertaken by the state government in the next year. Following deliberations in which the committee considered evidence, the committee decided that the most productive course of action was to report its findings in a form that can be readily adopted for future use, and that redrafting of the bill should be a priority consideration in our next parliament.

On behalf of the committee, I sincerely thank those stakeholders and interested parties who took part, whether they prepared a submission or presented as witnesses. In particular, in the gallery today I have Mia Aukland, that aforementioned ICU intensive care nurse, and her partner, Andrew Baum, and I particularly thank them for going above and beyond in the defence and protection of animals in our state.

This is a bill that is intended to be a step in the right direction and this report, I hope, goes a long way to ensuring that that direction is supported by all political stripes in this parliament. It will help modernise our animal welfare laws in our state, and where they lag behind those of other states will bring us up to at least level pegging. As a state we do need to reprioritise the prevention of animal cruelty so that it is in line with public expectations and because it is simply the right thing to do. Our animal welfare laws need to be enforced properly, and we need to better serve the animals they are intended to protect. With that, I commend the report to the chamber.

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

Bills

CIVIL LIABILITY (BYO CONTAINERS) AMENDMENT BILL

Introduction and First Reading

The Hon. R.A. SIMMS (16:02): Obtained leave and introduced a bill for an act to amend the Civil Liability Act 1936. Read a first time.

Second Reading

The Hon. R.A. SIMMS (16:03): I move:

That this bill be now read a second time.

This bill is a simple measure that is consistent with the Marshall government's phasing out of single-use plastics, an initiative supported by the Greens and I think everybody here in this place. My former colleague the Hon. Mark Parnell first introduced a similar bill in 2018, around the time there was a debate around the use of single-use plastics. While there was opposition to the bill by some in the business community, I think this, a new version, addresses many of these concerns, and it is in a revised form that the bill appears before the parliament today.

We already know that eight million tonnes of plastics leak into our oceans each year, with estimates suggesting that, if this trend continues, by 2050 there will be more plastics in the ocean than fish—more plastics in our oceans than fish. That is a frightening prospect and one that we should all be looking to reverse as quickly as we possibly can.

While we have already seen single-use straws, cutlery and stirrers prohibited from being sold in South Australia, from next year there will be a ban extended to the sale, supply and distribution of polystyrene cups, bowls, plates, clamshell containers and oxo-degradable plastic products. We welcome that. This bill is a logical extension of the measures that the government has already set in train.

Essentially, what this bill does is allow a consumer to bring in their own reusable container to buy food. For example, you could go to your local supermarket deli section and, instead of having your gourmet and continental goods wrapped in plastic and then butcher's paper, you hand over your container and, instead, you have the goods packaged up in that. In effect, you can bring in your own container, fill it up and take it away with you.

The reason we are amending the Civil Liability Act instead of the Food Act is that this is due to a liability issue. Businesses could at the moment allow customers to bring in their own containers if they wish, but they would then assume responsibility if something goes wrong. If I bring in a

container that is not suitable, or I have not properly sterilised it, or I do not store it, there is a concern that the business could be liable for that. This bill makes it very clear that it is not the business that assumes the liability; rather, the responsibility rests with the consumer for the container that they own and have bought into a store. I think that makes sense.

There is of course an exception provided in this bill in terms of general immunity, and that would be if the person who is selling the food did so knowing that the food was unsafe for consumption or that it was subject to a food recall order. In other words, if a food provider knew that the food was not fit for human consumption and they sold it to the consumer in their own container, of course this bill would not provide them with immunity. It is certainly no protection against negligent conduct. I also want to make the point that there is no mandatory requirement in this bill that requires businesses to adopt this practice. If a business decides they do not wish to allow customers to bring in their own containers, they are free to make that choice, and no-one is going to be penalising them.

What I will say, however, is that there is an overwhelming movement towards reducing single-use plastics and wastage here in our state. We know that South Australia has been leading the way in this regard over many, many years, so I think consumers will be excited by this reform and I think businesses will too. There is the possibility here, too, for businesses to say that they are going to offer a discount to consumers who bring in their own container. I think many businesses would jump at that chance. I commend the bill to the Legislative Council, and I hope that all parties will get behind this commonsense reform.

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

Motions

RIVERBANK ARENA

The Hon. R.A. SIMMS (16:08): I move:

That this council—

1. Notes that the site proposed by the state government for a 'Riverbank Arena', Helen Mayo Park (Park 27), is designated Parklands under the Adelaide Park Lands Act 2005;

2. Notes that the Adelaide Parklands and city layout are listed on the national heritage register and parts of the proposed site fall within the area of the listing;

3. Notes that the proposed development of the site could impact adversely on the heritage values of the Parklands; and

4. Opposes the state government developing Helen Mayo Park on the basis that this represents a further erosion of the Parklands that is inconsistent with its status as a nationally heritage listed site.

The motion that I am speaking to today relates to the future of the Riverbank. Members will be aware that the state government has recently announced plans for a so-called Riverbank arena. Of course, as is often the case with projects such as this, the site that they have chosen is on our city's public green space, the Parklands, because this is free land and tends to be land that governments highlight for development.

That is a great shame because this is the land that belongs to all South Australians in common. The land that has been chosen here is Helen Mayo Park, or Park 27 under the Adelaide Park Lands Act, and it is named after one of South Australia's most famous women, Helen Mayo, who was a pioneer in medicine and health education. I wonder what she would think of the Premier's plan to obliterate the park that had been named in her honour.

This is yet another project that has been earmarked for Park 27 over the last few years. It has already lost many hectares of public green space. There is now police, medical facilities, university buildings—the sky is the limit in terms of the developments that we see on that site. Indeed, a few years ago, it was the focus of potential development with a helipad. Members may recall the plans of the leader of the Town Hall arm of the Liberal Party, Team Adelaide, Houssam Abiad, who proposed that that site host a helipad for joy rides for the mega rich. Now the state government is viewing this site and plans to use it for yet another development, this time, as I say, the so-called Riverbank arena.

It is not just the Greens that are concerned about the potential for this development to erode the Parklands and to damage our green space, the Adelaide Park Lands Authority has expressed concerns and on 25 March it sought an urgent meeting with Adelaide Venue Management Corporation. It says in a report, which I will read for your interest:

> Noting that the Park Lands already hosts Adelaide Oval, Tennis Centre, two hotels, approximately 200 ha of licensed playing fields, a hospital, the Thebarton Police Barracks and the Road Safety Centre as well as other public infrastructure, the Authority is concerned about the impact of further built form on the publicly-accessible open space provided by the Adelaide Park Lands.

The Adelaide Parklands are on the National Heritage List register. This occurred back in 2008 under the leadership of the then environment minister, Peter Garrett, at a federal level. That national heritage listing means that the character of the Parklands should be protected for the public good. I am very concerned that this listing is going to be jeopardised if this Riverbank arena proceeds.

Those concerns were heightened when I read a report that was made available to the Adelaide Park Lands Authority from Lara Daddow, the Acting Associate Director, Park Lands, Policy and Sustainability at the City of Adelaide, and that looks at the implications of the Riverbank arena and what that means for the Adelaide Parklands.

I will read the relevant sections into *Hansard*. The report notes that under section 4 of the Adelaide Park Lands Act there are seven statutory principles, which a person or body responsible for the care, control and management of any part of the Adelaide Parklands must have regard to and seek to apply. Of particular relevance here are the following, and I will read them onto the public record:

> 33.1 The land comprising the Adelaide Park Lands should, as far as is reasonably appropriate, correspond to the general intentions of Colonel William Light in establishing the first Plan of Adelaide in 1837.
>
> 33.2 The Adelaide Park Lands should be held for the public benefit of the people of South Australia, and should be generally available to them [to use and enjoy]…
>
> 33.3 The Adelaide Park Lands reflect and support a diverse range of environmental, cultural, recreational and social values and activities that should be protected and enhanced.
>
> 33.4 The Adelaide Park Lands provide a defining feature to the City of Adelaide and contribute to the economic and social well-being of the City in a manner that should be recognised and enhanced.
>
> 33.5 The contribution that the Adelaide Park Lands make to the natural heritage of the Adelaide Plains should be recognised, and consideration given to the extent to which initiatives involving the Park Lands can improve the biodiversity and sustainability of the Adelaide Plains.
>
> 33.6 The State Government, State agencies and authorities, and the Adelaide City Council, should actively seek to co-operate and collaborate with each other in order to protect and enhance the Adelaide Park Lands.
>
> 33.7 The interests of the South Australian community in ensuring the preservation of the Adelaide Park Lands are to be recognised, and activities that may affect the Park Lands should be consistent with maintaining or enhancing the environmental, cultural, recreational and social heritage status of the Park Lands for the benefit of the State.

In this report, it is further noted that the Adelaide Parklands and the city layout is listed on the national heritage register and that the boundaries of the proposed site for the Riverbank arena—that is, the Helen Mayo Park—overlap with those that are included within the national heritage register. What are the implications of this? The report notes, and again I quote:

> Development on adjacent sites to land within the area of the National Heritage Listing, can still impact on the values of a National Heritage Listed site itself, for instance if the development impeded views into or of the Nationally Heritage Listed site.

And:

> Together, or individually [in conjunction with the other projects], these projects could constitute actions under the Environmental Protection and Biodiversity and Conservation Act…which impact the National Heritage Listing Values for the Adelaide Park Lands and City Layout.

It is noted further that:

> Any construction on…Helen Mayo Park [or some of the other areas that have been earmarked for development by the state government] could be seen as actions which contribute to the cumulative erosion of Park Lands or possibly impact on the views/vistas across and into the Park Lands.

Further, it is noted that:

> The Federal Government (Department of Agriculture, Water and the Environment) has previously expressed concern about such cumulative erosions of the Adelaide Park Lands and these projects may constitute what is termed a 'controlled action' under the EPBC Act.
>
> The State Government (as proponents) [of the project] will need to refer these…to the Federal Government.

In other words, what this report is highlighting is that if the state government is going to seize this public land and turn it into a Riverbank arena, that could jeopardise the status of the national listing of our Adelaide Parklands. That would be a disaster because we know that the Adelaide Parklands are some of the most unique parklands in the world. They are the lungs of our city and Adelaide is unique in being surrounded by a green belt such as this.

It has been recognised by the federal government through its inclusion on the National Heritage List and that unique character has been recognised by proponents in South Australia. We are waiting for the state government to provide associated recognition and inclusion on the state heritage list. There is also a campaign for this to be world heritage listed, so it would be disastrous if the national heritage listing were to be compromised in this way.

In terms of speaking to the benefits of the Parklands and their protection as green space, I do want to draw your attention to something that really the designers of our city knew all too well, and that is that there is a strong link between the physical and mental health and wellbeing of a community and their ability to freely access and enjoy green spaces.

A German study found the presence of parks helped prompt and facilitate greater social interaction as well as enhancing community satisfaction as a result of their aesthetic value. Access to green spaces has also been recorded to have a positive effect on those suffering from anxiety, depression and mood disorders. I think all of us would agree during the last few years where we have spent more time at home, particularly last year when many of us were working from home, having access to public green space has been vital for community health and wellbeing.

Before concluding my remarks, I want to make a few comments about the plans the Liberals have announced to redevelop the River Torrens under rezoning of the Riverbank Precinct. To accompany this Riverbank arena, it has been outlined—and I read this in *The Advertiser* a little earlier today—that the Riverbank Precinct rezoning will enable private bars, cafes, shops and tourist ventures to operate on both sides of the River Torrens. Apparently, departmental officers have outlined to the city council that the waterfront precinct between the Torrens Weir and Kintore Avenue will now provide opportunities for small, low-scale shops, cafes, and community, cultural and tourism activities located adjacent to the River Torrens.

So aside from all the existing developments that we have on the public space, we are going to see a Riverbank arena, or a sports stadium, as some have referred to it as, and then a series of shops, cafes and restaurants. So McDonald's on the Parklands alongside the Riverbank? This is a very dangerous precedent that is being established here in terms of commercialisation of our public space. If we go down that path, if we let the genie out of the bottle and allow commercial development on the Parklands in this way on our Riverbank, we will never be able to put the genie back in the bottle. We will never be able to undo it.

I fear that we will trash our unique Adelaide Parklands and we will lose their unique character. That is why I have moved this motion today and why the Greens are calling on all parties to join us in standing up for our unique Parklands and standing up for their unique status on the national heritage register by opposing this plan for a land grab by the state government.

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

CORRECTIONAL SERVICES ACT REGULATIONS

The Hon. C. BONAROS (16:22): I move:

That the miscellaneous regulations under the Correctional Services Act 1982, made on 3 June 2021 and laid on the table of this council on 8 June 2021, be disallowed.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

Bills

CRIMINAL LAW CONSOLIDATION (HUMAN REMAINS) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:22): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

Second Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:23): I move:

That this bill be now read a second time.

Currently, there is no specific law that prohibits a person from concealing, interfering with, mutilating or for a failure to report a corpse. Such behaviour may possibly constitute impeding an investigation under the Criminal Law Consolidation Act, but this would not always be the case. Disposing of a body can provide a significant forensic advantage to an offender, potentially depriving investigators and the prosecution of autopsy evidence due to decomposition or contamination. This could make criminal prosecutions more difficult and could lead to lesser charges being laid.

In the absence of a cause of death being forensically established, an offender could be charged with manslaughter rather than murder, or even claim the cause of death was by accident or suicide. For example, Geoffrey Adams was responsible for the death of his wife on Yorke Peninsula in 1973, but her remains were not discovered until 2018. With the significant passage of time, he was convicted of manslaughter rather than the possibility of being charged with and convicted of murder.

Since 2000 there have been some 28 instances where a body has been disposed of. The bill that has been introduced today creates three new offences. The first relates to the destruction, concealment or alteration of human remains for the purposes of concealing an offence or to influence legal proceedings. Under this bill that new offence will carry a maximum penalty of 10 years in prison, which is the same maximum penalty as for impeding an investigation under the Criminal Law Consolidation Act 1935.

The second new offence relates to defiling human remains, regardless of the purpose. Defiling may include the destruction or mutilation of remains along with the removal of body parts or sexual activity. This will carry a maximum penalty of five years in prison. The third new offence relates to the failure to report human remains unless the person reasonably believes that it has already been reported or is covered under other legislation—for example, for the Coroner or Aboriginal heritage. This offence will carry a maximum penalty of two years in prison.

The bill also includes provisions for courts to deliver an alternative verdict where a particular intent cannot be proven beyond reasonable doubt. Law enforcement and victims of crime have called for tougher laws to deal with people who cover up crimes that cause death or who do not show respect for the dead. It is a sad situation that these laws are needed, but we owe it to victims and their loved ones to show them due respect and to ensure those who do commit crimes face justice for their actions.

I want to note the support these laws have from victim support groups; for example, Lynette Nitschke of the Homicide Victim Support Group I know has been a long advocate for such laws to be in place. I note that yesterday, when notice was given to introduce this bill, marked the 30th anniversary of the death of Lynette's daughter, Allison, who was murdered, which led to Lynette becoming an advocate and a supporter for these sorts of laws and also led to the establishment of the Homicide Victim Support Group, which has provided so much help to victims of these sorts of crimes.

When a killer tries to conceal the body of their victim, it can add to the suffering of families, and this is unacceptable. Our changes mean that an offender could face a significant term of

imprisonment for concealing a body in addition to any other charges. I have outlined one case, but there are many other cases where we have seen this happen in South Australia. These laws aim to give the police and prosecutors more tools to use against offenders who kill people and cover up their deaths. I commend this bill to the chamber.

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

Parliamentary Committees

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

The Hon. C. BONAROS (16:28): I move:

That the report of the select committee be noted.

As I said at the time of moving to establish this committee, it was born from frustration: frustration at the ever-growing number of select committees impacting the resourcing of this chamber, frustration at the lack of scrutiny of bills or a human rights committee to offer a technical analysis of a bill and the impacts on rights, frustration that members are being stretched across many committees while trying to keep up with their parliamentary and electorate work, frustration that our committee structure and system has an overabundance of committees performing overlapping roles and frustration that staff of those committees are being overstretched and overrun in terms of their commitments.

There is no doubt about the importance of committees in highlighting issues and making recommendations that ultimately lead to legislative change for the benefit of South Australia. In that context they are an important tool in the toolkit, especially for us crossbenchers, but we can certainly do better and must do better, which brings me to the committee's inquiry.

Following its establishment in November 2019, the committee received 12 written submissions from individuals and organisations. It heard public oral evidence from 11 witnesses, and in camera evidence as well as written responses were provided by the Clerks of the South Australian parliament, and four other Australian parliaments—namely, New South Wales, Queensland, Victoria and the Senate. I thank the Clerks in this place and the Clerks of those other jurisdictions for their assistance with the committee's deliberations.

The committee met on 16 occasions to hear and consider submissions and deliberate on its report. I would like to take the opportunity now to thank the committee's secretary/researcher Ms Lisa Baxter, firstly for her patience and, of course, for her tireless efforts to see us through to this point. I am sure that I am not the only one in this place who considers Ms Baxter's work and attention to detail as extremely thorough, considered, concise, timely and, importantly, impartial. I am sure I speak for all committee members in acknowledging and thanking her for her hard work in this committee.

As detailed very extensively in the report, the committee found the ad hoc evolution of South Australian parliamentary committees is due for a major overhaul. The current system of establishing standing committees under legislation has made it difficult for changes or tweaks to be made in recent years. In the majority of other jurisdictions changes are more simply made under standing orders.

After consulting with other jurisdictions across Australia, this committee was particularly impressed with the committee systems in the Legislative Council in New South Wales, and elements from Queensland and Victoria. We noted that New South Wales and Queensland were the last two jurisdictions to formally review their committee systems and make subsequent changes, which have created much more effective and efficient mechanisms for executive accountability.

This committee agreed to a new system which incorporated portfolio-based standing committees in the Legislative Council in the expectation that this would decrease the number of select committees. It also recommended that two of the three new legislative committees, standing committees, including two of the portfolio committees, be chaired by non-government members along with a cap on the number of select committees in any one parliamentary session.

Current standing committees have also been merged, reducing the overlap of committee functions currently experienced in South Australian standing committees. The Budget and Finance Committee is also recommended to become a standing committee of the Legislative Council, ensuring the ongoing scrutiny work be performed by a standing public accounts committee.

The committee also recommended mechanisms that increase the flexibility afforded to members sitting on committees or for those members who may have an interest in an inquiry before a committee. These members, whilst not official members of those committees, should be afforded the opportunity to participate on those inquiries in line with what happens in other jurisdictions, without becoming full members of the committee and in line, of course, with the practice that has been adopted here with the Budget and Finance Committee.

The committee has recommended therefore the ability for members to participate in committees on an inquiry or hearing basis, as I said, as occurs in all other jurisdictions that the committee spoke with and is, again, currently the practice of the Budget and Finance Committee. The committee also suggested that it is time for this jurisdiction to come in line with all bicameral parliaments in mainland Australia in terms of the level of scrutiny of legislation being introduced to this parliament which necessitated a recommendation for a scrutiny of bills and delegated legislation committee to be established.

It also inquired into the scrutiny role of committees in other jurisdictions and compared with this current sole scrutiny committee of the South Australian parliament, namely, the Legislative Review Committee, the functions of this scrutiny committee have become clouded with other unrelated functions having been added to it in recent times, such as the function to report into eligible petitions, which I think we now acknowledge, given the increase in those petitions, could be better dealt with by committees which have more expertise in the areas of the petitions themselves.

We heard that the workload associated with this additional function has increased to an untenable level with that committee's limited resources and takes away the important scrutiny focus of that committee. It was also noted that the South Australian parliament stands as the only bicameral Australian mainland parliament without a scrutiny of bills legislation committee, and therefore the committee has included in its recommendations the added function of scrutinising bills to its workload.

There are a number of other recommendations and findings that have been made, but what I would like to point to particularly at this stage—and members will obviously have the benefit of reading the report that the committee has produced and I would urge them to do so and take on board the feedback that I think all members of this committee have benefited from—relates to the resourcing of the current committee structure compared to that which is undertaken in other jurisdictions, which is much more flexible in its approach, which has a pool of staff who are assigned to committees on a rotational basis and ensures that the workload of staff is evenly distributed.

I think it is very fair to say that even members of the committee were very sceptical as to the likelihood of members from across the political spectrum reaching a unanimous position in terms of some recommendations and findings on this committee, but I for one had faith that we could do just that, that we could find some common ground and that when we heard about the effectiveness of the structures that exist in those other jurisdictions we would be convinced about the need to look at better models and ways of doing things in South Australia.

That is not to say there has not been some give and take by all of us; there has, but overall I think the committee members approached this collaboratively and with a genuine will to sign off on a report that will ensure SA has a more effective and efficient committee structure, both in terms of its committee structure and, equally as importantly, in terms of the staffing arrangements that support those structures and do an inordinate amount of work to keep the wheels turning, to keep members abreast of all the issues that they need to know about and to churn out report after report in a very timely manner.

For those staff members who may be listening or may be interested to read in *Hansard* what it is that the committee has reported, I would urge them to actually look at the report as well but I would also say I do not think there is anything here that they need to be nervous about in terms of the recommendations that will be considered and the findings. I would like to assure them that this

report is just as much about easing the burden on staff and creating a much more palatable staff structure as it is about addressing the workload for members in this place.

I would also like to note the importance of the select committees under the current structure—as I mentioned before, something that crossbenchers in particular in this place are particularly reliant upon—and the proposed structure in the report. We all know the importance of being able to establish select committees and, again, the crossbench is acutely aware of the importance of that function. We are not suggesting by any stretch that that be scrapped, and I cannot emphasise enough the importance of that structure in terms of accountability and transparency and shining a light on issues that we all know would otherwise not see the light of day.

That said, I remain confident that under the new proposed structures none of that will be lost. Indeed, it will be enhanced, it will be more effective and it will serve us as a parliament a lot better than the current structure has served us to date, specifically in terms of the ability of members to participate in committees rather than actually be members of those committees.

Mr President, you may know that in addition to having worked in this parliament as an adviser, I have also worked in the Senate as an adviser, and I can assure you that they have an extremely streamlined process in terms of their committee process. None of the issues that would ordinarily make their way into a select committee are lost, because there are mechanisms in place to ensure that they are still appropriately dealt with.

The make-up of those committees ensures that effectively issues are not shut down, and that is really what we are concerned about. We have had an explosion of select committees, and the reason behind that explosion of select committees speaks for itself. It is because we do not want our issue of inquiry to go to a government-led—and I mean this not disrespectfully, but whichever party happens to be in government at any given time, if they do have a government Chair and a casting vote, and members of the crossbench in particular are wanting to raise issues with those committees, then it is easy to see how those inquiries could be shut down. So select committees have become the norm, if you like, in terms of dealing with those inquiries. None of that will be lost under the proposal or the recommendations or the findings that are contained within this report. I think that is really important to stress.

I do not intend to talk too much to this, because I think members will have the opportunity to read the report themselves and to test everything that the committee has found. But I would like to stress again the amount of work that has gone into this report, the amount of collaboration that has gone into this amongst members from across the political spectrum. I would like to thank all the members of the committee and I will just name them for the record: the Hon. Tammy Franks, the Hon. Irene Pnevmatikos, the Hon. Justin Hanson, the Hon. Terry Stephens, and the Treasurer, the Hon. Rob Lucas, and I of course was also on the committee. If anyone in this place thought you would see something unanimous come out of that lot of names, well here it is.

So with those words, I would like to thank all members for keeping an open mind, for their cooperation, for their partisan approach to this issue and again for coming up with what I consider to be very reasonable and sensible reforms that would drastically reform the committee structure of this place and bring us into line with the modern day world of the other jurisdictions. With those words, I commend the report to the chamber.

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

Motions

MEMBER FOR WAITE

Adjourned debate on motion of Hon. T.A. Franks:

That this council notes that the Speaker's inquiry into the end of year corridor events on and around 13 December 2019 have now been suspended for well over a year.

(Continued from 8 September 2021.)

The Hon. I. PNEVMATIKOS (16:43): I rise today to support the Hon. Tammy Franks' motion and once again place on the record my disgust at the actions of the member for Waite and others. I

would like to thank the Hon. Tammy Franks for bringing this motion to the house and thank her for sharing stories that would have otherwise never been heard.

I do not intend to speak at length on this as I have already shared my view on the terrible and inadequate practices this workplace has in dealing with issues of sexual assault, bullying and harassment. But I do want to share my disappointment and anger at the Speaker's decision to not proceed with the inquiry into the end-of-year corridor events on and around 13 December 2019. It has been nearly two years since that Christmas party. For nearly two years now, we have waited for consequences and action. We have had several strategies in place to address the issues: the court proceeding, the joint committee and the inquiry commenced by the Speaker.

Although the progress on these three actions was slow, we were at least hopeful that change would occur, particularly when the Speaker announced the inquiry. Unlike the court case, there was a sense with the inquiry that all incidents that occurred at both the crossbench Christmas party and the Liberal Christmas party would be addressed. But that feeling of justice was short lived. Now the Speaker is forgoing his obligations as head of this workplace to investigate workplace incidents that have impacted upon a number of staff. The Speaker's actions once again place the onus back on those who have been affected and hurt by the actions of the member for Waite.

As the Hon. Tammy Franks mentioned last sitting week, those who experience the trauma of sexual harassment can often feel the effects of depression and anxiety for survivors. We know that survivors of sexual assault and abuse or trauma events can often benefit from sharing their stories. An investigation would have meant that survivors would be able to tell their story: they would be heard, someone would listen and the parliament would have to act, but now we are left with nothing.

The cancellation of this investigation basically signals to everyone involved that the actions of the member for Waite were fine and that there should be no consequence. It says that because the courts did not find one of the actions of that night criminal that means there is nothing more to do here. It says that it does not matter if you felt offended, violated or degraded, the actions of the member for Waite are acceptable. Well, that is unacceptable. In any other workplace a proper investigation would be undertaken.

I stand by the Hon. Tammy Franks' remarks made last week regarding the member for Waite's actions. Many of us in this chamber and the other place have heard staff and other members recount that night. I can confirm that I have also heard from some who attended the parties that racist, homophobic and sexist remarks and actions were made by the member for Waite, and I can confirm that I have also heard about the Liberal staffer's unacceptable actions and those complicit while witnessing unthinkable actions.

Following the Hon. Tammy Franks' speech in this chamber, the member for Waite said her comments were outrageous and salacious, designed to cause him maximum political damage. I am not sure what the member for Waite expected to happen when his actions became public. His actions were outrageous and salacious, and his actions have led to his own political downfall. It is incredible that the member for Waite went on to say that he still feels as though he can give the parliament the dignity that it deserves. Those days are long passed.

The member for Waite and others have accused us of using parliamentary privilege to get away with making these claims. If you look at the evidence, logically why would survivors come forward? Why would survivors come forward after seeing the way the court case unfolded? Why would a survivor come forward when they are in a vulnerable position, when they are fearful of losing their job, when they fear losing their position within a political party, when they fear they could lose their whole career?

The member for Waite is completely ignorant of the privileged position he has and has zero regard for the unjust power structures in this place that disincentivise staff to speak out on this matter. His comments are a slap in the face to anyone in this place who was victim to his actions. They were a slap in the face to anyone who has been at the hands of abuse and harassment.

There are many in this chamber who heard the exact same things that the Hon. Tammy Franks has shared. There are some in this chamber who witnessed what occurred. Your complacency and complicity are noticed by everyone around you, and do not think it will go unnoticed

by those outside this place. This issue is more than one of politics, it is one of character and integrity. This government has gone to extraordinary lengths to silence survivors. Again, this government has chosen to bury the problem rather than admit the system is broken and fix it. Survivors deserve better. Workers deserve better. South Australians deserve better.

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

Bills

INDEPENDENT COMMISSIONER AGAINST CORRUPTION (CPIPC RECOMMENDATIONS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 25 August 2021.)

The Hon. R.I. LUCAS (Treasurer) (16:50): Almost five years ago to the day—in fact, it was 20 September 2016—I put on the public record in this chamber my very strong views in relation to the need for reform of the ICAC. On that particular occasion, almost five years ago to the day, I said as follows:

> As someone who was involved in the initial debates in our party room (I was not the prime mover but was engaged and involved in the initial debates), I was a very strong supporter for an ICAC in South Australia. As a non-lawyer I entered the debates, not from a legal viewpoint but from a public governance, integrity, transparency and accountability viewpoint, and it seemed every other jurisdiction in the nation had one. There are examples of corruption being rooted out in most of those other jurisdictions. Why should we believe South Australia would be any different? However, I have to say from my perspective that the title of this body, Independent Commissioner Against Corruption, was indeed what its focus should have been, should be and hopefully in the future will be. That is, its focus should be against corruption.

Hansard records the Hon. Peter Malinauskas interjecting, 'Hear, hear!' I then continued:

> I am delighted to hear minister Malinauskas strongly endorsing that, and that is that it is not an independent commission against corruption, misconduct and maladministration and other bad things that go on in governance in any jurisdiction. It was specifically entitled the Independent Commissioner Against Corruption.

Further on, I referred to a number of examples in previous contributions in the parliament where I had referred to the focus of the ICAC in areas which I did not believe were what I viewed as corruption.

Without going into the details, I instanced in that particular speech, and in previous speeches, two occasions on issues that I had raised in the Budget and Finance Committee. One related to public moneys being, in my view, wasted on resolving a conflict between two senior executives in the Department of the Premier and Cabinet, and the second one was in relation to a series of complaints from whistleblowers about rorting of allowances and the wastage of public money in the APY lands.

On those two separate occasions, I was invited to the ICAC to answer questions in relation to who had leaked the information to me as a member of parliament. I very respectfully declined to answer the questions, and that was the end of the issue—to be fair to the ICAC, from my viewpoint as well. Nevertheless, I spoke at that time and on previous occasions that it was my view that this was not the work of what I had envisaged an ICAC to be.

I also gave examples of where leaked information had been provided to journalists, and those journalists were hauled before the ICAC and they were required or asked to reveal the source of their particular information. Again, leak inquiries, to me, should not be the purview of a commission against corruption. In that contribution I went on to talk about maladministration, and I said:

> That is one example, but a second and more difficult one is the issue of maladministration. To me, as one of the non-lawyers in the chamber, maladministration is not corruption. Maladministration might be financial incompetence or it might be negligence. It might be worthy of being sacked or demoted from cabinet, or the government might be thrown out. There is a whole variety of consequences as a result of being financially incompetent, negligent and a range of other descriptors which you can use in terms of poor performance by a minister or by a government. If it reaches into corruption then, in my personal view, clearly it should be the purview of an independent commission against corruption.

The view I put on that occasion and the view that I still retain is that issues in relation to financial incompetence and negligence or poor performance are not appropriately issues that need to be addressed by a commission against corruption with all the extraordinary powers that commission rightfully has for the work that it needs to do. In concluding that particular contribution, I indicated as follows:

> I conclude my comments on this aspect: I think it is a live issue for both the Labor Party and the Liberal Party over the coming 18 months—

bearing in mind this was in September 2016 and we were leading into a March 2018 election—

> to determine whether or not this iteration or this evolution should be the first step towards another step. Frankly, I should not be just saying the Labor and Liberal parties because, clearly, the minor parties are actively engaged in this particular issue as well. Each of us, all of us, should apply our minds over the next 18 months as to whether or not we would support another iteration or another evolution in terms of refining the purpose of an ICAC to the purpose that many of us saw it being, and that was corruption. That is the work it should do.
>
> I conclude my remarks in relation to this particular aspect by saying that I think it would be important, prior to 2018, for each of us, major parties and minor parties, to be clear in our policy pronouncements as we lead into the election to say, 'Hey, we are open. It might not be that we are specific, but we are open to the next evolution, the next iteration, and a process that we might follow in terms of this ICAC evolving towards a commission truly devoted to rooting out corruption in South Australia as opposed to other aspects.'

The views that I expressed almost five years ago to the day, in relation to what should be the primary purpose of a commission against corruption, remain my strongly held views and remain the views that I have held over the last five years as well.

I do want to add one other issue in relation to the appropriate work of a commission against corruption or not and that is that there has been significant recent debate in relation to codes of conduct. Both the major parties have indicated a willingness to introduce a code of conduct for members of parliament.

The commissioner for the ICAC has made a submission to the parliamentary committee considering this particular issue with a recommended version of a draft code of conduct—that is, public submission—and that code of conduct says in part as follows:

> Members must—
>
> (a) make the performance of their public duties their prime responsibility;
>
> (b) exercise reasonable care and diligence in performing their public duties;
>
> (c) submit themselves to the lawful scrutiny appropriate to their office;
>
> (d) behave with respect and courtesy in their relations with all parliamentary staff and public servants with due regard for the imbalance of power in such relationships
>
> (e) treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities.

Under the current powers of the ICAC Act, misconduct is defined as a contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer. As this parliament contemplates what is the rightful role of a commission against corruption, it also contemplates, rightly, the appropriate role of a code of conduct.

If a code of conduct was to be approved along the lines recommended by the commission—that is, a member of parliament should treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities—we could have any number of complaints being lodged with the Independent Commission Against Corruption (ICAC) against any number of members of parliament for not treating members of the public or indeed anybody with, in the member of the public's view, respect and having due regard for their opinions, beliefs, rights and responsibilities.

We could have any number of complaints lodged with the ICAC, alleging a breach of the code of conduct, that a member of parliament or a minister had not exercised reasonable care and diligence in performing their public duties. One could go through all the subclauses of the recommended code from the commission of conduct for members of parliament and, under the current arrangements, a breach of the code of conduct could be elevated to a complaint to the Independent Commission Against Corruption against a member of parliament.

Certainly, in my very strongly held view, this is one of the reasons why years ago, when there was a debate in the parliament at that particular time about whether there should be a code of conduct or a statement of principles, both major parties—the Labor government and the Liberal opposition—agreed that there would be a statement of principles, and the legislation explicitly provided that the statement of principles did not constitute a code of conduct for the purposes of the ICAC legislation.

If, as we are intending to do, we are going to have a code of conduct, now is the time to be looking seriously at the reform of the ICAC in this particular important regard so that serious allegations about someone breaching a code of conduct should be investigated by an appropriate body but certainly should not be investigated within the ambit of a corruption investigation, elevated in the public arena to a complaint to the ICAC because a member of parliament, in somebody's view, has not treated somebody with respect and therefore is alleged to have breached their code of conduct.

These are the sorts of provisions that have led many of us to the view that it has been, for many years, and is now time for significant reform of the ICAC legislation. Let the ICAC do what it was intended originally to do and what most of us understood its major work should have been, rather than these sundry other issues that seem to have taken up much of the time of the ICAC.

There have been many other stories highlighting the widespread concerns from some who have been impacted by the operations of the ICAC over recent years. My colleague the Hon. Mr Pangallo in the last 24 hours has again highlighted a number of cases where people have certainly grave concerns about the operations of the ICAC and the impact on them and their loved ones. The tragic case of Debbie Barr, which has been highlighted yesterday and again today in the media, is just one stark example of a number that the Hon. Mr Pangallo has put onto the public record.

As Treasurer of the state, I also know that the taxpayers of South Australia—and obviously there are requirements of confidentiality—have incurred very significant costs as a result of some unsuccessful ICAC investigations. I am not in a position to indicate detail in relation to that, but I can say, as the Treasurer of the state, that the taxpayers are incurring very significant costs in relation to some cases that have proved to be unsuccessful in terms of ICAC's operations. Putting all that together, there is clearly in my view and clearly in the view of the Hon. Mr Pangallo, whose reform legislation we are debating this afternoon, very, very widespread support for reform of the ICAC.

What I can say, going back to that 2016 debate, which was brought on by the former government and which I described as the first evolution or iteration of reform of the ICAC, is that there had been considerable discussions with the former Labor Attorney-General and senior members of the Labor government with myself and with others about more significant reform, much closer to the reform we are seeing today.

I indicated at that stage on behalf of the Liberal opposition a willingness to support a Labor government if it was prepared to move towards the path that has been moved today by the Hon. Mr Pangallo. I make no criticism of the former Labor government other than to say that for a variety of reasons it was decided not to proceed with that legislation. But at that stage, in the lead-up to the 2016 debate, I indicated on behalf of our party a willingness to support further reform, and that is what led me to make the statements I did in 2016: that I saw this as a first step but not a final step in terms of much-needed reform for the ICAC in South Australia. So I welcome the opportunity that we have today to have a serious debate, all of us, in relation to the bill the Hon. Mr Pangallo has moved.

Having, I guess, indicated what our position was in 2016, I do want to say that on behalf of the government I believe I speak on behalf of every member of the Liberal government in the upper house and the lower house in indicating their support for reform of the ICAC. It would be inaccurate and it would be wrong for some people to report or to claim that the position I am about to put down on behalf of the government today is a position reluctantly arrived at as a result of a small number of members in the party having a particular view. I indicate that this is a view, a unanimous view, that the government members have in both houses in relation to the need for reform of the ICAC at this particular time.

Whilst there is a unanimous view, I think of all, in relation to the need for reform of the ICAC, clearly the devil is in the detail in terms of what the detail of the changes and the reforms might be, and everyone may well have had or may still have differing views as to what the appropriate reforms of ICAC might be.

The government was not prepared to support the original draft of the bill that had been introduced by the Hon. Mr Pangallo, albeit it had many elements that many of us were more than happy to support. As the Hon. Mr Pangallo will outline—and as I will speak to in a moment in terms of some of the major changes—he has now introduced 19 pages of amendments to the bill he introduced some weeks ago into the Legislative Council.

He will outline those in detail when we go through the committee stage of the debate this evening, but what I can say is that having now looked at the 19 pages of amendments the Hon. Mr Pangallo will move this evening, as Leader of the Government in this chamber and as the representative of the Attorney-General and the Premier in this chamber, it is our intention as government members to support the model reform that the Hon. Mr Pangallo is moving with the 19 pages of amendments that he will outline this evening. We believe that if implemented this particular reform will allow the ICAC to do what it was intended to do, what it should do and what it will have the powers to do, and that is to address corruption in South Australia.

In terms of some of the details of the major changes in both the legislation and the amendment, I will now run through the government's view of the summary of those. I guess the major change is to modify the ICAC's jurisdiction so that the responsibility for investigating maladministration and misconduct will be transferred to the Ombudsman. That will also mean the capacity to do evaluations of government agencies would also transfer to the Ombudsman.

Importantly, there is a saving provision in there. There is a 12-month transition arrangement so if there have been any current complaints lodged or investigations lodged before the start date—which is in August for this particular provision with the ICAC—the ICAC will be able to continue with those current complaints or current investigations which are on foot, if I can put it that way. The ICAC will have a 12-month period to complete those particular inquiries or investigations.

Other changes that are going to be included, which highlight that, are a modification of the ICAC's jurisdiction in relation to corruption to ensure that ICAC is focused on the true offences of corruption set out in part 7, division 4 of the Criminal Law Consolidation Act, again subject to the transition arrangements that allow for existing complaints or investigations to be resolved. These offences include bribery or corruption of public officers, threats or reprisals against public officers, abuse of public office, and demanding or requiring benefit on the basis of public office.

The changes will also ensure that the ICAC can continue to refer other matters to the police or the Ombudsman as appropriate and after any change to the jurisdiction is effected. It also modifies the elements for a finding of misconduct to require that any such misconduct be both intentional and serious. It establishes an inspector with wide powers to review ICAC's activities and to make recommendations in relation to ex gratia payments for harm caused by ICAC or in relation to certain legal fees incurred including in the case of failed prosecutions.

It establishes a separate Office for Public Integrity with its own director with responsibilities to act as a clearing house for complaints concerning public officers. It codifies Legal Bulletin 5 to require:

1. In the case of a corruption investigation, that a conviction be recorded before the policy of reimbursing legal costs for a failed prosecution is voided. Presently, the bulletin only requires a material adverse finding or material dereliction of duty.

2. In the case of a misconduct or maladministration investigation, that a material adverse finding is made before the policy is voided.

3. That in the case of both corruption investigations and investigations into misconduct or maladministration, progress payments for legal costs be made by the state to a public officer where costs are likely to exceed $100,000 as certified by the Crown Solicitor.

These are significant changes in relation to reimbursement of legal costs. It is a challenge for our justice system generally, I guess, but particularly in relation to the use of extraordinary powers by the ICAC against an individual or individuals. It is a very costly exercise for someone to defend himself or herself. The package of amendments provides readier access to reimbursement of reasonable legal costs in relation to these particular issues.

The bill and amendments strengthen protections against frivolous, vexatious or improper complaints or complaints made in bad faith. It requires ICAC to inform public officers when they decide to take no action against them. It enhances prohibitions on the making of any public statements concerning ICAC matters except in the circumstances that the inspector can make public statements where necessary, including to alleviate prejudice to a person's reputation.

The bill and amendments provide better protection for members of parliament who take in and consider agency information, including information relating to ICAC, provided always that those MPs use the information in the course of discharging their parliamentary functions. These protections are proposed to be achieved by modifying the definition of 'abuse of public office' in section 251 of the Criminal Law Consolidation Act, and by providing that ICAC cannot exercise its powers over matters to which parliamentary privilege applies. Arguably, in the government's view, this reflects the common law as it stands in relation to privilege.

In addition, and as earlier mentioned, it establishes transitional arrangements under which public officers who are currently under investigation continue to be investigated using ICAC's existing jurisdiction, provided those investigations are resolved within 12 months, after which the new jurisdictional arrangements come into force. It establishes transition arrangements to preserve evidence already gathered by ICAC. It gives effect to certain other necessary transitional arrangements.

As the Hon. Mr Pangallo will outline in the committee stage I am sure, there are many other amendments in the 19 pages of amendments. Those I have mentioned are really the more significant amendments. We will have the opportunity, if required, to further expand on some of those amendments and their impact during the committee stage of the debate.

In concluding my indication of support from government members for this package of reform measures, it is important to re-emphasise that a crime today would remain a crime after this bill and amendments pass. What is contemplated by this act is a change to the jurisdiction of ICAC in particular, and a concentration of the ICAC on what many of us believe should be its true role, and that is identifying and rooting out corruption in South Australia.

All of these other issues, such as breaches of codes of conduct and maladministration or leak inquiries, because someone has leaked something, should be the responsibility of other bodies in South Australia, and we have many of them. In relation to financial performance we have the Auditor-General, we have the Ombudsman, we have the Office for Public Integrity, and we have the police. There are any number of other opportunities for calling to account ministers, members of parliament and public servants as would be required.

The government members look forward to the debate during the committee stage this evening. I congratulate the Hon. Mr Pangallo for all of the hard work that he has undertaken on this particular bill. I want to acknowledge the hard work of two of my colleagues from the House of Assembly, the member for Kavel and the member for Davenport, who have worked assiduously on this issue and who have worked with me as the Leader of the Government in the Legislative Council and responsible for handling the passage or not of the bill. I do want to acknowledge the trailblazing work of the Hon. Mr Pangallo on the issue but also the work that my two lower house colleagues have undertaken.

I also acknowledge that there have been others over the last five or six years who have also been active in this particular space. They have raised issues, they have been actively engaged, in both the major parties but also in some of the minor parties as well. This has been an ongoing debate for members of parliament. The introduction of a private member's bill from the Hon. Mr Pangallo has given us all the opportunity to address, or not, these particular reform issues. I hope that we address them and certainly on behalf of government members we indicate our support for both the bill and the package of amendments.

The Hon. K.J. MAHER (Leader of the Opposition) (17:18): I will not speak for very long as many of the issues have been canvassed at great length by the Hon. Frank Pangallo in his second reading contribution introducing the bill, and now by the Leader of the Government in this place. I guess it can simply be summed up by saying that it is in the name: Independent Commissioner Against Corruption. It is intended to investigate corruption and it should do what it says it does.

We are persuaded by contributions, not just today but in the past, from the Ombudsman, who has assured committees, and consequently the parliament, that the Ombudsman not only has the ability but could take on the jurisdiction of maladministration and misconduct. He not only has the ability to do so but sees that as a desirable outcome, and that is persuasive for the opposition.

In relation to a number of the issues that have been raised about ICAC, it is true that ICAC has extraordinary powers. That is for very good reason. It has work to do that requires extraordinary powers, but with the exercise of extraordinary powers comes a need for extraordinary oversight and accountability.

We support, firstly, the ICAC investigating corruption, as this bill proposes when you take into account the amendments that have been filed already, and the other roles that have historically, since ICAC has been around, since 2012, the maladministration and misconduct, being the providence of another integrity agency which, as I have said, as the Ombudsman has expressed, is capably and appropriately dealt with by the Ombudsman.

Some of the other issues that relate to the bill and the oversight of the extraordinary powers of ICAC include checks and balances, effectively at the start and the end of the process that this bill proposes, that is an independent Office for Public Integrity whose responsibility will be to assess complaints that are made and essentially triage those complaints as to where the more appropriate place is that they rest, whether it is in fact corruption, whether it is in fact maladministration or misconduct, and appropriately refer those to the integrity agencies which should look at those.

At the back end, the final part of it is the reviewer being restyled as an inspector and having significant powers to look at the operations of ICAC. As I said, it is the opposition's view that with extraordinary powers comes a need for greater levels of oversight and accountability, so we support those changes to the scheme.

I can indicate that after significant discussion the opposition will be, as the Leader of the Government has outlined, supporting the package that we have before us, that is, the bill that has been brought to this place by the Hon. Frank Pangallo and the amendments as they have been filed. I think there are now two sets of amendments, a first set and a reasonably significant second set.

It is unusual that we would be considering amendments that have been filed only today, but I know the Hon. Frank Pangallo has worked very hard with members of the government, members of the opposition and members of the crossbench in the development of those amendments. It is not one of those instances where we quite rightly often rail against considering amendments on the day. These are not those types of amendments. These are ones that have had due consideration, I think, by all members of this chamber in arriving at the shape and form that the amendments now take

I, too, wish to join the Leader of the Government in congratulating and paying tribute to the Hon. Frank Pangallo. I cannot remember the description I think one David Bevan used on radio to describe Frank, but he is not to be underestimated in terms of his tenacity in prosecuting and his ability to put forward an argument and shape legislation as we have before us.

It does give comfort that the government has, with the considerable resources that come with government and the advice, particularly legal advice, the government has access to, turned their minds to the merits of the package we see before us and has decided that the bill, with the two sets of amendments, is worthy of support.

Particularly, comfort can be given, I think, that the Attorney-General, the Hon. Vickie Chapman, the member for Bragg, the first law officer of the state, has obviously turned her mind to this bill and these amendments and has decided that they ought to be supported. There is probably no-one better placed in the state than the Attorney-General to come to the conclusion that these reforms should be supported as part of the government. Section 49 of the Independent Commissioner Against Corruption Act 2012 provides:

> The Commissioner must keep the Attorney-General informed of the general conduct of the functions of the Commissioner and the Office and, if the Attorney-General so requests, provide information to the Attorney-General relevant to the performance of the functions of the Commissioner or the Office…

There is no-one better placed in this parliament than the Attorney-General to make those decisions about this sort of reform, and it should provide some comfort that the Attorney has turned her mind to it as the first law officer of the state, with the extra information the Attorney has available to her by virtue of section 49 of the act, and decided that these ought to be supported. With those words, I will indicate that the opposition intends to support the bill as it is described, with the two sets of amendments we have filed before us.

The Hon. T.A. FRANKS (17:25): I rise on behalf of the Greens to speak in support of this debate tonight on the Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Bill. This is a bill brought to us by the Hon. Frank Pangallo, but its formation was in that CPIP Committee, a Labor, SA-Best and Liberal-membered committee.

The first rule of ICAC in this state is that you do not talk about ICAC, so I stand with some trepidation to talk about ICAC. I make some light of that, but that is one of the things I find most disturbing about ICAC. I will move to the detail of the bill later, but I am going to start with why we should be talking about ICAC tonight. I sit on a select committee of this council inquiring into the adverse harms of ICAC. I think I have heard far more about ICAC in the last few months, through the stewardship of the committee set up by the Hon. Frank Pangallo, than I would like to know in an entire lifetime.

Some people do not have a lifetime to hear more about ICAC. One of those people is Mrs Deborah Barr, her late husband being Chief Superintendant Douglas Barr. He is no longer with us. Mrs Barr wrote to many members of this place, and I would like to share those words with the council and with the people of South Australia. I know there was a story in the media in previous hours, but I think the words should also be recorded here for this debate to inform why we believe reform should be debated and has merit to be debated. Mrs Barr writes:

> My late husband Doug was a SAPOL officer for 43 years. He was one of our state's most distinguished officers. His contributions to our community were many, and this was recognised in the 2016 Australia Day Awards, when he received the Australian Police Medal. In 2017 Doug become entangled in an ICAC investigation centred on one of his staff. This investigation stretched on for over three years. At every stage ICAC's conduct was appalling. It was not a corruption matter, as ICAC have since admitted, but Doug and our family were treated as if we were master criminals.
>
> Doug had to go to work every day with the rumours that he was corrupt, rumours he was not even allowed to speak to, forced into silence by the ICAC Act. This was absolutely devastating. I watched it eating away at him every day. But this is the problem with ICAC—the process is the punishment, whether you are guilty or not. And at every stage all we saw from ICAC was delay after delay. There was no interest in resolving this investigation quickly. Every time frame ICAC communicated was later ignored. We were kept in limbo for years.
>
> In October 2019 Doug was waiting for ICAC to release their investigation's draft report. This would finally let him know after three years what ICAC were accusing him of.

I repeat that:

> This would finally let him know after three years what ICAC were accusing him of. The ICAC Commissioner told Doug he would receive this report in two or three weeks. This did not happen.
>
> We waited and waited, but nothing came from ICAC. Every week of this delay was unbearable. Doug lived every day not knowing if he was going to keep his job. Wondering if he was going to be publicly accused of corruption. It didn't matter that we knew he was innocent—we'd seen for three years now exactly how damaging the rumours could be.
>
> After 13 weeks of delay, we had still heard nothing from ICAC. The stress had become unbearable. Doug had become despondent waiting. He was inconsolable.
>
> Doug took his life over this investigation. He hung himself in our family home.
>
> Some months later, ICAC finally released to our family the report Doug had died waiting for. It made clear Doug was not accused of corruption. This document was dated—apparently, it had been ready for release eight days before Doug took his life. This was devastating—if ICAC had sent it when it was ready, my husband would still be alive. ICAC have made no apology for this.

> Our experience with ICAC was three years of delays investigating a matter that did not even constitute corruption. ICAC's conduct was inefficient, ineffective, and ultimately proved fatal to my husband and devastating to our family.
>
> If ICAC was held to any kind of a standard at all, this would not have happened. This should never happen again. We need to fix ICAC before another family goes through what we have. I believe this bill makes important steps towards that.

Having sat on that committee chaired by the Hon. Frank Pangallo, I know, extraordinarily, that this is not a sole case; this is not an aberration. I have heard far too many stories in that committee that give me pause to reflect and the political courage to say that we need to reform ICAC, that ICAC should focus on corruption.

I have long also been quite critical of the secrecy of ICAC in protecting those who do the wrong thing. In fact, its interaction with the Police Complaints and Discipline Act has led to reporters being denied the ability to report when a police officer is found of misconduct, because the ICAC Act and its secrecy provisions are cited, protecting those who have done the wrong thing.

It is a perverse outcome that led me to have some quite heated words and, indeed, feature prominently in the Police Association magazine a few years ago. But then when I sat down with Mark Carroll of the Police Association of South Australia, we came to a meeting of the minds. He had not realised the level to which in fact that behaviour was being shielded from media reportage and transparency. I am quite cognisant also that the Police Association of South Australia are very strong backers of this reform we debate tonight.

Mark Carroll has presented to the upper house committee in recent times and reflected upon his previous evidence that formed the committee's report that forms the parts of this bill that we debate, which the Hon. Frank Pangallo has brought to this council. But I just want to reflect on those words. I understand that we have reported, and it is not out of order that I talk about a current select committee underway. We have done an interim report to ensure that, rather than the first rule of ICAC being you cannot talk about ICAC, tonight we do talk about ICAC. The words of Mark Carroll in recent weeks, reflecting those words of some years ago, were:

> PASA firmly believes there is an urgent need for root and branch review of the ICAC Act. In particular, we believe that the power and independence of the reviewer should be strengthened. We believe that more resources need to be allocated to the office of the reviewer. Models in New South Wales and Western Australia, where there is a robust relationship between reviewer and the commission, would serve as a good starting point.

On that, Mark Carroll and I do agree.

I think it is going to be a difficult discussion tonight. I do reflect that the bill that may well pass this place, because I think there is some support for having this very difficult conversation, will not be that bill that Frank Pangallo brought to this place; it will be something that is slightly different. Again, I also acknowledge the work of the member for Kavel and the member for Davenport in this conversation and others who have been involved in the various standing and select committees investigating the impact of the workings of the current ICAC Act.

It would be a misnomer to say that the ICAC Act is perfect. I have not heard anyone attempt to defend that. Tonight, I do hope that we go some way to making it less far from perfect than it currently is. The changes that we will be debating tonight I believe are positive ones. They will seek to modify ICAC's jurisdiction so that responsibility for investigating maladministration and misconduct is transferred to the Ombudsman. Indeed, there will be a transition period for that.

We will seek to effect other changes, including modifying ICAC's jurisdiction in relation to corruption to ensure that ICAC is focused on true offences of corruption, they being offences including bribery and corruption of public officers, threats or reprisals against public officers, abuse of public office, demanding or requiring benefit on the basis of public office, and ensuring that the ICAC can refer other matters to the police or the Ombudsman as appropriate after this change in their jurisdiction is effected.

We will seek to modify the elements for a finding of misconduct to require that any such misconduct be both intentional and serious, as well as establishing an inspector with wide powers to review ICAC's activities and to make recommendations in relation to ex-gratia payments for harm

caused by ICAC or in relation to certain legal fees incurred, including in the case of failed prosecutions.

It will establish a separate office of public integrity with responsibility to act as a clearing house for complaints concerning public officers and codify the Legal Bulletin 5 to require that in the case of a corruption investigation a conviction be recorded before the policy of reimbursing legal costs for a failed prosecution is voided—presently, the bulletin only requiring an adverse finding.

In the case of misconduct or maladministration investigation, we will seek to require that an adverse finding is made before the policy is voided and that in the case of both corruption investigations and investigations into misconduct or maladministration, progress payments for legal costs be made by the state to a public officer where costs are likely to exceed $100,000 as certified by the Crown Solicitor.

It will strengthen protections against frivolous, vexatious or improper complaints or complaints made in bad faith. One of the sad aspects of my role has been to see the ICAC used to silence people, the ICAC used to bully people, and the ICAC used to ruin people's careers and reputations. We should not be, as a parliament, standing by while that takes place. These changes also require ICAC to inform public officers when they decide to take no action against them. I cannot see how anyone could argue against these changes.

It will also seek to enhance prohibitions on the making of any public statements concerning ICAC matters, save that the inspector can make public statements where necessary, including to alleviate prejudice to a person's reputation. It will also serve to better protect members of parliament who take in and consider agency information. That is where we, as members of parliament, are doing our jobs.

It will not see those people who come to us, it will not see whistleblowers, fear being criminalised. As earlier mentioned, the transitional arrangements under which public officers who are currently under investigation will continue to be investigated using the current jurisdictions provided those investigations are resolved within 12 months and indeed are already underway.

I commend the Hon. Frank Pangallo for his bravery in bringing this here tonight. The Greens have long held for a federal ICAC and for a state ICAC. I remember the tireless and fearless advocacy of the former member for Heysen, Isobel Redmond, then leader of the Liberal Party, in advocating for an ICAC, as did the Greens.

What we want, though, is an ICAC that does address corruption, an ICAC that does not cause the harms that it currently does and an ICAC that keeps its eye on the job at hand of corruption. One of the principles that the Greens will bring to this debate will be that this is not any sort of protection racket for MPs who have done the wrong thing. We will not be providing any protection for those who are already before the ICAC, in which cases are already underway or investigations are already occurring. That is not what we are here to do.

We are cognisant that a crime today under our various statutes will be a crime tomorrow or whenever this bill not just passes, if it does, but receives assent. We are also very cognisant of how this has impacted on our Public Service and the secrecy provisions, which were very well-meaning and, indeed, framed to protect people, have unfortunately in practice often served to harm people far too often. We do have very real concerns that the parliament with regard to the operation of ICAC sees some really extraordinary powers used to investigate what are in many cases ordinary crimes.

We in the Greens have long held for our civil liberties and, indeed, for rule of law and appropriate natural justice to be respected and do not wish to see the ICAC have some of the adverse outcomes that have occurred in previous years continue to occur. We think that that inspector role will go a very long way to providing a watcher that 'watches our watcher' and that check and balance that South Australia and South Australians, I think, will welcome.

I note also that this bill does address some of the quite, I think, unexpected at the time confusion that arose around whether it was a commission or a commissioner. Indeed, no personalities should have such a large input into the way that we address corruption in this state and I do think that we are rightfully restoring the balance on that this evening. We look forward to the committee stage and we welcome this debate tonight.

The Hon. J.A. DARLEY (17:42): I rise to speak briefly on the ICAC bill. Issues have arisen in cases that ICAC has handled resulting in this bill and amendments. I am concerned about discussion that has arisen, including from the commissioner, about jurisdictional diminution of ICAC and its powers and I have concerns with this. I thank the Hon. Frank Pangallo for bringing forth this bill and the amendments, which I understand will be addressing these matters. I will be following the explanation of the bill and the amendments and I look forward to a successful outcome of the debate tonight.

The Hon. F. PANGALLO (17:42): I would like to thank all the members in this chamber who believed in this bill and its intent to make our integrity bodies more effective by splitting responsibilities for investigating wrongdoing in the public sector between the ICAC and the Ombudsman, making it more efficient by not wasting millions of taxpayers' dollars on wild goose chases in which evidence gets mangled, manufactured, or is withheld and where cases fall over at the last hurdle, causing further financial and mental distress for the defendants, and making them more accountable with a new independent office of an inspector who will have wide scope of oversight over all the integrity agencies reporting directly to parliament and, importantly, with the ability to make recommendations on restoring reputational damage and compensation. There are protections for whistleblowers going to members of parliament with concerns about operations of integrity agencies, protections against frivolous and vexatious complaints or those made in bad faith and/or spite or seeking to victimise individuals.

This is a far better bill than the original one. Reform has been acknowledged as a long time coming from the legal fraternity and, as we have heard tonight, from my own parliamentary colleagues. To quote eminent QC David Edwardson, the feeling among his colleagues is universal. That is quite a significant statement. In other words, there has been quite some unease at what parliament created in 2012: a Star Chamber, as many eminent jurists, here and interstate, have called it, where rights and procedural fairness have been the casualties.

There needs to be an integrity agency or agencies like ICAC. Everybody acknowledges this, nobody will argue against that, but it must operate within the laws set down by parliament, not take its extraordinary powers as a tool to potentially abuse those powers. The current ICAC told the Crime and Public Integrity Policy Committee this morning that no court had found ICAC had abused its power—well, not quite. A District Court judge found it did, albeit that decision was overturned on appeal. However, that has now gone to the High Court, and I would submit our highest legal forum could be either ICAC's nadir or its pinnacle.

It would be remiss of me not to address the extraordinary attack today on the workings of this parliament, and members, by the Hon. Ann Vanstone. The Ombudsman, who appeared before our committee earlier, made it quite clear he was apolitical in presenting his views as a statutory officer of the government on the bill and where it concerned his office. Ms Vanstone was anything but. If the current commissioner is supposed to be independent, she certainly did not demonstrate that with her opinionated commentary. It was quite political. She took aim at the integrity of this place and its members, insisting that we, me, are running a protection racket for MPs from being investigated by her office.

As an old media hack I can see spin a mile off, and it was there today, running a scaremongering media campaign designed to turn the public ire against politicians should this legislation be passed, claiming this legislation would make her office a toothless tiger. Of course, it does not, but perhaps she may have got that impression from drafting notes that somehow made it to her office, which could have been dated from the ones we are going to be debating today. You really need to search hard to find where the bite has actually left a significant impression.

She also does not like matters being referred to police before going to the DPP, because you cannot trust the police to do the job required, but rest assured we can trust the ICAC. With all due respect to Commissioner Vanstone, creating and enacting legislation is not her job. She carries it out according to the act that parliament has passed—not what she wants or demands, parliament must do. This is a classic case of tail trying to wag the dog and it sounds somewhat Cromwellian.

This is an act that needs to be amended, and Ms Vanstone and previous commissioner, Mr Lander, certainly acknowledge this. ICAC does not lose its enormous powers. It can still carry out its business but, more importantly, it is now free to concentrate on serious and systemic corruption,

not the 5¢ and 10¢ stuff. It covers the entire public sector of more than 100,000 employees, but for reasons only known to the commissioner she has turned it into an us and them dispute. That is patently wrong.

This bill follows recommendations made by the Crime and Public Integrity Policy Committee last December and, since then, additions have been made as a result of disturbing and harrowing evidence that has come before the Select Committee on Damage, Harm or Adverse Outcomes Resulting from ICAC Investigations: the failed cases, the abuse of its power, the damage caused to individuals' reputations, the suicides and attempted suicides of innocent people caught up in protracted investigations into charges that ultimately fell over or could not be proven.

Operation Bandicoot is worthy of a royal commission or judicial investigation. These stories of ICAC's own conduct and inept investigations could never be told previously because of its veil of secrecy. People caught in its web are not allowed to talk to anyone about it. ICAC does not want stigmatised or traumatised people to come and see MPs like me or any other member in this parliament. Where do these aggrieved people go to be heard?

I want to make special mention of some of the brave and courageous people who did seek me out. Those eight innocent police officers from Sturt Mantle whose lives and careers were destroyed by Operation Bandicoot, a joint SAPOL-ICAC bungled investigation. They were found not guilty; most were acquitted.

I will pay particular tribute to retired Detective Sergeant Ian Mott. He has been quite courageous in coming forward. He was a 41-year veteran of SAPOL. He investigated countless major crimes and was highly regarded throughout SAPOL, but that ICAC investigation, Bandicoot, totally broke a strong man. And it should never have happened. Ms Vanstone says, 'Being acquitted doesn't mean you didn't do it.' What hope is there for restoration of your reputation, with a view like that?

I would also like to pay enormous tribute to the very brave and determined woman who the Hon. Tammy Franks has acknowledged already, Mrs Debbie Barr. I know that Mrs Barr is here today. I acknowledge Debbie today with her son, Christopher. Debbie's husband was Chief Superintendent Doug Barr, one of South Australia's finest, most decorated police officers. As has been mentioned, Doug was subjected to a protracted investigation, not knowing what he was supposed to have done. The mental anguish pushed him to the brink and he took his life in October 2019.

I would just like to read something that was written by his son, Christopher, in a letter he penned in January 2020 that he wanted to send to Mr Lander but never got around to sending. I want to read some excerpts from that, and I will also seek leave to table that letter. It reads like this:

> Mr Lander,
>
> I write today in response to your letter dated 19 December 2019, and with reference to the Submissions of Counsel Assisting the Commissioner relating to ICAC Investigation…
>
> Here it is at last—the opportunity to respond. That tiny little glimmer of due process that my dad died waiting for. I can not respond to these submissions in his place. No one can, that opportunity passed when he [died] and both are irretrievably lost to us now. What I can do, however, and what conscience obliges me to do under such appalling circumstances as these, is to state my position and the position of my family.
>
> Let me be clear from the outset: I have grave concerns about the way in which this investigation has been conducted. These submissions have only served to reinforce those concerns. The fact that this was not a criminal investigation does not free you from the obligation to act responsibly, with consideration to due process and procedural fairness, and certainly does not entitle you to cavalierly disrupt—and in this case, destroy—the lives of the people you are investigating.
>
> There are many aspects of your handling of this process that are deserving of criticism. However, I will restrain myself today to raising specifically the fatal question of timeliness.
>
> The apparent duration of this investigation beggars belief. For your office to have spent three years on what is ultimately an allegation of maladministration—well, I question whether you could have found evidence of mismanagement a little closer to home. Why did this investigation take so long? What were you doing? What did it cost? How much taxpayer money have you wasted on this exercise?
>
> In July of 2019, after keeping dad in suspense for two years, you finally interviewed him. For the first time, he was allowed to hear selections of the allegations against him—and then testify on the spot in his defence, with no preparation or forewarning, regarding events that occurred three years earlier. Clearly, this is not a fair position to be placed in. Nonetheless, dad cooperated to the best of his ability.

If the long wait up to his interview were the only issue at hand, I would…have little cause to write to you today. Regrettably, that is not the case.

On Thursday the 11th July, at the conclusion of my dad's interview, you made a clear and specific commitment:

'Can I…explain how the process will…develop?...I'll invite Mr Livesey to provide me with submissions as to the findings that I should make and as to whether or not any report should be made public or otherwise.

At that stage you'll be given an opportunity of reading those submissions are making any comment that you wish to make in relation to those submissions and making any application you wish to make at that stage for further evidence to be taken or to cross-examine any of the witnesses who have previously given evidence. So you'll be given every opportunity to test those submissions, if you wish.

…So you will not probably hear from us again for two or three weeks. As soon as I get the submissions, I shall circulate them to the people who I think may be adversely affected by any submission made by Mr Livesey. Do you understand the process?'

My dad thought he understood the process, Mr Lander. Two or three weeks. Then he'd know the full allegations, and then he'd be allowed his right of reply. Perhaps he misunderstood? For him, the opportunity to present his evidence and put forward his position was light at the end of a long and dark tunnel that this investigation had been.

So, he waited—and we waited with him. Three weeks—nothing. Four—nothing. Well, due process is worth waiting for, we'd say. Five, six, seven weeks—nothing, nothing, nothing. It's a long time, Mr Lander, when you're waiting to find out if your career could be over and your reputation destroyed. Eight weeks, nothing still. Rumours at work—everyone's heard them, but what can he say? Nothing to refute them, not without causing more trouble. More time goes by—nine weeks, then ten, eleven, twelve. Surely soon, we tell him—but another week goes by, and still nothing. Thirteen. Then fourteen weeks—still no word.

I'm sorry, Mr Lander, but fourteen weeks was apparently my dad's limit.

That these submissions are dated the 10th of October is sickening beyond words to what is left of my family. That was week thirteen, Mr Lander. That's eight days before dad took his life over this matter. Let me be clear that we are in no doubt that had these submissions reached dad any time within those eight days he would still be alive. They were ready on the 10th , and he died waiting on the 18th.

It seems a straightforward statement:

'As soon as I get the submissions, I shall circulate them…'

Perhaps the nuance is lost on us? We would like to know where these submissions were from the 10th onward. What hold-up, what other matter was so pressing that after having already delayed this process so extensively, you thought it was appropriate to delay it further still?

Sometimes things take longer than we think—I will not be gradually that point. I do find it highly concerning, however, that someone with your experience and credentials, who has apparently been dealing with investigations of this nature for a number of years, could be so wide of the mark in this instance. I would suggest that if you have provided someone with a timeline that has blown out more than four times over, it might be considered a common professional courtesy to get in touch and provide them with an update (and, as basic decency would suggest, perhaps an apology).

I will put it plainly: by the very standards set out in these submissions, I believe your protracted and clumsy handling of this investigation to be clear evidence of mismanagement. That it has cost a life makes it serious mismanagement unmatched by anything described by these submissions. Even if we are to accept every last allegation presented therein at face-value, my dad cost no lives and ruined no families.

That was written by Christopher Barr.

The PRESIDENT: You are seeking leave to table, are you?

The Hon. F. PANGALLO: Yes, I seek leave to table the letter, thank you, Mr President.

Leave granted.

The PRESIDENT: The Hon. Mr Pangallo, I am just aware of the approaching hour.

The Hon. F. PANGALLO: Yes, I have nearly finished. The more righteous the fight, the more opposition you will get. I am not a lawyer, I am not a QC, I am not a judge, but I can see when and where there has been a denial of natural justice, an abuse of process where innocent people are driven to despair, lives ruined, lives lost by an organisation that has not been fully scrutinised since it started. Just like Doug Barr's needless death, I think it is one life too many.

Doug's life was worth far more than the cost of bad legislation and mismanagement. I will dedicate this bill to the memory of Chief Superintendent Barr. I think we need to recognise that his illustrious career was actually denied to him because of his needless death, so I would like to do that for his family.

Lastly, I would like to sincerely thank the invaluable input I have received from Mr Dan Cregan, the member for Kavel; Mr Steve Murray, the member for Davenport; along with the Labor Leader of the Opposition, the Hon. Kyam Maher; the Leader of the Opposition in the House of Assembly, Mr Malinauskas; the Hon. Rob Lucas, the Treasurer; and so many others in this place who have lent their support and encouragement for this bill. They have also contributed.

I would also mention parliamentary counsel. We have actually kept them flat out for the last few weeks. Aimee Travers has done a fantastic job in doing this, working long hours, so I wish to thank parliamentary counsel, Aimee Travers, and also my senior adviser, Adrienne Gillam, and of course my colleagues at SA-Best, and also lawyers, the Police Association and others who have contacted my office. With that, thank you, Mr President. I look forward to the committee stage.

Bill read a second time.

Sitting suspended from 18:02 to 19:45

Committee Stage

In committee.

Clause 1 passed.

Clause 2.

The Hon. F. PANGALLO: I move:

Amendment No 1 [Pangallo–2]—

Page 7, lines 1 and 2—Delete clause 2 and substitute:

2—Commencement

(1) Subject to subsection (2), this Act comes into operation on the day on which it is assented to by the Governor.

(2) Section 57 comes into operation on a day to be fixed by proclamation.

With this amendment to clause 2, most of the measure would commence immediately on assent with the new inspectorate commencing later by proclamation. We can also see other amendments to transitional provisions which allow the existing OPI to continue as if they were a new separate OPI until a date to be determined by the minister by notice in the *Gazette*.

The Hon. R.I. LUCAS: Just to help expedite proceedings of the committee this evening, I do not intend to get up at every amendment to be moved by the honourable member and indicate the government's support. We have done that at the outset, as I think other members have. That might expedite proceedings of the committee. In the absence of anyone getting up, I think you can assume there is support for the amendments. But there are occasional ones where I just want to add an explanation from the government's viewpoint.

The government believes this is an important amendment because there are practical reasons why, with the commencement of new functions such as the inspectorate, clearly the government is going to have to advertise and there is a process that has to be followed in terms of the appointment of a new inspector, which is going to take time.

It is sometimes difficult to find people who are well suited and willing to serve, which in this case would be in either the position of the commissioner or the inspector position, and therefore this provides for that circumstance, plus there will be some establishment issues that will need to be established in relation to the relationship between the commissioner and the commissioner's office and budget, the Ombudsman and the Ombudsman's office and budget, the Office of Public Integrity and the Office of Public Integrity budget, and the inspector and the inspector's office and budget.

So there are practical issues. With a commission with massively reduced functions and transfer of functions to the Ombudsman, there will obviously be a need, from the government's viewpoint, for the transference of resources and budget from the commission to other new functions, or existing functions with new responsibilities, under the new governance arrangements, should this bill pass both houses of parliament.

Secondly, it does provide for a new independent Office of Public Integrity with a director, and there will need to be a process of appointment of the director of that office. In the interim, there is a transitional arrangement which allows the office to continue its operations with staffing and with someone acting as the head, but there is a process that will be required to be undertaken by the government of the day, which will necessarily take a little bit of time. It is for those reasons the Hon. Mr Pangallo has moved these amendments and is the reason why we support these, and some consequential amendments as well.

The Hon. K.J. MAHER: Like the Leader of the Government, I will not take much time but just express, as I said in my second reading contribution, that the opposition is supporting the bill on the basis that the bill is a package with the two sets of amendments. It can be taken as read that we will support all the amendments, to help with the quick passage and the uncomplicated passage during committee.

The CHAIR: At this point, with relevance to what the leader has just outlined about two sets of amendments, I understand that one set of amendments has replaced another set. Would the Hon. Mr Pangallo like to clarify that, please?

The Hon. F. PANGALLO: Yes, I will, thank you. The first set of amendments are now being replaced by the second lot of amendments, Mr Chairman.

The CHAIR: Thank you very much. I think it is important that that go on the record.

The Hon. T.A. FRANKS: I indicate that the Greens will be supporting this amendment and understand that this came to us by way of conversations with all of the interested parties, and indeed it does provide an excellent way forward in terms of ensuring that we enact and implement those parts of the bill that we can as soon as possible and those which need that extra process are given the due time and the due process, given the importance of these changes that they need.

Under the bill, the OPI will continue in existence, and we are very cognisant of that—it is just that they will be answerable to a new independent director rather than to the commissioner, and the transitional provisions will preserve the status quo by saying that the commissioner acts as the director until that date, which will be determined by the minister. We think that it is quite wise to tidy up commencement provisions, because in private members' bills sometimes you cannot trust that the government will necessarily implement the parliament's wishes. So on that note as well we support this.

The Hon. J.A. DARLEY: For the record, I will be supporting all 41 amendments.

Amendment carried; clause as amended passed.

Clauses 3 to 7 passed.

Clause 8.

The Hon. F. PANGALLO: I move:

Amendment No 2 [Pangallo–2]—

Page 8, lines 13 and 14 [clause 8(2)]—Delete subclause (2) and substitute:

(2) Section 5(2)—delete subsection (2)

This reflects the creation of the commission, rather than a commissioner, and the removal of the jurisdiction in respect of misconduct and maladministration, which is now to be defined under the Ombudsman Act. This is the first amendment to clause 8. It also removes the provision of allowing incidental offences to be treated as if they were corruption. Currently, section 5(2) says that, if the commissioner suspects that an offence that is not a corruption offence is directly or indirectly connected with or part of a course of activity involving the commission of corruption, then that

incidental offence is taken to be corruption. The other offences should be referred to SAPOL. Amendment No. 5 clarifies this position.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 3 [Pangallo–2]—

Page 8, line 15 [clause 8(3)]—Delete 'Section 5(3) and (4)—delete subsections (3) and (4)' and substitute:

Section 5(3), (4), (5) and (6)—delete subsections (3), (4), (5) and (6)

This is the second amendment to clause 8, which corrects a drafting error. Subsections (5) and (6) relate to the deleted subsections (3) and (4) and so should also be deleted.

Amendment carried; clause as amended passed.

Clause 9.

The Hon. F. PANGALLO: I move:

Amendment No 4 [Pangallo–2]—

Page 8, after line 24—Insert 'Note—'

Examples of material that falls within this section include statements made or documents or material tabled or received in the course of the proceedings of the Parliament or a committee of the Parliament.

This clarifies that the powers under the act may not be exercised in relation to matters to which parliamentary privilege applies. It is proposed to insert a note with examples of material covered by parliamentary privilege. Examples of material that falls within the section include statements made or documents or material tabled or received in the course of the proceedings of the parliament or a committee of the parliament.

The Hon. T.A. FRANKS: I wish to indicate that the Greens will be supporting this amendment. I think it is quite an important matter in the discussion of anti-corruption bodies to ensure that we have clarity around parliamentary privilege. We are an institution, as is the ICAC, that needs our own integrity and independence. There are very long-established rules that provide protections in our democracy and strengthen our democracy. I note that in Western Australia there has been quite a protracted debate around parliamentary privilege with the ICAC. I reflect upon that and emphasise the need to have clarified that particular role of parliamentary privilege with regard to our act in South Australia, lest we end up in the same place as that jurisdiction.

Amendment carried; clause as amended passed.

Clause 10 passed.

Clause 11.

The Hon. F. PANGALLO: I move:

Amendment No 5 [Pangallo–2]—

Page 9, lines 8 to 13 [Clause 11(1), inserted subsection (1)(d)]—Delete paragraph (d) and substitute:

(d) if, in the course of performing functions in relation to potential corruption in public administration, any suspected misconduct or maladministration or any offences (not being offences that constitute the potential corruption in public administration) are identified—to report the matter to the Office or the Ombudsman for assessment or refer the matter to a law enforcement agency, the Ombudsman or a public authority or public officer, as the Commission considers appropriate.

This amendment requires that matters be referred to a law enforcement agency for prosecution. In other words, it prevents the commission from referring directly to the DPP. Functions of the commission are narrowed to corruption only and it creates the commission as a body corporate. Amendment No. 5 clarifies the power of the commission to refer matters that fall outside their jurisdiction.

Amendment carried; clause as amended passed.

Clauses 12 to 16 passed.

Clause 17.

The Hon. F. PANGALLO: I move:

Amendment No 6 [Pangallo–2]—

Page 12, after line 29 [clause 17, inserted section 18A]—Insert:

(3) The system must ensure that the Office gives consideration to the motives of a complainant and that complaints that are apparently made in bad faith, for an improper purpose, are vexatious or that otherwise amount to an abuse of the complaints system are not received for consideration by the Office.

With this amendment, the Office for Public Integrity continues in existence and retains basically the same functions but is established as a separate body from the ICAC with its own director. It will establish its own processes and procedures as currently set out by the ICAC. Because it is being separated from ICAC, a new standalone part has been created. Most of these provisions are in the current act and are just being relocated to the new part.

The amendment to clause 17 inserts section 18A. This clause requires that the complaint system developed for the OPI must include a threshold test that ensures that complaints that are made in bad faith or for an improper purpose or are vexatious or otherwise an abuse of the complaints system are weeded out and not considered.

The Hon. T.A. FRANKS: The Greens strongly support this particular amendment and I note that I have had constituents who I believe, and certainly I have heard evidence in the select committees on which I have served on, that complaints can be made currently that are vexatious, that are about revenge, that are made in bad faith and they get far further than they should.

Indeed, ensuring that we are very clear as legislators that the ICAC and the associated functions, now the OPI in this case, is not to be used as a tool to silence and frighten and cow people, but indeed, something that is there to really address maladministration or corruption, depending on the body, is the true purpose of these functions. I think it is a most welcome change to the operations that provides much needed clarity.

The Hon. R.I. LUCAS: I just want to add to some comments I made in the second reading contribution. Should we—well, it will not be me because I will be happily retired—should members of parliament have a code of conduct that is operational in the very near future, the whole issue of potentially vexatious complaints being made against some of those provisions of the code of conduct, which for example were recommended by the commissioner, should they be adopted along those lines, and as I indicated at the second reading they are very general provisions in relation to treating everybody with respect, you could have the capacity as outlined where vexatious complaints are made against members of parliament on a regular basis.

This sort of provision and its proper implementation is an important provision in terms of trying to discourage people from inappropriately using that particular provision, or those particular provisions, of the legislation should both this legislation pass and the parliament adopt a code of conduct, as it is intended to do so. It has important work to do and I am pleased to see the amendment that has been moved.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 7 [Pangallo–2]—

Page 13, after line 3 [clause 17, inserted section 18B]—Insert:

(2a) The directions and guidelines must not require—

(a) a public officer to report to the Office any information that is subject to legal professional privilege or parliamentary privilege; or

(b) a judicial officer to report to the Office any information that has been received by the judicial officer in the exercise of their judicial functions; or

(c) a member of Parliament to report to the Office any information that has been received by the member in the exercise of their functions as a member of Parliament.

This follows on in relation to the reporting system. It is an amendment to clause 17, inserted section 18B. This amendment ensures that directions under section 18B do not impose inappropriate or improper reporting obligations on public officers. Paragraph (b) is already reflected in the current directions issued under the act and (c) would provide equivalent protection for members of parliament.

Legal professional privilege is already carved out to some extent in the current directions but is limited to the Solicitor-General and staff, and that is in respect of legal advice to the Attorney-General, the Crown Solicitor, the DPP and their staff in relation to legal advice given to the Crown.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 8 [Pangallo–2]—

Page 14, line 9 [clause 17, inserted section 18E(2)]—Delete 'other'

This relates to assessment of a complaint or a report. This is consequential to amendment No. 5 and ensures broad power for the commission to refer matters to the OPI for assessment.

Amendment carried; clause as amended passed.

Clauses 18 to 22 passed.

Clause 23.

The Hon. F. PANGALLO: I move:

Amendment No 9 [Pangallo–2]—

Page 15, line 34 [clause 23(3) inserted subsection (3)]—delete 'Commission' and substitute:

Commissioner

This correction to clause 23 corrects a drafting error.

Amendment carried; clause as amended passed.

Clause 24.

The Hon. F. PANGALLO: I move:

Amendment No 10 [Pangallo–2]—

Page 16, line 41 [clause 24 inserted section 25(4)(e)]—delete 'Commissioner' and substitute:

Commission

This amendment to clause 24 corrects a drafting error.

Amendment carried; clause as amended passed.

Clauses 25 to 33 passed.

Clause 34.

The Hon. F. PANGALLO: I move:

Amendment No 11 [Pangallo–2]—

Page 18, after line 21—Insert:

(2) Section 39—delete 'an assessment,'

This reflects the creation of the commission rather than a commissioner. The amendment is consequential to the separation of OPI from the commission.

Amendment carried; clause as amended passed.

New clause 34A.

The Hon. F. PANGALLO: I move:

Amendment No 12 [Pangallo–2]—

Page 18, after line 21—Insert:

34A—Insertion of section 39A

After section 39 insert:

39A—Information to be provided

If—

(a) on completing the investigation of a matter involving potential issues of corruption in public administration, the Commission determines not to refer the matter to a relevant law enforcement agency or to a public authority; or

(b) a relevant law enforcement agency or public authority to whom a matter is referred by the Commission determines not to further investigate or deal with the matter,

reasonable steps must be taken by the Commission, or by the agency or authority (as the case may be), to ensure that each person who was the subject of the investigation is informed of that determination as soon as practicable.

This proposed new clause ensures that people being investigated are notified if a decision is made not to further pursue the investigation.

New clause inserted.

Clauses 35 to 46 passed.

Clause 47.

The Hon. F. PANGALLO: I move:

Amendment No 13 [Pangallo–2]—

Page 25, line 5 [clause 47(7), inserted subsection (6)(b)]—Delete paragraph (b)

Amendment No 14 [Pangallo–2]—

Page 25, lines 11 to 15 [clause 47(7), inserted subsection (8)]—Delete inserted subsection (8)

These two amendments will remove the exception allowing a minister to make a public statement and note that parliamentary privilege is preserved under section 6 of the act.

The Hon. R.I. LUCAS: I place on the record that the important clarifier the Hon. Mr Pangallo has made in relation to this is that parliamentary privilege is preserved under the package, which means that not only a minister but obviously a member of parliament is entitled in their judgement to make a contribution with the protection of parliamentary privilege in the accepted way. So whilst there is to be, potentially, a significant restriction in terms of what a minister can say by way of a public statement, parliamentary privilege ensures that a minister and/or a member is entitled to make statements with the protection of parliamentary privilege.

The Hon. T.A. FRANKS: I rise to support both of these amendments and note that parliamentary privilege, as I stated before, is a very important part of our democracy and provides that transparency, but indeed there are checks and balances on parliamentary privilege as well, and we could be referred to a privileges committee should we abuse such privileges, and we stand aware of that.

I also note that amendment No. 14 ensures and replaces the power of the inspector to direct the commission or the office to publish retractions or to pay compensation where there have been

errors that have impacted adversely on people's reputations and lives, and I think that should be most welcomed.

Amendments carried; clause as amended passed.

Clauses 48 to 51 passed.

Clause 52.

The Hon. F. PANGALLO: I move:

Amendment No 15 [Pangallo–2]—

Page 25, lines 26 to 28—Delete the clause and substitute:

52—Amendment of section 59—Evidence

Section 59(2)—delete subsection (2)

This is consequential to amendment No. 2.

Amendment carried; clause as amended passed.

New clause 52A.

The Hon. F. PANGALLO: I move:

Amendment No 16 [Pangallo–2]—

Page 25, after line 28—After clause 52 insert:

52A—Insertion of section 59A

After section 59 insert:

59A—Legal assistance

(1) Despite any other Act or law but subject to subsection (2), the Attorney-General must determine a claim for a relevant payment in respect of legal expenses incurred after the commencement of this section in accordance with the policy set out in Schedule 5.

(2) This section does not prevent the Attorney-General making any payment to a person in excess of the amount that would be payable in accordance with the policy set out in Schedule 5 or in circumstances other than those referred to in that Schedule.

(3) In this section—

relevant payment means a payment as reimbursement of costs associated with the engagement of an independent legal practitioner by a public officer who has been the subject of, or required to participate in, an investigation under this Act.

This is a new clause 52A. This amendment requires the Attorney-General to apply the modified version of legal bulletin No. 5, to be inserted as a schedule of the act by a later amendment, to applications for reimbursement of legal costs as a minimum standard. The provision only applies to expenses incurred after the commencement of this section—see (1)—so it does not affect payment for any legal service previously incurred or the subject of a previous claim. Essentially, what it will do is ensure that there is not a doubling up in claims for reimbursement.

New clause inserted.

Clauses 53 and 54 passed.

Clause 55.

The Hon. F. PANGALLO: I move:

Amendment No 17 [Pangallo–2]—

Page 26, lines 21 and 22 [clause 55(8)]—Delete subclause (8)

This is the amendment to clause 55 where there is the inclusion of this subclause; it was a drafting error and it can be deleted.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 18 [Pangallo–2]—

Page 27, after line 4—Insert:

(9a) Schedule 2, clause 7(4)(a)—delete 'subclause (2)(c)' and substitute:

subclause (2)(d)

(9b) Schedule 2, clause 8(4)(b)—delete paragraph (b)

This is a further amendment to clause 55. Proposed subclause (9a) is consequential to 55(9) of the bill, so this just updates a cross-reference. Proposed subclause (9b) removes the current limitation on claiming privilege in relation to a business record that is required to be produced at an examination.

Amendment carried; clause as amended passed.

Clause 56 passed.

Clause 57.

The Hon. F. PANGALLO: I move:

Amendment No 19 [Pangallo–2]—

Page 28, lines 17 to 21 [clause 57, inserted Schedule 4 Part 2 clause 2(5)]—Delete subclause (5) and substitute:

(5) A person may only be appointed to be the Inspector if, following referral by the Attorney-General of not less than 2 candidates who are qualified for appointment as the Inspector to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*, the appointment has been recommended by at least a two-thirds majority of that Committee.

This changes the process for the appointment of the inspector.

The Hon. R.I. LUCAS: I think it is important to place some clarity in relation to this appointment process, which is the subject of some discussion because of the importance of the position of the inspector. Those of us who followed with some interest the proceedings in the New South Wales jurisdiction in relation to the battle of the legal Titans, as it is commonly referred to, will understand the importance of the position of the inspector and getting an appropriate person. Obviously, it is important to get an appropriate person to be the commissioner, but it is also important to get an appropriate person to be the inspector.

The new process which is being proposed in this package of amendments is that the Attorney-General of the day will propose at least two, but it could be two, appropriate candidates who are qualified for appointment to the Statutory Officers Committee. The Statutory Officers Committee then can express a point of view and a choice, but that has to be recommended by at least a two-thirds majority of the committee. That ensures what is generally intended in relation to these appointments.

The Statutory Officers Committee is used for appointments like the Auditor-General and the Electoral Commissioner, important positions which need to be seen to be truly independent. In this particular case it is even more so, and this will ensure what should occur in practice anyway, and that is a consensus appointment. That is, it does ensure that the government of the day and the opposition of the day, or non-government members of the day, should come to an agreement in relation to the appropriate person to be appointed.

It is important to clarify the alternative selection process which is proposed in this particular package, and it has been done so for a reason, because of the strong views that the Hon. Mr Pangallo, and indeed many others, did have in relation to the importance of getting the right person for this job and one who can be supported by all in terms of the important work that he or she is going to have to do.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 20 [Pangallo–2]—

Page 31, line 37 [clause 57, inserted Schedule 4 Part 3 clause 6(1)]—After 'the Inspector' insert:

at an examination

Amendment No 21 [Pangallo–2]—

Page 32, after line 2 [clause 57, inserted Schedule 4 Part 3 clause 6]—After (3) insert:

(4) The Inspector may exercise the powers of an examiner under Schedule 2 in relation to a person summoned for examination under this clause (and that Schedule applies, subject to any modifications prescribed by the regulations, as if the Inspector were an examiner).

Amendment No. 20 relates to the following amendment and it ensures consistency of wording. Amendment No. 21 will ensure the equivalence of powers to examine witnesses between the inspector and the ICAC.

Amendments carried.

The Hon. F. PANGALLO: I move:

Amendment No 22 [Pangallo–2]—

Page 33, after line 28 [clause 57, inserted Schedule 4 Part 3 clause 8]—Insert:

(12) The provisions set out in Schedule 3 apply in relation to a warrant under this clause subject to any modifications prescribed by the regulations.

This amendment ensures the equivalence between the ICAC and the inspector in relation to search warrants and claims of privilege.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 23 [Pangallo–2]—

Page 35, lines 9 to 16 [clause 57, inserted Schedule 4 Part 4 clause 9(6)(c)]—Delete paragraph (c) and substitute:

(c) if the Inspector finds that undue prejudice to the reputation of any person was caused by the Office or the Commission, the Inspector may—

(i) publish any statement or material that the Inspector thinks will help to alleviate that prejudice; or

(ii) recommend that the Commission or the Office (as the case may require) pay an amount of compensation to the person.

This amendment replaces the power of the inspector to direct the commission or the office to publish retractions, etc., or pay compensation.

The Hon. R.I. LUCAS: Again, I think this is an important amendment, which is different from what was proposed in the original bill. As the Hon. Mr Pangallo just indicated, in the original bill, if I can refer to this clash of the legal titans, inspector versus the commissioner, potentially over a particular issue, what the original bill envisaged was an arrangement where the inspector with his or her view could instruct the commissioner with a completely different view about a particular issue to make certain statements.

What this is outlining is that the inspector is entitled to express his or her view and the commissioner may well take, for their particular reasons, a different view in relation to it, but the proposal allows both of them to express their point of view. The inspector has additional powers, which are outlined in the legislation, by way of recommending compensation and recompense for legal expenses and can make public statements, whereas the commissioner cannot make public statements.

The inspector is provided with an additional suite of powers in relation to this, and he or she is entitled to exercise those powers but does not, in essence, have the power of directing the

commissioner to express a different view from the view that the commissioner may well genuinely hold in relation to a particular issue.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 24 [Pangallo–2]—

Page 35, lines 24 to 30 [clause 57, inserted Schedule 4 Part 4 clause 9(9)]—Delete subclause (9)

This is consequential to the previous amendment.

Amendment carried; clause as amended passed.

New clause 58.

The Hon. F. PANGALLO: I move:

Amendment No 25 [Pangallo–2]—

Page 36, after line 5—Insert:

58—Insertion of Schedule

After Schedule 4 insert:

Schedule 5—Reimbursement of Legal Fees Policy

1—Interpretation

In this Policy, unless the contrary intention appears—

Government Board appointee means a member of a full-time of part-time board, committee, tribunal, trust, commission, council, authority, panel, taskforce, forum, working party or group—

(a) established by or under an Act of Parliament of South Australia (excluding the *Local Government Act 1999*) and having a majority of members appointed by either a Minister or the Governor; or

(b) established by a Minister or legal instrument such as a constitution or charter, having a majority of members appointed by either a Minister or the Governor,

and includes a former Government Board appointee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government Board appointee;

Government employee means—

(a) a public sector employee as defined by the *Public Sector Act 2009*; or

(b) a person who is appointed to any office under an Act; or

(c) a volunteer within the meaning of the *Volunteers Protection Act 2001* where the work carried out by the volunteer is directed or coordinated by a public authority,

and includes a former Government employee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government employee;

Member of Parliament or *Member* includes a former Member where the investigation concerns conduct that occurred at a time when that person was a Minister of the Crown;

relevant ICAC investigation means an investigation under this Act.

2—Who can claim for reimbursement

(1) A Government Employee, Government Board appointee, Minister or Member of Parliament is to be reimbursed for costs they have incurred associated with their engagement of an independent legal practitioner where—

(a) the Government employee, Government Board appointee, Minister or member of parliament has been the subject of, or required to participate in, a relevant ICAC investigation; and

(b) the additional criteria for reimbursement set out in clause 3 are satisfied.

(2) A Government employee's union or professional association that has paid legal costs on behalf of the Government employee in respect of their participation in a relevant ICAC investigation may seek reimbursement in accordance with this Policy subject to the same restrictions and conditions as if the Government employee had made the claim.

3—Additional criteria for reimbursement

The additional criteria for reimbursement are—

(a) the Government employee, Government Board appointee, Minister or Member of Parliament has not been convicted of an indictable offence that constitutes corruption in public administration as a result of the relevant ICAC investigation; and

(b) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing—

(i) advised the Government employee, Government Board appointee, Minister or Member of Parliament that they will not be represented by the Crown Solicitor for the purposes of responding to or participating in the relevant ICAC investigation (or the Crown Solicitor considers that it was appropriate in all the circumstances for the Government employee, Government Board appointee, Minister or Member of Parliament not to approach the Crown Solicitor before obtaining legal representation); and

(ii) agreed that the legal representation of the Government employee, Government Board appointee, Minister or Member of Parliament for the purposes of responding to or participating in the proceedings or investigation is or was reasonably required; and

(c) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing, certified that the costs to be reimbursed are reasonable; and

(d) the Government employee, Government Board appointee, Minister or Member of Parliament is not indemnified in relation to those costs (including by the State of South Australia (through SAicorp or another agency), or under a policy of insurance) and is not entitled to assistance pursuant to the Department of Health Professional Indemnity (Medical Malpractice) Program; and

(e) the Government employee, Government Board appointee, Minister or Member of Parliament has assigned to the Crown in the right of the State of South Australia any right to recover the costs to be reimbursed from any other party.

4—Reasonable costs

(1) The Crown Solicitor (or some other person authorised by the Crown Solicitor) will only certify that costs to be reimbursed are reasonable where satisfied that—

(a) the costs claimed have been reasonably incurred in order to allow the Government employee, Government Board appointee, Minister or Member of Parliament to appropriately respond to or participate in the relevant ICAC investigation; and

(b) the costs claimed have been calculated consistently with the applicable Crown Solicitor's rates for private solicitor fees as published on the Attorney-General's Department website from time to time; and

(c) in the case of costs associated with the briefing of Senior Counsel or Queen's Counsel, and including where costs associated with the

briefing of junior counsel in the same matter are also sought, the exceptional circumstances of the matter justify such expenditure; and

(d) in the case of costs associated with any review or appeal proceedings arising out of the relevant ICAC investigation instigated or joined by the Government employee, Government board appointee, Minister or Member of Parliament, the exceptional circumstances of the matter justify such expenditure; and

(e) any costs or expenses recovered by the Government employee, Government Board appointee, Minister or Member of Parliament from other sources have been appropriately deducted from the costs claimed; and

(f) the Government employee, Government Board appointee, Minister or Member of Parliament has provided all information reasonably requested to allow the costs claimed to be assessed in accordance with this Policy.

(2) The amount to be reimbursed under this Policy shall include GST on the legal costs to be reimbursed if the Government employee, Government Board appointee, Minister or Member of Parliament or, in the case of a Government employee, their union or professional association, is not able to recover the GST as an input tax credit.

5—Procedure for reimbursement

(1) In the event that it is necessary for the Independent Commissioner Against Corruption or the Director of OPI to authorise the provision of information to another person for the purposes of this Policy, the Government employee, Government Board appointee, Minister or Member of Parliament will seek that authorisation as appropriate.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking reimbursement of legal fees in accordance with this Policy must—

(a) obtain as soon as practicable the necessary written agreement from the Crown Solicitor as required by clause 3(b); and

(b) await the finalisation of the relevant ICAC investigation and, if the person has been charged with an offence referred to in clause 3(a), await the finalisation of proceedings for that offence (unless seeking an interim payment in accordance with this Policy); and

(c) submit a written claim for certification of the reasonableness of the costs for reimbursement to the Crown Solicitor, including—

(i) an assignment of rights (as contemplated by clause 3(e)) in a form approved by the Crown Solicitor; and

(ii) all relevant information in support of the eligibility of the claim pursuant to this Policy, including any additional information reasonably requested by the Crown Solicitor; and

(d) enter into a legally enforceable agreement with appropriate security for repayment of any reimbursement in the event that they are convicted of an offence referred to in clause 3(a).

(3) If the costs claimed (or part thereof) are certified as reasonable, the Crown Solicitor will forward the claim to the Attorney-General (or their nominee) for finalisation of the claim.

6—Interim payments

(1) Prior to the finalisation of a relevant ICAC investigation, a Government employee, Government Board appointee, Minister or Member of Parliament may be reimbursed on an interim basis for costs they have incurred associated with their engagement of an independent legal practitioner, where—

(a) the Government employee, Government Board appointee, Minister or Member of Parliament enters into a legally enforceable agreement with appropriate security for repayment of any reimbursement in the event that they are convicted of an offence referred to in clause 3(a);

(b) the criteria for reimbursement set out in this Policy are otherwise satisfied.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking an interim payment of legal fees must do so in accordance with the procedure for reimbursement set out in this Policy.

(3) A refusal by the Attorney-General (or their nominee) to approve an interim payment does not prevent a Government employee, Government Board appointee, Minister or Member of Parliament from seeking reimbursement in accordance with this Policy following the finalisation of the criminal proceedings or relevant ICAC investigation.

(4) If the Crown Solicitor certifies that costs in excess of $100 000 are likely to be incurred by a Government employee, Government Board appointee, Minister or Member of Parliament in respect of a relevant ICAC investigation, the Attorney-General must not refuse to approve interim payments on the making of an application in accordance with the requirements of this clause.

This proposed new clause codifies Legal Bulletin No. 5, but only insofar as it relates to ICAC investigations, and it modifies the bulletin in particular to only exclude persons who are ultimately convicted of an indictable corruption offence and to provide for interim payments where the likely cost will exceed $100,000.

The Hon. R.I. LUCAS: I think it is important to place on the record that I referred to this briefly in my second reading contribution as a significant change. It establishes a new threshold in relation to the potential payment of legal fees. Currently, Legal Bulletin No. 5 has a threshold of material adverse finding or material dereliction of duty and this is conviction; therefore, it is entirely possible that someone might not be convicted but it may well be that they might have reached the threshold of material adverse finding or material dereliction of duty and therefore might not be entitled to a reimbursement of legal offences. This is a significant change in terms of a new test, which is part of this package that is being supported by this chamber.

New clause inserted.

Schedule 1.

The Hon. F. PANGALLO: I move:

Amendment No 26 [Pangallo–2]—

Page 39, lines 15 to 20 [Schedule 1, clause 13(2)]—Delete subclause (2) and substitute:

(2) Section 246(6)(ba)—delete 'Commissioner Against Corruption, the Deputy Commissioner, an examiner or an investigator under the Independent Commissioner Against Corruption Act 2012 or in the course of the assessment of a complaint or report under that Act' and substitute:

Commission Against Corruption under the Independent Commission Against Corruption Act 2012

This corrects a drafting error.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 27 [Pangallo–2]—

Page 39, after line 20—Insert:

13A—Amendment of section 251—Abuse of public office

Section 251—after subsection (2) insert:

(3) This section does not apply in relation to the use of information by a member of Parliament in the course of, or for the purposes of, the proper exercise of the functions of a member of Parliament (which include, without limitation, receiving information from constituents and making enquiries on behalf of constituents).

This is a proposed new clause. This is a related amendment to the Criminal Law Consolidation Act and carves out certain information from the abuse of public office offence to ensure that the offence does not inhibit the proper exercise of functions by a member of parliament.

The Hon. T.A. FRANKS: I think it is important to place on the record in terms of some of the implementation of this particular amendment that any on foot investigations against MPs will continue under the old act, but other matters will have the act as amended apply. Where those other matters not involving MPs do not relate to corruption, they will need to be referred on. So no MPs get a protection racket out of us tonight.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 28 [Pangallo–2]—

Page 41, lines 2 to 18 [Schedule 1 clause 22]—Delete clause 22

This provision is not necessary under the final form of the Statutes Amendment (Local Government Review) Bill 2021. The provision being amended was actually removed from that bill by amendments in the House of Assembly.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 29 [Pangallo–2]—

Page 44, after line 36 [Schedule 1, clause 30, inserted section 12A]—Insert:

(3) The system must ensure that the Ombudsman gives consideration to the motives of a complainant and that complaints that are apparently made in bad faith, for an improper purpose, are vexatious or that otherwise amount to an abuse of the complaints system are not received for consideration by the Ombudsman.

This amendment to propose section 12A in clause 30 is consequential to match the amendment to the ICAC Act.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 30 [Pangallo–2]—

Page 52, lines 20 to 26 [Schedule 1, clause 40, inserted section 29(8)(c)]—Delete paragraph (c) and substitute:

(c) if the Inspector finds that undue prejudice to the reputation of any person was caused by the Ombudsman, the Inspector may—

(i) publish any statement or material that the Inspector thinks will help to alleviate that prejudice; or

(ii) recommend that the Ombudsman pay an amount of compensation to the person.

Amendment No 31 [Pangallo–2]—

Page 53, lines 1 to 6 [Schedule 1, clause 40, inserted section 29(12)]—Delete inserted subsection (12)

These amendments are inserted in section 29 in clause 40 and they are consequential to match the ICAC amendment.

Amendments carried.

The Hon. F. PANGALLO: I move:

Amendment No 32 [Pangallo–2]—

Page 56, line 5 [Schedule 1, clause 40, inserted section 29A(7)(b)]—Delete inserted paragraph (b)

Amendment No 33 [Pangallo–2]—

Page 56, lines 8 to 12 [Schedule 1, clause 40, inserted section 29A(8)]—Delete inserted subsection (8)

These amendments are inserted in section 29A in clause 40 and are consequential to match the ICAC amendment.

Amendments carried.

The Hon. F. PANGALLO: I move:

Amendment No 34 [Pangallo–2]—

Page 57, after line 18 [Schedule 1, clause 40]—Insert:

29C—Legal assistance

(1) Despite any other Act or law but subject to subsection (2), the Attorney-General must determine a claim for a relevant payment in respect of legal expenses incurred after the commencement of this section in accordance with the policy set out in Schedule 1.

(2) This section does not prevent the Attorney-General making any payment to a person in excess of the amount that would be payable in accordance with the policy set out in Schedule 1 or in circumstances other than those referred to in that Schedule.

(3) In this section—

relevant payment means a payment as reimbursement of costs associated with the engagement of an independent legal practitioner by a public officer who has been the subject of, or required to participate in, an investigation under this Act involving allegations of misconduct or maladministration in public administration.

This is a proposed new section to match ICAC. This amendment requires the Attorney-General to apply the modified version of Legal Bulletin 5—this is to be inserted as a schedule of the act by a later amendment—to applications for reimbursement of legal costs as a minimum standard.

The provision only applies to expenses incurred after the commencement of this section, see number (1), so it does not affect payment for any legal service previously incurred or the subject of a previous claim.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 35 [Pangallo–2]—

Page 59, after line 15—Insert:

41A—Insertion of Schedule 1

After section 33 insert:

Schedule 1—Reimbursement of Legal Fees Policy

1—Interpretation

In this Policy, unless the contrary intention appears—

Government Board appointee means a member of a full-time of part-time board, committee, tribunal, trust, commission, council, authority, panel, taskforce, forum, working party or group—

(a) established by or under an Act of Parliament of South Australia (excluding the *Local Government Act 1999*) and having a majority of members appointed by either a Minister or the Governor; or

(b) established by a Minister or legal instrument such as a constitution or charter, having a majority of members appointed by either a Minister or the Governor,

and includes a former Government Board appointee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government Board appointee;

Government employee means—

(a) a public sector employee as defined by the *Public Sector Act 2009*; or

(b) a person who is appointed to any office under an Act; or

(c) a volunteer within the meaning of the *Volunteers Protection Act 2001* where the work carried out by the volunteer is directed or coordinated by a public authority,

and includes a former Government employee where the investigation or proceeding concerns conduct that occurred at a time when that person was a Government employee;

Member of Parliament or *Member* includes a former Member where the investigation concerns conduct that occurred at a time when that person was a Minister of the Crown;

relevant investigation means an investigation under this Act involving allegations of misconduct or maladministration in public administration.

2—Who can claim for reimbursement

(1) A Government Employee, Government Board appointee, Minister or Member of Parliament is to be reimbursed for costs they have incurred associated with their engagement of an independent legal practitioner where—

(a) the Government employee, Government Board appointee, Minister or member of parliament has been the subject of, or required to participate in, a relevant investigation; and

(b) the additional criteria for reimbursement set out in clause 3 are satisfied.

(2) A Government employee's union or professional association that has paid legal costs on behalf of the Government employee in respect of their participation in a relevant investigation may seek reimbursement in accordance with this Policy subject to the same restrictions and conditions as if the Government employee had made the claim.

3—Additional criteria for reimbursement

The additional criteria for reimbursement are—

(a) no material adverse finding against the Government employee, Government Board appointee, Minister or Member of Parliament has been made as a result of the relevant investigation; and

(b) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing—

(i) advised the Government employee, Government Board appointee, Minister or Member of Parliament that they will not be represented by the Crown Solicitor for the purposes of responding to or participating in the relevant investigation (or the Crown Solicitor considers that it was appropriate in all the circumstances for the Government employee, Government Board appointee, Minister or Member of Parliament not to approach the Crown Solicitor before obtaining legal representation); and

(ii) agreed that the legal representation of the Government employee, Government Board appointee, Minister or Member of Parliament for the purposes of responding to or participating in the proceedings or investigation is or was reasonably required; and

(c) the Crown Solicitor (or some other person authorised by the Crown Solicitor) has, in writing, certified that the costs to be reimbursed are reasonable; and

(d) the Government employee, Government Board appointee, Minister or Member of Parliament is not indemnified in relation to those costs (including by the State of South Australia (through SAICorp or another agency), or under a policy of insurance) and is not entitled to assistance pursuant to the Department of Health Professional Indemnity (Medical Malpractice) Program; and

(e) the Government employee, Government Board appointee, Minister or Member of Parliament has assigned to the Crown in the right of the State of South Australia any right to recover the costs to be reimbursed from any other party.

4—Reasonable costs

(1) The Crown Solicitor (or some other person authorised by the Crown Solicitor) will only certify that costs to be reimbursed are reasonable where satisfied that—

(a) the costs claimed have been reasonably incurred in order to allow the Government employee, Government Board appointee, Minister or Member of Parliament to appropriately respond to or participate in the relevant investigation; and

(b) the costs claimed have been calculated consistently with the applicable Crown Solicitor's rates for private solicitor fees as published on the Attorney-General's Department website from time to time; and

(c) in the case of costs associated with the briefing of Senior Counsel or Queen's Counsel, and including where costs associated with the briefing of junior counsel in the same matter are also sought, the exceptional circumstances of the matter justify such expenditure; and

(d) in the case of costs associated with any review or appeal proceedings arising out of the relevant investigation instigated or joined by the Government employee, Government board appointee, Minister or Member of Parliament, the exceptional circumstances of the matter justify such expenditure; and

(e) any costs or expenses recovered by the Government employee, Government Board appointee, Minister or Member of Parliament from other sources have been appropriately deducted from the costs claimed; and

(f) the Government employee, Government Board appointee, Minister or Member of Parliament has provided all information reasonably requested to allow the costs claimed to be assessed in accordance with this Policy.

(2) The amount to be reimbursed under this Policy shall include GST on the legal costs to be reimbursed if the Government employee, Government Board appointee, Minister or Member of Parliament or, in the case of a Government employee, their union or professional association, is not able to recover the GST as an input tax credit.

5—Procedure for reimbursement

(1) In the event that it is necessary for the Ombudsman to authorise the provision of information to another person for the purposes of this Policy, the Government employee, Government Board appointee, Minister or Member of Parliament will seek that authorisation as appropriate.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking reimbursement of legal fees in accordance with this Policy must—

(a) obtain as soon as practicable the necessary written agreement from the Crown Solicitor as required by clause 3(b); and

(b) await the finalisation of the relevant investigation (unless seeking an interim payment in accordance with this Policy); and

(c) submit a written claim for certification of the reasonableness of the costs for reimbursement to the Crown Solicitor, including—

(i) an assignment of rights (as contemplated by clause 3(e)) in a form approved by the Crown Solicitor; and

(ii) all relevant information in support of the eligibility of the claim pursuant to this Policy, including any additional information reasonably requested by the Crown Solicitor.

(3) If the costs claimed (or part thereof) are certified as reasonable, the Crown Solicitor will forward the claim to the Attorney-General (or their nominee) for finalisation of the claim.

6—Interim payments

(1) Prior to the finalisation of a relevant ICAC investigation, a Government employee, Government Board appointee, Minister or Member of Parliament may

be reimbursed on an interim basis for costs they have incurred associated with their engagement of an independent legal practitioner, where—

(a) the Government employee, Government Board appointee, Minister or Member of Parliament enters into a legally enforceable agreement with appropriate security for repayment of any reimbursement in the event that a material adverse finding against the Government employee, Government Board appointee, Minister or Member of Parliament is later made as a result of the relevant proceedings or investigation; and

(b) the criteria for reimbursement set out in this Policy are otherwise satisfied.

(2) A Government employee, Government Board appointee, Minister or Member of Parliament seeking an interim payment of legal fees must do so in accordance with the procedure for reimbursement set out in this Policy.

(3) A refusal by the Attorney-General (or their nominee) to approve an interim payment does not prevent a Government employee, Government Board appointee, Minister or Member of Parliament from seeking reimbursement in accordance with this Policy following the finalisation of the relevant investigation.

(4) If the Crown Solicitor certifies that costs in excess of $100 000 are likely to be incurred by a Government employee, Government Board appointee, Minister or Member of Parliament in respect of a relevant investigation, the Attorney-General must not refuse to approve interim payments on the making of an application in accordance with the requirements of this clause.

This is consequential to amendment No. 34.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 36 [Pangallo–2]—

Page 60, lines 15 to 20 [Schedule 1, clause 42(10), inserted subsection (4)]—Delete 'in respect of an investigation by the Commission or the Inspector under the *Independent Commission Against Corruption Act 2012* if the Committee is satisfied that such an inquiry would assist the Committee to understand any matters of public policy that might arise in the circumstances' and substitute:

by the Commission or the Inspector under the Independent Commission Against Corruption Act 2012

This amendment removes the proposed power of the Crime and Public Integrity Policy Committee to inquire into particular investigations and makes it a more general power.

The Hon. R.I. LUCAS: This is an important amendment from the government's viewpoint in relation to the original drafting of the bill. Whether intended or otherwise, the original drafting of the bill would have allowed the parliamentary committee to require the production of documents from the commission whilst an investigation was occurring. In the government's view, that was not something that we could support.

This particular provision, in essence, caters for a different set of arrangements. It does not allow for the production of documents during a particular investigation by the commission. Clearly, that would not be appropriate, in our view, whilst an investigation was being conducted by the commission. As the honourable member has indicated, there is a more general power there which is now provided for in the proposed amendment to the bill.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 37 [Pangallo–2]—

Page 66, lines 7 to 18 [Schedule 1, clauses 66 and 67]—Delete clauses 66 and 67 and substitute:

66—OPI organisational structure

Until the day fixed by the Minister by notice in the Gazette (which must be not more than 3 months after the commencement of this Act), the Minister may appoint either the Commissioner under the

Independent Commission Against Corruption Act 2012 or another person (on terms and conditions determined by the Minister) to act as the Director of OPI under that Act (as amended by this Act).

67—Staff

(1) On the commencement of this Act—

(a) employees engaged by the Commissioner under section 12 of the *Independent Commissioner Against Corruption Act 2012* (including any employees assigned to the Office under section 18(3)(a) of the Act) will be taken to be engaged by the Commission under that section as amended by this Act; and

(b) arrangements established by the Commissioner under section 13 of the *Independent Commissioner Against Corruption Act 2012* will be taken to continue as if they were arrangements established by the Commission under that section as amended by this Act; and

(c) Public Service employees assigned to the Office under section 18(3)(a) of the *Independent Commissioner Against Corruption Act 2012* will be taken to continue to be assigned to the Office under section 17(2)(b) of the *Independent Commission Against Corruption Act 2012*).

(2) Despite section 17(2) of the *Independent Commission Against Corruption Act 2012*, the Independent Commission against Corruption and the Director of OPI may enter into an arrangement for the continued assignment of employees who were, immediately before the commencement of this Act, assigned to the Office under section 18(3)(b) of the *Independent Commissioner Against Corruption Act 2012*.

67A—Investigations etc to continue

(1) Subject to this clause, the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continues to apply in relation to any complaint or report made under that Act on or before 25 August 2021, or any investigation commenced under that Act before 25 August 2021.

(2) The following provisions of the *Independent Commission Against Corruption Act 2012* as amended by this Act apply in relation to a matter referred to in subclause (1):

(a) section 6;

(b) section 59A and Schedule 5 (but only in respect of legal expenses incurred after commencement of section 59A and, in relation to a matter involving suspected misconduct or maladministration in public administration, as if Schedule 1 of the *Ombudsman Act 1972*, as inserted by this Act and with any necessary modifications, applied instead of Schedule 5).

(3) If a matter that continues to be dealt with under the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act in accordance with subclause (1) is not completed within 12 months after the commencement of this clause, the matter must be discontinued (but nothing prevents the matter being the subject of a further complaint or report under the *Independent Commission Against Corruption Act 2012*, or the *Ombudsman Act 1972*, as amended by this Act).

67B—Complaints and reporting system

(1) The complaints system established under section 18, and the reporting system established under section 19, of the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act continue as the complaints system under section 18A and the reporting system under section 18B (respectively) of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act until new systems can be established under those sections (subject to any modifications that are necessary or are prescribed by the regulations).

(2) Section 18A(3) of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act does not apply for the period of 3 months after the commencement of this Act.

(3) The complaints system established under section 18, and the reporting system established under section 19, of the *Independent Commissioner Against Corruption Act 2012* as in force before the commencement of this Act may be adopted, on the commencement of this Act, by the Ombudsman as the complaints system under section 12A and the reporting system under section 12D (respectively) of the *Ombudsman Act 1972* as in force after the commencement of this Act until new systems can be established

under those sections (subject to any modifications that are necessary or are prescribed by the regulations).

(4) Section 12A(3) of the *Ombudsman Act 1972* as in force after the commencement of this Act does not apply for the period of 3 months after the commencement of this Act.

67C—Websites

Despite section 48 of the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act, the websites referred to in that section are not required immediately on the commencement of that section but must be developed as soon as practicable (and in any case within 6 months after the commencement of that section).

67D—Inspector under *Ombudsman Act 1972*

The operation of section 29 of the *Ombudsman Act 1972* (as inserted by this Act) is suspended until the day on which section 57 of this Act comes into operation.

This amendment is to replace clauses 66 and 67 with new clauses which are as follows.

Proposed clause 66 is that the OPI continues in existence under the bill, but this allows for an acting appointment of the director, pending a recruitment process. An acting appointee can be the commissioner or someone else.

Proposed clause 67 allows current staffing arrangements to continue. Proposed clause 67A allows all current matters to continue to be dealt with in accordance with the current act for 12 months. The amended parliamentary privilege provision and new legal cost provisions, however, will apply to these continuing matters.

Proposed clause 67B allows the current systems to continue until new systems can be put in place. Proposed clause 67C allows time for the development of new websites. Proposed clause 67D is consequential to the new commencement provision under which section 67 will commence later by proclamation.

The Hon. R.I. LUCAS: These two are important amendments in terms of ultimately ensuring the government was able to support the bill with amendments, in particular new clause 67A, which allows investigations to continue. Should there be a view from anyone out there that in this way this was some sort of protection racket for either members of parliament or ministers or, indeed, public officers, if there are existing investigations that are being conducted, that they are able to continue under the terms set out in this particular amendment, and the commission in particular has a period of 12 months to be able to conclude those investigations.

This new clause 67A makes it quite clear that any existing inquiry or investigation into either a minister, a member of parliament or a public officer is able to continue, and obviously that is a matter for the commission. There is an important issue there, too, in terms of clarification. It is not just whether an investigation or inquiry has started. In essence, if a complaint has been lodged with the various integrity bodies is the starting point, then the commission has a 12-month period within which to conclude her investigations at the moment.

Again, I repeat a statement that I think the Hon. Ms Franks made earlier: this is not designed to be a protection racket for ministers, members of parliament or, indeed, public officers because it applies to us all. It ensures that the existing arrangements will be able to continue, and then the new provisions will apply for new issues, but it will allow any existing issues to be further considered and concluded under the existing arrangements.

The Hon. K.J. MAHER: I just want to make a brief contribution. I think it is important to state what I think is the joint understanding by all members of this provision. I am sure if anyone has a different understanding, they will correct me. As the Treasurer said, it is not just in relation to any investigation that has commenced, but it is any complaint or report made under this act on or before 25 August.

It is envisaged that this would capture anything that has been reported under the operations of the Independent Commissioner Against Corruption Act regardless of whether an investigation was actually started, regardless of what the ICAC has done with that complaint—whether it has referred it somewhere else, to another integrity agency, or not started investigation—as the new clause 67A says, as long as there has been a complaint or report, it can still be continued and will be still

continued under the act as it applies prior to any amendments we make in this bill. As it goes on, there is a 12-month time limit in which that investigation is to be completed. That is sensible so that you do not have the possibility of two different schemes, essentially, running forever.

It is important, also, that if that is not completed within the 12-month period it does not prohibit any further investigation. It simply means that has to be started under the provisions of the new act. I think the transitional provision here is a particularly important part, that anything that has effectively been referred to an integrity agency—and ICAC in particular—reported or complained to on or before 25 August continues on under the old scheme and the provisions of the old scheme.

The Hon. T.A. FRANKS: I reiterate my comments from before that this is in no way a move that will diminish the current proceedings. Where members of parliament in particular are concerned, what we do tonight is in no way a protection racket. We seek to improve the act going forward. I think it was a very important part of the discussions outside this chamber to bring quite an extensive set of amendments to the bill and this is one of them. Certainly, the Greens would not have copped any MPs being let off the hook in terms of corruption.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 38 [Pangallo–2]—

Page 66, line 22 [Schedule 1 clause 68]—Delete 'this Act may be continued after the commencement of this Act' and substitute:

section 57 may be continued after the commencement of that section

This is consequential to the new commencement provision.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 39 [Pangallo–2]—

Page 66, lines 28 and 29 [Schedule 1 clause 69]—Delete 'this clause' and substitute:

section 57

This is consequential to the new commencement provision.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 40 [Pangallo–2]—

Page 66, lines 33 to 42 [Schedule 1, clause 69(2) and (3)]—Delete subclauses (2) and (3) and substitute:

(2) If the Inspector finds that undue prejudice to the reputation of any person was caused by the Commissioner, employees of the Commissioner or employees of the Office, the Inspector may—

(a) publish any statement or material that the Inspector thinks will help to alleviate that prejudice; or

(b) recommend that the Commission pay an amount of compensation to the person.

(3) The Inspector may also make recommendations to the Attorney General in relation to the making of ex gratia payments as reimbursement of legal costs incurred by persons the subject of, or required to participate in, any investigation under the *Independent Commissioner Against Corruption Act 2012* (being costs incurred before the commencement of section 59A of the *Independent Commission Against Corruption Act 2012* (as inserted by this Act).

This is an amendment to clause 69. Proposed subclause (2) is consequential to amendments to the inspector provisions in the ICAC Act. Proposed subclause (3) allows the inspector to consider historical costs, claims and make recommendations. Again, I will briefly say that this is quite important because it enables the inspector to also look at past cases involving the ICAC, going back from the time that ICAC started operating.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 41 [Pangallo–2]—

Page 67, line 2 [Schedule 1, clause 70]—After 'amended by this Act' insert:

(including under the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act)

This amendment to clause 70 ensures that additional transitional regulations could be made.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. F. PANGALLO (20:48): I move:

That this bill be now read a third time.

I will speak briefly to the bill, just to sum it up. This bill is quite a significant bill. It is intended to reform the current integrity agency landscape in South Australia to improve their operation, transparency and accountability to the South Australian community and the public, who need to have the highest levels of trust and reliance on these key agencies.

I want to thank every member who has contributed to this bill and to the amendments. I would like to thank you, Mr Acting Chairman, for your input over the last, I think, 2½ years that we have been discussing this, perhaps the last three years since I became a member of the Crime and Public Integrity Policy Committee, of which you are a past chairman. We certainly shared similar views on the operations of integrity agencies in South Australia and what needed to be done, and I thank you for your support and encouragement in continuing our journey to get to this point this evening.

I thank the honourable Leader of the Opposition, the Hon. Rob Lucas and the other members I have already mentioned—Dan Cregan, member for Kavel, and Steve Murray, member for Davenport—who have also assisted in doing a lot of the heavy lifting in ensuring that we have come to an incredible position here in the parliament. I also thank the Hon. Tammy Franks for her great contribution earlier, as well as the Hon. Robert Simms.

It is quite illuminating to see that this has multiparty, multipartisan, support. It is had the support of every member in this chamber, and I thank every member for the way they have looked at this legislation and the proposed amendments. It was not an easy task, putting this together, and I have to tell the chamber that it would have been a pretty difficult task if I had not had assistance from people like Mr Cregan and Mr Murray, as well as parliamentary counsel, as I mentioned before, and also the valuable input we have had from all members who have taken a strong interest in this matter. The input has been invaluable.

I want to reiterate what the Hon. Tammy Franks said. To have members in this place be accused of running a protection racket for themselves is galling. That was never the intention of the reforms in this bill. To see the criticisms that have been levelled at this place and at these members I find quite disturbing, to be honest. Every member who has had a look at this bill or who has contributed to this bill has done so in a manner that is not biased in any way. It is not about trying to ensure that the integrity bodies do not come after us.

What we have taken into account here is not only the integrity of the integrity agencies, which is what we are doing, but also so that the public can actually have confidence in these agencies, that they are doing the work they are doing and justifying the enormous expense. As the Hon. Rob Lucas pointed out earlier, it costs a lot of money to run these matters.

It is quite alarming when you see cases front the courts and hear the prosecutors get up and say, 'We don't have a case.' What? After something like three or four years of investigations involving all manner of expenses being incurred, not to mention the expenses and stress placed on defendants

over that period of time, to then front a court and say, 'We're not ready,' or, 'We can't proceed,' or, 'We haven't got a case, you have to come back,' is just not acceptable—it just is not.

We also need to take into account those who have gone through the process and have come out either being found not guilty or being acquitted. There is one matter that has come before our committee, where the person in question was not even interviewed by the ICAC. It was just the fact that he was being looked at by ICAC. He was never interviewed and he then had to front court and was told that the matter against him had been withdrawn, and he had to live through all that.

On top of that, of course, he has incurred enormous legal expenses and he still has expenses that are owed to him, and they have not been paid to him. Again, it just shows that there is a lot of unfairness for those who are dragged into the system and have been shown to be innocent in this matter.

As I said, I am not a lawyer, I am not a QC, I am not a judge or whatever, but if you go to court, you are charged with something and you are found not guilty or you are acquitted, I think you have every expectation that when you walk out of that courtroom you are an innocent person. However, we are told that that is not the case, that everybody is not innocent at all. There must be something, that you have to carry some kind of guilt, and just because a jury did not find you guilty, that does not mean you did not do anything. It is extraordinary.

At a recent meeting of the select committee into reputational harm and damage, a senior police officer from the Anti-Corruption Branch tried to argue the point that just because the jury were hung on a number of charges or a number of accusations against a number of police officers, the reason they were hung means that for 50 per cent they were guilty, that it was half and half, and the jury was unsure as to whether they were guilty or not, so 50 per cent felt they might have been guilty.

That was a crazy assumption by a senior police officer. It could well be they were hung on it, perhaps because they were not even convinced that there was any evidence on it and did not know where to go. But for a police officer to then say that they could easily have taken that stuff but the jury could not decide—so half the jury were undecided, half the jury were decided—is just absolutely ludicrous.

I will just finish with this—and I have said this before—the stain of an ICAC corruption is very difficult to remove. We have seen that. Compared with any other offences of people who go through the courts, the stain of corruption is one of the most difficult to remove. I think that tonight we have certainly moved to make the process fairer for people. We have not diminished the power of ICAC or any integrity bodies. As has been pointed out, they are there to concentrate on corruption.

I do not know whether the commissioner has seen the raft of amendments that we have moved tonight. She may have a different point of view after viewing these as to what we are doing. What we have done here tonight, as I said, is make the ICAC a more streamlined organisation that can focus on what it was intended to do, and that is to find corruption. If the current commissioner thinks that what we are doing will cripple them, I think that perhaps she has a fear that her bureaucracy may well be shrunk and that she may not have enough work to do.

Nonetheless, it does not detract from the fact that they are still there, they still have the same powers—very powerful, coercive powers—to try to root out corruption. Again, thank you to all the members who have contributed. I look forward to the passage of this bill in the House of Assembly.

Bill read a third time and passed.

Motions

ROYAL DISTRICT NURSING SERVICE

The Hon. T.A. FRANKS (21:00): I move:

That this council—

1. Supports the Royal District Nursing Service (RDNS) SA frontline workers and Health Services Union (HSU) SA/NT as they fight an unfair pay freeze;

2. Recognises the essential work of RDNS workers, particularly during the COVID-19 pandemic; and

3. Acknowledges that the privatisation of Domiciliary Care has failed workers.

This motion observes that privatisation has failed the RDNS workers of our state. Indeed, I could add that it is also failing the community. I have in recent months stood proudly in solidarity with the RDNS workers and the Health Services Union as they have taken industrial action on several occasions over the past few months. These workers, who used to work for Domiciliary Care before the service was privatised, are fighting for a fair pay rise and for their leave entitlements not to be cut.

They were promised, when they did work for Domiciliary Care before the service was privatised, that they would never be in worse conditions and yet what they have been offered are worse conditions and a pay freeze. It is frankly insulting—particularly when these workers have been giving their all to keep South Australians safe and healthy over the past year and a half—that they are now being offered a pay freeze for their very precious work.

Freezing the pay of any workers, let alone frontline health workers during a pandemic, is not only unfair, it is not right. These workers have been let down by successive governments. First we saw the utter failure of privatisation that failed these workers and the community that relies upon them. These dedicated, hardworking people are now walking off the job in protest—as is their right—because their work is not being respected. We have seen in this place during these last many months of the pandemic members extolling the virtues of these most essential care workers. We are all happy to give them applause, to laud them in the parliament, but it seems we are looking away in this place as their pays are frozen.

This shift into the private sector was initiated in 2017 under the former government, when Domiciliary Care services that had been run by the then Department for Communities and Social Inclusion were moved to the RDNS, run by Silver Chain. Workers were promised that they would keep their conditions but that promise, of course, is in the process of being broken.

What we are seeing here is a private provider putting the bottom budget line of their company ahead of service, ahead of its workers and ahead of our community. By putting a bottom line of profit ahead of services, this government would indeed threaten people's livelihoods and the quality of these services that they so essentially provide.

These are workers on the frontline of our pandemic. They look after some of the most vulnerable people in our society and these workers and their union—the HSU, the Health Services Union—have been clear that a strike and strike action is the last thing they want but they have run out of options. They are not being listened to, their pay has been frozen and their working conditions are under threat.

These workers are not asking for anything outrageous or anything they do not deserve, yet the RDNS has ignored their requests. I urge members in this place to support these workers in their struggle, to recognise the devastating impact privatisation has had on them and recognise the vital work of these workers, and call on the RDNS to rightly lift their pay and give them the support that they so mightily provide those in our community.

Adjourned debate on motion of Hon. I.K. Hunter.

ROTARY

Adjourned debate on motion of the Hon. N. J. Centofanti:

That this council—

1. Recognises the Centenary Year of Rotary in Australia and New Zealand, launched at Government House in Canberra by the Governor-General His Excellency David Hurley and Her Excellency Linda Hurley, on 10 July 2020;

2. Recognises 21 April as the date on which the first Rotary Club in Australia was established in Melbourne in 1921, and the subsequent establishment of a club in Sydney in May of that year; and

3. Acknowledges the volunteer efforts, and successes, of Rotary members over the last 100 years, in providing aid of all sorts for those in need and expresses the deepest thanks and appreciation for their service.

(Continued from 12 May 2021.)

The Hon. J.E. HANSON (21:05): Noting that this matter first came for the recognition of the council on 10 July, and it is for forwarding today, I want to make a few brief comments on behalf of this side of the chamber in regard to the content of the motion.

For over 100 years, Rotary has been the centre of the world's togetherness, bringing together individuals with diverse backgrounds so they can be closer to exchange ideas and form meaningful lifelong friendships. It was in the fifth year of last century that the Rotary Club of Chicago was formed, founded by Chicago attorney Paul Harris.

Harris was born in 1868 in Wisconsin, before relocating at the age of three to Vermont, where he was raised in the care of his parental grandparents. He attended the University of Vermont and Princeton University before receiving a law degree. He settled and practised law in Chicago. However, it was four years on when Harris met a fellow attorney in Bob Frank on the north side of Chicago.

It was while walking the streets of the north side of Chicago, admiring the surrounding small business owners, that Frank demonstrated acts of kindness to the many shopkeepers and businessmen, who impressed Harris as he had not seen such friendliness since moving to Chicago. This reminded him a bit of growing up in Vermont and triggered the thought of forming an organisation for local professionals.

Harris eventually persuaded several business associates to gather in a small office in downtown Chicago to discuss the foundations of what is now known as the first Rotary club meeting. Only a few years later, Harris was elected as the third president of the Rotary Club of Chicago. Harris was driven by the resistance of other club members to expand Rotary beyond the city. Harris persisted until he achieved his ambitions shortly thereafter, where Rotary expanded to several other major US cities, totalling 16 clubs across the nation.

But he did not stop there. He was determined to expand the organisation even further, acknowledging the need to form a national association, with an executive board of directors. The first national convention was held in Chicago, where Harris was elected as president of the National Association of Rotary Clubs, which is now known as Rotary International. Harris endeavoured to achieve his goal, resulting in the operation of Rotary clubs in six continents only 16 years after it was first founded.

The Rotary commitment still endures today, through an organisation that remains international. Since its establishment in 1905, Rotary has made remarkable history and has strived to bring our world closer together. Rotary is the largest non-religious global network consisting of 1.2 million neighbours, friends, leaders and problem solvers who see a world where people unite and take action to create lasting change across the globe in our communities and in ourselves. For over 100 years, Rotary has faced some of the world's toughest challenges and helped a wide range of international and local service organisations.

In 1911, the second Rotary convention in Portland, Oregon, approved the 'He profits most who serves best' as the Rotary motto. The wording was adapted from a speech that Rotarian Arthur Frederick Sheldon delivered at the first convention, held in Chicago the previous year. The Portland gathering inspired the motto 'Service above self', conveying the philosophy of an unselfish volunteer service, which was officially established in 1989 by the Council on Legislation.

In 2004, 'He profits most who serves best' was modified to 'They profit most who serve best', and to its current wording 'One profits most who serves best' in 2010. Rotary members, as we can tell from their fast development and very keen method to get it right, are passionate, intelligent and determined individuals who have formed a great history of achievements. The fight to work towards a world of peace and health began with the fight against polio in 1979, where the project to immunise six million children in the Philippines was one of Rotary's many accomplishments—certainly something we could all aspire to today. Today, polio remains endemic in only two countries, down from 125 in only 1988.

Australia ranks 10th in the total number of members for Rotarians across the world. There are over 25,000 Australian Rotarians and more than 1,000 clubs. In South Australia, the Rotary Club of Gawler, which was formed in 1954, has created many legacies, from establishing local parks and

gardens to running a weekly market at the Gawler railway station and ensuring events such as the Gawler Show remain successful. From literacy and peace to water and health, Rotary is continuously working to better our world and to remain committed for many more centuries to come. Thanks very much for listening.

The Hon. N.J. CENTOFANTI (21:10): I rise to thank the Hon. Justin Hanson for his contribution to this motion. I concur with the Hon. Justin Hanson's comments on the tremendous work that Rotary has done over many years. I am extremely proud to be moving this motion which congratulates Rotary Australia on celebrating 100 years of uniting people from around the globe, who take action to deliver long-term solutions to some of our world's most persistent issues.

It has been brought to my attention that we are extremely close to establishing the first parliamentary friends of Rotary group. I look forward to attending that inaugural meeting sometime towards the end of this year. As I have said previously, making a positive difference to the life of one person is a very good thing. Making a difference to a whole community, a whole country, is another thing altogether, and that is what Rotarians do. They develop leaders who have the spirit of their community at their heart and are committed to supporting those in need. Rotary deliver more and add great value to our society. With that in mind, I commend the motion to the house.

Motion carried.

CITY OF CAMPBELLTOWN BY-LAWS

Orders of the Day, Private Business, No.35: Hon. N.J. Centofanti to move:

That By-law No. 6 of the City of Campbelltown concerning cats, under the Local Government Act 1999 and the Dogs and Cats Management Act 1995, made on 15 December 2020 and laid on the table of this council on 2 February 2021, be disallowed.

The Hon. N.J. CENTOFANTI (21:12): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

Bills

STATUTES AMENDMENT (USE OF FACIAL RECOGNITION SYSTEM) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 2 December 2020.)

The Hon. K.J. MAHER (Leader of the Opposition) (21:12): I rise to speak on the bill and indicate that the opposition will be supporting this bill. The bill proposes an identical change to both the Casino Act 1997 and the Gaming Machines Act 1992. It provides:

> …the licensee must not use information obtained by means of operating a facial recognition system—
>
> (a) for a purpose other than identifying a barred person within the meaning of Part 6 of the Gambling Administration Act 2019; or
>
> (b) other than is necessary for the purposes of reducing the harm caused by gambling.

I note that the government has also proposed restrictions on facial recognition technology in the Liquor Licensing (Miscellaneous) Amendment Bill 2021, which proposes:

> …the licensee must not use a facial recognition system at the licensed premises for or in connection with any of the following:
>
> (a) encouraging or providing incentives to a person to consume liquor or gamble;
>
> (b) customer loyalty programs relating to gambling;
>
> (c) a lottery within the meaning of the Lottery and Gaming Act 1936 or the Lotteries Act 2019;
>
> (d) any other purpose notified by the Commissioner to the system provider or licensee.

Whilst these are very broadly similar, the bill before us tonight differs in relation to not allowing for any other purpose, where the government states the purpose it is allowed for. Given they are, in effect, seeking to overcome the same evil—that is, for purposes other than using it for a barred person—the opposition is inclined to support the bill.

The Hon. C. BONAROS (21:14): I rise to speak in support of the Statutes Amendment (Use of Facial Recognition System) Bill introduced by our colleague the Hon. Tammy Franks. As members in this place and the community well know, we have been strong advocates in the space of gambling for a very long time. We acknowledge the harm that poker machines and gambling bring to the community and in particular to problem gamblers, who are shamelessly preyed upon by a multibillion dollar industry.

Governments are now heavily reliant on the massive revenue streams generated from gambling. That we know very well and was clearly demonstrated in this place when the last raft of gambling reforms passed through this parliament as a result of what can only be described as a cosy deal between the two major parties done behind closed doors—

The Hon. R.A. Simms: Absolute outrage!

The Hon. C. BONAROS: An absolute outrage, as the Hon. Robert Simms says—with absolutely zero consideration of the impacts that those changes would have on problem gamblers. The gambling industry is never one to miss an opportunity to prey upon and exploit the often vulnerable clientele who are lured into their venues on a hopeless quest to win, despite them knowing full well that the odds of this happening are absolutely stacked against them.

We have seen this with note acceptor technology being introduced to ensure that larger amounts can be swallowed up by poker machines faster than ever before. As we have said in this place before and will continue to say, that was the single most effective harm minimisation measure this state has ever had the benefit of, and it was undone in the blink of an eye via that cosy deal between the two major parties, a deal that not one single industry expert, stakeholder or group agreed to, not one that they were willing to back because they knew the impacts it would have on problem gambling.

No sooner were facial recognition systems installed on poker machines than the casino industry was using that same technology to groom gamblers to improve customer service by recognising them and welcoming them back, magically anticipating their favourite drink and machine and, more importantly, to track, log and understand their gambling behaviours and habits.

Facial recognition technology can be used to track players, dispensing with the need for the less technologically sophisticated loyalty cards, memberships or subscriptions they currently employ. It can also be used to accumulate more data than ever before about each player, their preferences and their behaviours. We do need to be constantly vigilant that the few protections we actually have in place to try to protect problem gamblers—and I say 'try' because they rarely do protect them—are used to protect, not further damage gamblers.

Facial recognition software was installed on poker machines in South Australia to better identify problem or barred gamblers, and of course we strongly support this bill restricting its use to this purpose and this purpose only. Whilst we have regulations in place in South Australia to ensure facial recognition software is not used for marketing or profiting purposes, such as we have seen overseas, these protections are only found in regulation and not in the legislation. As we know, entrusting such important protections to regulation is an extremely risky business, nearly as risky as gambling on poker machines and other games of chance, where the odds of winning are grossly stacked against the gambler.

We will continue on this side of the chamber, and I am sure together with our crossbench colleagues, to call for limits on gambling, to call for protections from gambling initiatives designed to promote gambling to an ever-growing clientele, such as the explosion of online gambling and gambling advertising that we are witnessing and the resultant harm this is causing a huge number of people in our community.

It would be remiss of me, given that I have mentioned online gambling, not to point out once again for the record that the cosy deal I spoke of was finalised in this place some two years ago now.

We are yet to see that inquiry process initiate. That was part of the negotiations that were reached between the Labor Party and the Liberal Party, an inquiry that was meant to consider and deliberate on the extent of the problem of online gambling. It is hard, very hard, to accept that that was nothing but a token gesture by both major parties because, if they were serious about the impacts of online gambling, surely by now not only would we have seen that inquiry undertaken but we would have the results, we would know what the data shows and we would be doing something about it.

But we have done zip. We have done absolutely nothing, and we have done nothing because apparently the two major parties cannot even agree on the composition of the committee members. That is how seriously the two major parties have taken the issue of online gambling, which was a major selling point of those reforms that we saw passed in this place two years ago at the expense of problem gamblers and at the expense of our single most effective harm minimisation measure, namely, note acceptors—an absolute disgrace.

It is for those reasons that SA-Best strongly endorses the bill, commends the Greens and the Hon. Tammy Franks for its introduction and commits to working closely with our crossbench colleagues on this issue to ensure that our gambling laws are in line with community expectations but, more importantly, also that they actually protect problem gamblers from gambling addiction and the evils of gambling.

The Hon. R.I. LUCAS (Treasurer) (21:22): As I have spoken on many gambling issues before, I am the minority in this chamber. I accept that I have a very small 'c' catholic view in relation to gambling. I have expressed that view over almost 40 years and I continue to have that view. I strongly support that very small percentage of people who do have a problem with gambling, in terms of better ways of providing assistance for those but, inevitably, in my view gambling is a recreation that is a matter of choice for individuals and they should be allowed to have that choice.

Increasingly—this is obviously not a debate about online gambling, although it has been referred to by the Hon. Ms Bonaros in her contribution—that is the challenge for the future as we see increasing numbers of our young people involved, but again it is a question of education and providing assistance for those who cannot control their recreational choices.

The reality with online gambling—and I expressed this view to the Hon. Mr Xenophon when he first discussed the issue with me back in the late nineties—is that if you think you are going be able to control the worldwide growth of online gambling from South Australia, then good luck to you, but I do not believe it is possible. It is a question of identifying and trying to assist those who have a problem in relation to their gambling addictions. Anyway, that is online gambling and that is not what this is about.

In relation to the rollout of facial recognition technology, I am advised by the Attorney-General, the commissioner and others who are active in this space that the commissioner has approved six facial recognition system providers and a further three applications are still pending the results of penetration testing in South Australia. At present, we have 234 gaming venues across South Australia and the Adelaide Casino which are now operating facial recognition technology. The commissioner was very pleased to note that a number of these gaming venues, whilst not required to install the technology, have also installed the technology to support their responsible gambling obligations.

So far I am advised that in excess of 79.3 million facial images have been compared, using this technology, against the barring data held by CBS, resulting in 2,583 faces being identified as a potentially barred person. In addition to existing signage which was required to be displayed at the entrance of gaming venues advising that facial recognition technology is in operation, additional signage has been made available in languages other than English to assist informing patrons that their image may be recorded.

CBS barring officers, who have a specialisation in psychology, work with gaming venue operators and barred persons so that appropriate action and assistance can be given. CBS inspectors are also regularly checking gaming venues to ensure the camera placement is optimal and detections are occurring. I am just briefly highlighting there that there is much good that is being done with the use of facial recognition technology.

The government's position is not to support this particular bill, because in the government's view the amendments are superfluous. As has already been outlined, we have already implemented regulations which prescribe that data collected by a facial recognition system must not be used for or in connection with encouraging or providing incentives to a person to gamble, customer loyalty programs, a lottery within the meaning of the Lottery and Gaming Act 1936 or the Lotteries Act 2019, identifying a barred person in respect of premises other than the licensed premises in relation to which the system is operating and any other purpose identified by the commissioner to the system provider or licensee.

So what is being called for in this legislation is already being done. I note the comments from the Hon. Ms Bonaros in relation to regulations, but she more than anyone I would have thought would recognise that regulations already implemented have the same power as legislation. There is a legal requirement in terms of the operations. These regulations exist, they are supported by the government and I assume all members of this particular chamber in terms of what is being achieved, and this legislation serves no useful purpose because it is already being achieved through the powerful legal instrument of the regulation, which is in force and is being implemented. As the commissioner has indicated, pleasingly, there are a number of venues that are not required to which are actually installing the technology as well.

As I said and as I have outlined, the CBS barring officers and others—inspectors—are, on advice from the commissioner, doing what they are required to do in terms of the appropriate implementation of the controls outlined in the current regulation. For those reasons, I am advised, the government is opposing the legislation, but we acknowledge that the majority of the numbers in this chamber have a different view.

The Hon. T.A. FRANKS (21:27): It has been sometime since I introduced this bill, and I thank those members who have made a contribution to the debate tonight. I note that this is unfinished business from those previous debates with regard to the bills the Hon. Connie Bonaros reflected upon. As I mentioned during my second reading speech, this issue does go all the way back to that deal that ran between Labor and the government, made behind closed doors, to ram through the so-called gambling reform legislation.

As part of that deal Labor required that there be provisions that electric gaming machines, EGMs, were fitted with facial recognition systems ostensibly for the purposes of harm minimisation. Certainly, that was how it was portrayed to the public. It was only under scrutiny from the Greens and the crossbenchers that it was revealed that indeed this technology is not values neutral. It can be used to groom gamblers as well as to ensure harm minimisation.

At the time I sought to amend that piece of legislation, but, as was the wont of the backroom deal, no amendments were entertained, no matter how sensible. Of course, the requirements and the exposure of the foolishness of the belief that this was a value free technology meant that the concerns raised by the Greens—that this technology not be used to groom gamblers—was put into the regulations.

So this is unfinished business because while the requirement to limit the use of facial recognition technology for the purposes of harm minimisation, to identify problem gamblers who should not be allowed inside a venue is welcome, such a requirement is only temporary while it remains only in regulations. As I raised at the time, when we originally had this debate, the gambling industry of course will want facial recognition technology not just for harm minimisation but, indeed, to groom gamblers.

To refresh members' memories on just what this technology looks like, here are a few examples: let us look at technology offered by ntech lab. Their facial recognition system is called FindFace. FindFace is marketed to casinos as follows, 'Recognise VIP guests as soon as they enter the casino, and provide the highest level of service.' Below this, they state that with FindFace casinos can see 'up to two times the potential increase of the average bill using personalised offers.' It goes on to spruik the benefits of this VIP guest identification with FindFace stating:

> Providing high quality services to VIP guests is a guarantee of their loyalty. Get to know important guests and exceed their expectations. Knowing the history of guest visits, win their heart personalising your services. Make them come more frequently and increase the average spend.

Other facial recognition technology spruikers, such as Konami Gaming Vice-President Greg Colella, told a reporter that facial recognition technology for casinos and gambling venues could:

> …create an anonymous ID for an individual player and then track how often that person visits the property, how much she or he usually spends, and which in-house restaurant the individual prefers. Data could be sent to hosts, who could offer customised incentives.

This is why we must be ensuring in our legislation—not in the regulations but in the act—that this technology, which is not values-free, is used to protect from harm, not to groom gambling and create that harm.

Indeed, the Treasurer has said basically, 'Trust us, we're the government,' even though two years ago we were told, 'Trust us, we're the government and the opposition and we're going to have an online gambling inquiry,' a joint house committee that has now languished for those two years because apparently the idea of having myself and the Hon. Connie Bonaros on such a committee seems too frightening to even call the first meeting.

I do not trust you just because you are the government; I certainly do not trust this government on pokies reform. I do not believe that we can let this harmful technology sit in regulations with those scant protections when ostensibly the Attorney, in response to this, put these regulations in assuring the Greens that our concerns had been taken on board. I do not understand why they would be seen now as superfluous when for the Greens, for the crossbenches and for those who care about minimising harm in the gambling industry, these are essential protections that belong in the act.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. T.A. FRANKS (21:35): I move:

That this bill be now read a third time.

Bill read a third time and passed.

WORK HEALTH AND SAFETY (INDUSTRIAL MANSLAUGHTER) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2020.)

The Hon. K.J. MAHER (Leader of the Opposition) (21:35): I rise to speak on this bill and indicate the Labor Party will be supporting this bill. The Labor Party has long been a supporter of laws that better protect workers, including industrial manslaughter as a central plank of our election commitments at the last election. Every worker deserves to be respected, to be paid their wages and, most importantly, to get home safely at the end of the day.

While we will support this bill, we do recognise that there is almost no prospect whatsoever of it becoming law. The likelihood in the, I think, 10 sitting days that we have remaining this year of it passing the lower house is somewhere around zero per cent. Should we win the next election, which we are certainly aiming to do in March next year, Labor will commit to working closely with those who represent workers, the union movement, but will also, and importantly, work closely with those who represent employer groups and particularly training providers—groups like the MTA or the MBA that provide training, registered training organisations—to make sure that we get a bill that is workable and suits the needs of South Australia.

The Hon. I. PNEVMATIKOS (21:37): I rise today to support the Work Health and Safety (Industrial Manslaughter) Amendment Bill introduced by the Hon. Tammy Franks. I would like to begin by thanking the Hon. Tammy Franks for bringing this important legislation to this house. If a worker is killed on a worksite because of safety risks, employers should face heavy penalties, including a hefty gaol sentence and a severe fine.

We are all aware that we currently have criminal law covering some instances of death on worksites, and I know that the government will argue that criminal law already exists in this area. However, the current systems do not serve adequate justice to those workers who are killed on the job.

This will be the third bill on industrial manslaughter brought to this parliament. The first bill in 2015 was sent to a parliamentary committee, which concluded that there are adequate legal safeguards in place to address the consequences of workplace deaths and agreed that a new offence of industrial manslaughter was unnecessary. I absolutely refute the committee's findings. Although it is true that there are penalties in regard to manslaughter and murder that sometimes cover workplace deaths, there are no specific deterrence measures that would encourage employers to ensure that safety is an important priority.

The second bill, introduced in 2019 before the parliament was prorogued, is almost identical to the one before us today, with minor changes to the penalty provisions. It closely mirrors Queensland's laws that were introduced in 2017.

The bill will make it an offence for an employer or an officer of a body corporate to cause the death of a worker, in particular if:

- the worker dies or is injured and later dies while carrying out work for the business or undertaking;
- the employer's or officer's conduct causes the death of the worker (for example, an action or the inaction of the employer or officer substantially contributing to the death); or
- the employer or officer is negligent about causing the death of the worker (for example, if the person's actions or inactions depart so far from the standard of care required).

In 2017, when the government announced that they would not act on industrial manslaughter after the report's findings, the now member for Cheltenham, who was in the role of SA Unions Secretary, said:

> If you cause a death on the road, you can expect to go to jail for 15 years. If you cause a death in the workplace, under the same gross negligence or recklessness, you should get the same penalty.
>
> All aspects of our criminal law are built on an aspect of deterrence and we've seen through countless tragedies that current sticks aren't working.

Four years on and these sentiments remain. South Australia's laws are not delivering on the expectation that, when a death occurs at work, someone is held responsible and accountable. Every other jurisdiction across Australia, except for Tasmania, has implemented severe penalties for industrial manslaughter. Yet again, South Australian workers are left behind.

Without significant deterrents, companies and employers will continue to put workers' lives at risk for the sake of cost cutting and profits. I stand in solidarity with the union movement and with workers across our state who are seeking to be better protected in their workplaces.

If an employer knew or ought reasonably to have known or was recklessly indifferent to a work safety risk that led to the death of a worker, they should face the full extent of the law. Employers should be held to the same standard as anyone else when they have caused death. This is just another example of workers being classed differently. Apparently, because you are in a workplace, you have fewer rights than others. For these reasons, I place on the record my support for this bill.

The Hon. C. BONAROS (21:42): I rise to speak on behalf of SA-Best on the Work Health and Safety (Industrial Manslaughter) Amendment Bill. As we know, the bill creates a new offence of industrial manslaughter in the Work Health and Safety Act 2012, which broadly reflects the long-held policy position of SA-Best. Indeed, it was my former boss, Nick Xenophon, who introduced the Occupational Health, Safety and Welfare (Industrial Manslaughter) Amendment Bill in this place on 8 December 2004, so there is a long history of this issue being debated in this place.

As we know, the bill introduces corporate criminal responsibility to ensure employers and all officers of the employer are held responsible for breaches of their duty of care where they know or

were recklessly indifferent to an act or omission that a breach of that duty would create a substantial risk of serious harm to a person and that breach has caused the death of a person.

At present, persons conducting a business or undertaking (PCBUs) must ensure, so far as is reasonably practicable, that the health and safety of workers and others, such as clients, visitors and customers, are not to be put at risk by the work carried out by the business or undertaking. It is my understanding that South Australian employers can currently be prosecuted for workplace fatalities under general workplace safety laws, but at present there is of course no separate offence for a person or employer causing the death of a worker in this way in South Australia.

However, there is no offence at present of industrial manslaughter in South Australia. Given that all other jurisdictions, except Tasmania, have legislated workplace manslaughter offences, we are very slow off the mark to deal with this legislatively. I have no issue with there being a need to address this issue, in fact it is something we strongly support, but it is my view that there is some work that still needs to be done for us to adequately legislate industrial manslaughter offences so that employees are extended the duty of care of work they are properly owed and that employers and/or officers of employers take responsibility for the duty of care they owe to their employees.

I reiterate: it is SA-Best's view that this is an issue that we support and have supported for a long time. I will preface my comments in relation to the bill by once again confirming our support for the offence of industrial manslaughter. I am not sure that some of the issues that I will highlight now are not insurmountable. I think they are able to be overcome. But certainly the feedback that we have had, based on the advice that we have had, is that there are some issues that have given rise to concerns about the drafting that would make it unworkable and create some potentially unintended consequences.

Those issues we have sought advice on relate to the definition and clarity of many of the terms that have been used, specifically 'officer' and 'employer' which have not been defined. One of the other concerns that has been raised is the use of consistent language with other sections of the Work Health and Safety Act. The broader term, PCBU—that is, a person conducting a business or undertaking—we know covers a broad range of modern work relationships but is not used in the bill. So these are some of the questions we have for the mover and some of the issues we think need to be addressed.

It is the view of SA-Best based on that advice that the bill should specifically include PCBUs as including someone operating a business or undertaking for-profit or not-for-profit work whether alone or with other businesses. That definition of PCBU used in the Work Health and Safety Act defines that a PCBU can be an employer; a sole trader; a self-employed person; a company or corporation; an association; each partner within a partnership; local government council; state, territory or commonwealth government; certain volunteer organisations; and/or the trustee of a trust.

A self-employed person is also a PCBU and must ensure their own health and safety while at work so far as is reasonably practicable. These terms and these consequential definitions, I think, should be included in our industrial manslaughter legislation. I think it is imperative that we be clear about who is bound by the legislation and who can potentially be in breach of the legislation, given the substantial penalties able to be imposed on employers, namely 20 years' maximum imprisonment and fines of up to $13 million.

We do need laws that are powerful deterrents to employers who may be tempted to cut corners, to cut costs and to sacrifice safety as we too frequently hear in Coroner's inquests. Again, as I have prefaced before, I do not think any of these problems are such that they cannot be overcome, but concerns have been raised about the fact that the bill extends to a breach being to cause the death of a person whether or not the person was an employee of the employer and whether or not the death occurred in a workplace. That is one of the issues that I am hoping we will be able to flesh out with the Hon. Tammy Franks in relation to the bill.

It has been some years since I actively practised in law, but my concern is and my reading of this provision is that the courts could interpret it very broadly, well beyond potentially the intended scope of the bill. That is also one of the concerns that has been raised with us from our stakeholder engagement.

The bill does make it clear that section 267 of the Criminal Law Consolidation Act does not apply in respect of this offence. This is the provision that would ordinarily make a person who aids, abets, counsels or procures the commission of an offence liable to be prosecuted and punished as a principal offender, but as an employer and/or officer are not defined that provision is left wide open to interpretation and that is the gist of the concern that we have around that. The interpretation, I believe, would consume a lot of time and arguments and certainly costs in courts. As I have noted, these are the issues that we would like to flesh out further in relation to this proposal.

The first prosecution in Queensland under its newly introduced industrial manslaughter laws provides an example of how these laws should work. In June 2020, Brisbane Auto Recycling Pty Ltd was convicted and fined $3 million, while its two directors and shareholders were also convicted and given 10-month suspended custodial sentences for reckless conduct. In that case, the court found that the corporate defendant was negligent as it knew of the potential consequences of the risks, which were catastrophic.

Brisbane Auto Recycling was charged with industrial manslaughter and its two directors were charged with reckless conduct following the death of Mr Barry Willis, who was crushed between the side of his truck and a reversing forklift driven by another employee in the delivery of Brisbane Auto Recycling. It was found that they had no workplace health and safety policies in place and that directors had told staff to look after their own safety.

Workers had been at risk of serious harm for 15 months before the incident. The directors initially misled the investigators and Mr Willis's wife, but they subsequently cooperated, pleaded guilty and were convicted. Steps to lessen, minimise or remove the risk posed were not complex or overly burdensome, but these steps were not taken and ultimately they resulted in tragedy.

It has been extremely frustrating in South Australia to not have specific industrial safety laws. That is something that we have said for a long time our jurisdiction needs, particularly because we are out of step with our neighbouring jurisdictions. As members would know, and as I have said in this place time and time again, I have worked closely with many constituents, seeking justice for the death of their loved ones in the workplace. All of these family members want to ensure the same thing: it will not happen to anyone else, and that those responsible are held to account.

I have spoken to a number of them. It should come as no surprise that, obviously, I have spoken to Andrea Madeley. We all know that Andrea has effectively become the face of the campaign for industrial manslaughter following the death of her son, Daniel. I am still, to this day, chilled to recall the death of Andrea's son, Daniel, who was only 18 when he died in a workplace tragedy on 6 June 2004. As we know, the coroner found he died as a result of horrific injuries sustained when he was caught in a horizontal boring machine he was operating while employed as a first-year apprentice toolmaker by Diemould Tooling Services Pty Ltd.

The Coroner found Daniel's death was entirely preventable. He received and accepted evidence that it would not have been a difficult or unduly costly exercise to render the inherently dangerous machine that ultimately killed Daniel safe to operate. Almost two years after Daniel's death, SafeWork SA finally laid a complaint against Diemould and on 23 April 2009—almost five years after Daniel's death—Diemould pleaded guilty to causing Daniel's death.

The company was convicted and fined $72,000, which included a 10 per cent discount for pleading guilty. The Coroner found it was six years after Daniel's death before a compliance project was instituted by SafeWork SA in relation to horizontal boring machines such as the one that killed Daniel. To this day, I am saddened by the negligent actions and failures of the employer, and indeed SafeWork SA in this instance, that led to the entirely avoidable death of Daniel, a beautiful young man with all the potential in the world ahead of him.

The other case that I have detailed knowledge of, which I have spoken of in this place time and again, is the case of Jack Salvemini who was crushed to death in 2005 after he got tangled in a fishing net while commercial fishing in the Great Australian Bight. As we all know, there was no Coroner's inquest held into that case, but the company was subsequently found guilty of breaching workplace safety laws and fined $70,000 in the Industrial Court.

Seven years after Jack's death, the skipper of that boat, Arthur Markellos, avoided prosecution and had a $17,000 fine overturned after the Supreme Court dismissed an appeal by SafeWork SA. We all know that Jack's father, Lee, says he will never give up seeking justice for Jack. Lee strongly supports legislation to close the loopholes in workplace safety laws so that other families can avoid going through what his family has gone through.

Fourteen workers were fatally injured at work in South Australia last year. Serious injuries sustained at work are in the tens of thousands. More recently, I have worked with a family who I will not name but whose loss is currently the subject of coronial inquiries. I am hopeful, and they are certainly very hopeful, that that case will result in a coronial inquest to further highlight the issue of avoidable deaths in the workplace.

The majority of these fatalities bar the last one were in three industries, with machinery operators and drivers being the deadliest occupations. How many of these constituted industrial are difficult to ascertain. What is patently obvious is that many if not all of them were avoidable, and we need legislation to make it an offence in line with industrial manslaughter, and that the penalties that apply currently that I have outlined today are woefully inadequate when we are talking about a preventable tragedy that results in the loss of life.

Absolutely nobody should get killed or seriously injured at work, and no employer or officer responsible for the death should be able to shirk their responsibility and obligation to ensure work health and safety.

The Hon. R.I. LUCAS (Treasurer) (21:57): The government's position in relation to industrial manslaughter bills has been consistent for a number of years, in that we oppose them. I do note that the Hon. Ms Bonaros's contribution, however, from someone who is a strong supporter, raises very significant questions about the drafting of this particular attempt at introducing industrial manslaughter. Given the perspective from where she comes, I think it behoves those who are supporting the current drafting to consider the views that the Hon. Ms Bonaros has put.

I will not repeat some of the issues that have been raised in relation to the drafting, but the Hon. Ms Bonaros's questions merit reconsideration and review by those who are proposing to support the current drafting of this particular piece of legislation because the Hon. Ms Bonaros certainly highlights some potential significant difficulties in terms of legal interpretation of this law should it pass the parliament. The Hon. Ms Bonaros and the government come at this legislation from different directions, we acknowledge that, nevertheless, there is a shared concern about the current drafting of this particular proposal.

The government's position has been pretty clear for some time; that is, the current law in relation to manslaughter adequately criminalises manslaughter, including where it occurs as a result of a work injury. We have already demonstrated in South Australia how it does because the sole director of a trucking company, Mr Peter Colbert, was convicted of manslaughter by gross negligence in 2015 for the death of a worker who died in 2014 when the truck he was driving, owned by the company, crashed due to brake failure.

The court transcripts and evidence demonstrate that Mr Colbert knew of the faulty brakes. There had been a near miss prior to the accident, and Mr Colbert was found not to have properly maintained the brakes of that particular vehicle. Mr Colbert was sentenced to 12 years' imprisonment under our existing manslaughter laws, so it is a clear example that manslaughter laws do apply in the workplace, in this case the workplace of someone who was driving a truck on a public road.

Interestingly, this proposal would actually reduce the term of imprisonment for such an offence. The maximum term of imprisonment for this particular industrial manslaughter in the bill is 20 years' imprisonment, whereas the maximum penalty for manslaughter is actually life imprisonment. So what this bill is actually doing is reducing the potential maximum penalty for industrial manslaughter from what is currently potentially life imprisonment to a still not insignificant 20 years.

That seems an ironic contribution to the debate in terms of work health and safety that currently for someone such as in the case that has already been successfully prosecuted, and even on appeal was sustained, the potential maximum sentence under this is to be reduced by the supporters of this legislation.

I guess that is for those who support the legislation to defend why they would seek to reduce the potential gaol term for someone who might be found guilty in the most horrendous of potential circumstances in terms of an employer and gross negligence, and clearly in a range of circumstances where everyone might think that if it caused the death of a worker on their worksite, under the current law, the penalty can be life imprisonment and under the proposed legislation that is to be reduced to a maximum penalty of 20 years.

My advice is that some of the claims in this debate are that all jurisdictions—I think one member indicated with the exception of Tasmania—have introduced some version of industrial manslaughter legislation. I am advised that the New South Wales government declined to insert a new offence of industrial manslaughter into their act and instead amended division 5 of the New South Wales Work Health and Safety Act to note, and I quote:

> In certain circumstances, the death of a person at work may also constitute manslaughter under the Crimes Act 1900 and may be prosecuted under that Act.

I am advised the Crimes Act 1900 New South Wales is the equivalent of the Criminal Law Consolidation Act 1935. My advice, as I said, in relation to New South Wales, is that it is a very similar position to the position of the South Australian government. The government's views on this proposal are well established. I do not intend to repeat what I have said on three or four previous occasions; however, I do again note the contribution from the Hon. Ms Bonaros and indicate that I think it is worthy of close consideration and review by those who are proposing to support the current drafting of this bill.

The Hon. T.A. FRANKS (22:03): Thank you to all those who have made a contribution on this bill. In just over a week, we will be marking the October Labour Day public holiday in our state and commemorating the achievements of the Australian labour movement (that is labour with a 'u') and in particular the movement for eight hours work, eight hours rest and eight hours play. What happens when someone does not come home from those eight hours' work?

It is clear that our current laws are insufficient to address such a tragic consequence. I reflect on the fact that this is not the first time that such legislation has been brought before this parliament. It is not even the first time that I have brought this legislation before this parliament, but I want to reflect on some changes that we have seen around the nation since I first brought a similar bill forward.

We have been told many things over the years—and certainly tonight—when it comes to this parliament's opposition to the absolute bare minimum to protect workers in our state by introducing industrial manslaughter laws. The key one we have heard is that there is no need for this legislation, that the field is already covered and that, because other states did not have the legislation at the time, there was no need for South Australia to lead.

We have known for quite a long time that this is not actually the case. However, what is really new is that most of the country has now moved not only to recognise industrial manslaughter properly in legislation but to apply serious penalties to it. Industrial workplace manslaughter laws are now in place in New South Wales, in Victoria, in Queensland, in the ACT, in the Northern Territory and in Western Australia. South Australia and Tasmania are the last remaining jurisdictions without such laws.

We know these laws are needed and we know they work. The first industrial manslaughter convictions in Australia were handed down in Queensland on 11 June 2020, convicting Brisbane Auto Recycling Pty Ltd of industrial manslaughter and imposing a fine of $3 million. The two directors both also received a sentence of 10 months' imprisonment, suspended for 20 months. This conviction was the result of a worker being struck by a forklift being reversed by an unlicensed and inexperienced worker. The struck worker died in hospital eight days later.

As well, we have seen the final report of the Review of the Model Work Health and Safety Laws released in December 2018, following on from the agreement in 2008, where we agreed to harmonise our work health and safety laws across all states and territories. I remember the lengthy debate in this place—indeed, the delayed debate in this place—around that legislation. Critically, the report states:

I am recommending a new offence of industrial manslaughter be included in the model WHS laws. The growing public debate about including an offence of industrial manslaughter in the model WHS laws was reflected in consultations for this review. I consider that this new offence is required to address increasing community concerns that there should be a separate industrial manslaughter offence where there is a gross deviation from a reasonable standard of care that leads to a workplace death.

It is also required to address the limitations of the criminal law when dealing with breaches of the WHS duties. More broadly, the ACT and Queensland have already introduced industrial manslaughter provisions, with other jurisdictions considering it, and so this new offence also aims to enhance and maintain harmonisation of the WHS laws.

As I said, we have seen industrial manslaughter laws put in place in New South Wales, Victoria, the Northern Territory and recently in Western Australia.

I remind members, as well, that South Australia is a signatory to the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety, which is the agreement under which we agreed to harmonise our work health and safety laws with other states. The report also stated:

Advocates for the inclusion of an industrial manslaughter offence believe such change is long overdue and reflects strong public sentiment. The ACTU supports this view and submits that 'the introduction of a new offence of industrial manslaughter will provide a strong incentive to businesses with poor practices to improve'.

The Senate inquiry into industrial deaths recommended that the model WHS laws be amended to provide for an industrial manslaughter offence. It considered serious consequences were warranted for organisations whose negligent actions result in the death of a worker or bystander—

to answer the Hon. Connie Bonaros's question—

and the offence would provide a strong and appropriate deterrent across the entire WHS regime.

I also want to share one final quote from that report where discusses the case for change:

Consultations for this review (mirrored in submissions to the Senate inquiry into industrial deaths) revealed a clear and increasing view amongst a great many in the community that there should be an outcome-based offence in the model WHS laws where the death of another person occurs as a result of the gross negligence of either an individual or an organisation. The strong community expectation is that it should be possible to prosecute for the death of a person under a statutory offence of industrial manslaughter in the model WHS laws.

As discussed, the most commonly cited reason for rejecting an industrial manslaughter offence during consultations was that the current criminal law offences in each jurisdiction are sufficient for dealing with workplace fatalities. Opponents of change pointed to the potential for problematic overlap, with a jurisdiction's criminal law if an industrial manslaughter offence is introduced in the model [Work Health and Safety] Act. The argument is less convincing given some states and territories either have or are exploring the introduction of an industrial manslaughter offence to reflect what they perceive as the community will and to deal with the limitations of the criminal law in prosecuting breaches resulting in workplace death. At a practical level, the absence of an industrial manslaughter offence in the model [Work Health and Safety] Act also increases the potential for inconsistency as jurisdictions successively introduce their own offence into their [Work Health and Safety] or other legislation.

Polling following the release of that report found that the majority of Australians want these new laws, which would see employers who are responsible for workplace deaths held accountable and ultimately be able to be sent to gaol. The bill is a long overdue measure. It seeks to capture the minority—and I do stress, the absolute minority—of employers who cruelly put workers at unnecessary risk.

South Australian workers have waited long enough for this protection. This is life-saving legislation. Every single workplace death is significant and an avoidable tragedy that will affect the lives of so many others. Everyone deserves to come home safe from work. We must ensure that employers have a genuine incentive to provide a safe workplace and to prevent them from taking shortcuts that endanger workers' lives.

This bill has sat on the *Notice Paper* for just over a year. This is not the first time I drew it to a vote. Indeed, I drew it to a vote and members said they were not ready to debate it, so I drew it to a vote again just over a month ago, and COVID provisions affected it coming to a vote. This is now the third time I have called on members to alert them that this bill will go to a vote. I commend the ALP for their support of this bill tonight and their commitment, should they take government next year, that they will seek to introduce industrial manslaughter legislation.

I am disappointed that concerns are raised at the final hours about wording and about interpretation that have not been raised with my office prior to tonight. I think if members have amendments that they wish to place to this bill then they should have circulated them, and they should circulate them. I will be taking this to a second reading, and I will stop at clause 1 to allow that conversation to happen. With those few words, I commend the bill to the council.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. C. BONAROS: I acknowledge what the Hon. Tammy Franks has said in relation to the comments we have made tonight, but, as I said during my second reading contribution, none of those issues cannot be overcome. If it is the mover's intention to adjourn the debate tonight to deal with those, they are discussions that we are certainly willing to have with the mover and consider in relation to the issues that we have raised on the record this evening.

The Hon. T.A. FRANKS: I indicate that I advise that SA-Best should circulate amendments to the bill if they have amendments to the bill, and then we will discuss and negotiate on those.

The CHAIR: Does the honourable member wish to report progress, or does she want me to deal with clause 1?

The Hon. T.A. FRANKS: If there are no clause 1 concerns, and we have an agreement with the principles of the bill, I cannot see that there is going to be an amendment at clause 1. The earliest amendment would be at clause 2. I would like to pass clause 1.

Clause passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (SPIT HOOD PROHIBITION) BILL

Second Reading

The Hon. C. BONAROS (22:16): I move:

That this bill be now read a second time.

I rise to speak on the bill, which I desperately hope will enjoy the overwhelming support of this place and finally result in the prohibition on the use of spit hoods in all detention settings for people of all ages.

The timing of the debate—which has appropriately become known as Fella's Bill, in honour of Wayne Fella Morrison who died tragically in custody three days after being pulled unconscious from the back of a van at Yatala prison whilst wearing a spit hood amongst other restraints—is particularly poignant given this coming Sunday, 26 September, marks the fifth anniversary since Wayne's passing, five very long and painful years for Wayne's family to get to this day and this moment.

Before I get to the bill itself, Wayne's family have provided me with a statement that I will read onto the record on their behalf, and I quote:

Wayne Fella Morrison died in the Royal Adelaide Hospital on 26 September, 2016. We are Wayne's family. We only had 29 years with him before he was taken away. He belongs to a large and proud Aboriginal family, spanning culturally from the far West Coast of South Australia to New South Wales and beyond; a family who love and miss him deeply. While short, he made the most of his life.

After enrolling in year 13 at high school, he went on to undertake a number of diverse roles. Wayne moved in this world as an artist, a chef, a fisherman and a father. He had many creative hobbies. Alongside his dot paintings, he played every type of guitar. Following Wayne's death, two of his teachers who knew him across primary school and high school reached out. Both shared with us their sadness, especially given the talent they saw in Wayne from early on. When he was a young child, a piece of Wayne's art was selected as the winning piece at his primary school to be auctioned. Proceeds were donated to children undergoing treatment at the Adelaide Women's and Children's Hospital.

Wayne was out in the open ocean almost every day, for years, and especially towards the last years of his life. Speaking with the fishing community of St Kilda, they gave us only fond memories. We tell you this because it's not only our family who misses Wayne, but his larger community feels his loss deeply too. For our families, community and wider network who knew Wayne—our grief is deepened knowing his life was cut short because of reasons including asphyxiation.

He was the type of man who truly valued his space and his freedom. It devastates us to know that he died without space, without freedom, and that his lack of space and freedom took the breath that would have brought him back to us. Wayne Fella Morrison's death was preventable. That speaks to the multitude of ongoing issues of incarceration and control over Aboriginal people that this parliament has the power to resolve today, that has always had the power to resolve, even before Wayne's death. No person should die in custody and no Aboriginal person should be taken by the hands of the system that for hundreds of years has infiltrated every living minute of our lives.

In two days from now it will be five years since Wayne was restrained with a spit hood. He leaves behind his young daughter and his niece and nephews, who will one day read about this historic event when the parliament of South Australia decided to legislate the ban on spit hoods, to legislate Fella's law. This first step, while overdue, is the right one. The campaign for justice for Fella is far from over. We continue to await your public apology for Wayne's death and other legislated commitments against torture.

That apology I might add was recommended by Ombudsman Wayne Lines last year, following his own investigation into the practices of the Department for Correctional Services relating to Wayne's death. That apology might be outstanding, but that does not mean we cannot offer our own apologies in this place.

I, for one, am so very, very sorry. I am sorry to Caroline Andersen, Wayne's mum, to Buster Morrison, to Ella Russo, to Patrick Morrison and to Latoya Aroha Rule, Wayne's siblings, and I am sorry to Allyssa, Wayne's daughter. I am so sorry that your son, your brother, your father, your loved one died a potentially preventable death. I am sorry that you had to endure 1,822 days of pain and sorrow and heartache. I am sorry that you had to spend 1,822 days visualising Wayne's final moments, imagining how scared and how terrified he would have been.

I am sorry you had to be forced to sit in the Coroner's Court and listen to the word 'privilege' over 1,600 times. I am sorry that you had to hear the phrase 'I don't recall' almost 600 times. I am sorry witnesses present on that fateful day, including the prison officers responsible for putting that spit hood on Wayne and carrying him into the prison van, have only offered their names, ranks and titles. I am sorry changes were made to the Coroner's Act too late to affect Wayne's inquest.

I am sorry for all the systemic failures outlined by the Ombudsman that failed your son, your brother, your father and your loved one. I am sorry it has taken a worldwide pandemic to show those in power that PPE (personal protective equipment) is the answer, rather than a spit hood placed over a detained person's head. I am sorry that you are facing the rest of your lives without Wayne here; it did not have to be this way. Finally, I am sorry that justice has so far been denied to your family.

I know that nothing I say or do will heal Wayne's family's pain, that nothing will heal the grief that they are feeling and that nothing will bring Wayne back, but the passage of Fella's Bill I hope will give them some comfort for what they have achieved and the sense of justice that they deserve.

To Wayne's family, your passionate, articulate and committed advocacy and commitment will ensure that no other family will have to endure a pain like yours, that it does not happen to one more son, to one more brother, to one more father, to one more loved one. As of this morning an online petition started by Wayne's family, calling for the ban on spit hoods, has received 26,509 signatures. There are many people behind you.

To the bill before us today, Fella's Bill, I seek leave now to table a copy of that online petition addressed to the Parliament of South Australia; to the Attorney-General of South Australia, Vickie Chapman MP; to the Premier of South Australia, Steven Marshall MP; and to the Minister for Police, Emergency Services and Correctional Services, Vincent Tarzia MP. It is being tabled as a document rather than a petition, Mr President.

The PRESIDENT: I understand that this petition does not conform with what we normally do in this chamber. Is leave granted to table that document?

An honourable member: Yes.

Leave granted.

The Hon. C. BONAROS: The petition, which is an online petition, reads:

Here lies more than 26,540 signatures in support of a legislated ban on spit hoods in all contexts throughout South Australia, following the death in custody of Wayne Fella Morrison in 2016.

After almost 5 years of advocacy towards this ban, we remember the words of Kaurna, Narungga and Wirangu Elder, the late Uncle Tauto Sansbury:

The discussion needs to start. And then it needs to continue until it bears fruit.

The life and death of Wayne Fella Morrison is not in vain.

From: the family and community of Wayne Fella Morrison and supporters of Fella's Bill, Statutes Amendment (Spit Hood Prohibition) Bill.

I do not make a habit of signing petitions that I have an interest in, but I was more than pleased and humbled to add my name to this one.

Fella's Bill seeks to prohibit the use of spit hoods by a wide range of personnel, including security officers, departmental and correctional staff, police officers, Mental Health Act workers, Sheriffs and training centre staff. I am delighted to say that there is finally consensus that this archaic, barbaric method of restraint is not acceptable for use on anyone of any age in any setting—not in a police cell, not in a court sell, not in a prison cell, not even in a hospital ward, and not in a mental health detention facility or in the back of a transfer vehicle.

I have amended Fella's Bill to encompass my private member's bill banning spit hoods for youth, which has been sitting idle in the House of Assembly for quite some time. It is my sincere hope that common sense has finally prevailed here today. There is absolutely no reason to delay this any longer, especially given the anniversary on 26 September.

I understand from the government that the use of spit hoods by police and corrections is now being phased out, but this is not something we should be comfortable leaving to policy because, as we all know only too well, policies can be undone and changed with the stroke of a pen. The law needs to make it very clear: putting a spit hood over a detained person's head or asking them to do it themselves amounts to torture. It is inhumane. Indeed, it is at complete odds with the OPCAT laws this parliament has debated and continues to debate and the international treaty obligations underpinning those laws, which we have signed up to.

The old days of rack 'em, pack 'em and stack 'em are long gone. No person should be taken into custody and die as a result of preventable means. No person should be the subject of the systemic failures identified and outlined by the Ombudsman in his report. No family should be left behind not only to pick up the broken pieces but to have to fight tooth and nail for five years to determine the circumstances behind their loved one's death, and that is precisely what Wayne's family has been left to do.

Let me be crystal clear: this bill has nothing to do with being soft on crime. Those who commit serious crimes should feel the force of our laws appropriately. Those who commit the most heinous crimes should be subject to proportionate custodial sentences, but no person deserves, according to our own laws and the international obligations that we have signed up to, to be treated inhumanely and to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

They are not my words; they are the principles underlying the OPCAT legislation that this government has introduced into this place in line with our obligations under those international treaties. There is no question—absolutely none—that the barbaric and archaic use of spit hoods has no place in our community, regardless of the environment they find themselves in.

If you need further convincing that there are less dangerous and more appropriate and effective means of protecting workers during the course of their employment from unruly or dangerous persons in custody, then you need to look no further than how our hospitals have approached this issue of protecting their staff. You protect your workers. You need look no further than the use of PPE, which has become so prevalent and common practice as a result of COVID-19. Easy options that pose significant risks to people in custody or detention are not the answer. Spit hoods are certainly not the answer.

Before closing, again, I would like to highlight to honourable members that there is one set of amendments on file that seek to broaden the scope of the bill to minors. As members will recall, and as I have highlighted already, a separate bill dealing with minors has already been dealt with in this place and passed this chamber and has sat in the other place. In the hopefully very likely event that this bill passes today, it makes no sense that minors be carved out from its scope. We need to deal with spit hoods across the board in all custodial and detention settings, including our Adelaide Youth Training Centre. That is the purpose of those amendments. They are very straightforward.

I remind members that spit hoods were introduced into our minors' detention settings, namely, the Adelaide Youth Training Centre, as late as 2014. While their use may have fallen considerably since 2017, they continued to be perfectly legal and indeed in use until the announcement was made to phase them out last year.

It is my sincere hope, on behalf of Wayne's family, that today will mark a historic moment in this place, one that is in line with community expectations, one that demonstrates that we can all come together and implement sensible and meaningful reforms unanimously, and one that will provide some comfort to Wayne's family, who have fought so hard to see this through to the end despite their unimaginable grief and pain, and to do so in honour of Mr Morrison's memory.

In the words of the late Uncle Sansbury, 'The discussions need to start and then it needs to bear fruit.' Fella's Bill is a significant step towards ensuring just that. Let's not allow Wayne's death to be in vain. With those words, I look forward to the contributions of other members and their support for the prohibition of spit hoods once and for all for all people in all detention settings across South Australia.

The Hon. K.J. MAHER (Leader of the Opposition) (22:33): I rise to speak on behalf of the Labor opposition and indicate we will be supporting the bill that is before us. The Hon. Connie Bonaros first introduced a bill to ban the use of spit hoods in October 2019 that itself responded to a South Australian Ombudsman's report in September 2019 that followed national reporting on the use of spit hoods in the Northern Territory's Don Dale Youth Detention Centre.

That bill passed the Legislative Council with the Labor opposition's support but languished in the government-controlled House of Assembly. The earlier bill sought to ban the use of spit hoods on minors only and, as I said, Labor supported the bill at that time. The new bill before us seeks to ban spit hoods on adults and, with the application of the amendment, on minors, as well, reflecting the earlier bill.

This bill, as the Hon. Connie Bonaros has outlined, follows the death in a South Australian prison of an Aboriginal man, Wayne Fella Morrison, which also triggered changes to the Coroners Act. In the period between consideration of the earlier bill and the bill that is before us, as the Hon. Connie Bonaros has outlined, South Australian government departments informed members that they introduced a range of administrative measures to phase out the use of spit hoods for both adults and minors. Passing a bill that reflects what the government departments say is current practice can do no harm and ensures that they cannot be reintroduced.

In supporting this bill, Labor wants to congratulate the Hon. Connie Bonaros on her determination and the many hours she has spent drafting this bill, attending coronial inquests and with the family. More than that—that is the end of the process—Labor wants to acknowledge and pay tribute to the late Wayne Fella Morrison's family, in particular Latoya Rule, who has turned adversity and a personal and family tragedy into advocacy and something that actually changes the world for people.

A number of us have spent quite a bit of time with Latoya going through this bill and looking at how we can get it successfully passed in the remaining time we have. A number of options have been discussed, including whether the possibility of two years' prison or employment or disciplinary action for breaching the bill as a possible sanction might increase the likelihood of this bill passing. As I understand it, the government will be supporting the bill as it currently stands and I expect it will be passed unanimously in this chamber.

With that, I commend the bill to the chamber. I do acknowledge the lateness of the hour and that Latoya has taken over the tweeting on IndigenousX for the course of today. We have seen the

billboards around town and they have been put up on Twitter. We do apologise that it has taken so long to get to this bill, but it is much better late than never.

The Hon. T.A. FRANKS (22:37): I rise in support of this bill, which will be known as Fella's Bill, to ban spit hoods. On behalf of the Greens, I note that we are now approaching the fifth anniversary of Wayne Fella Morrison's death. That death has given rise to this piece of legislation we see before us tonight. It will not bring him back, but it will protect adults and children into the future.

Spit hoods are a mesh fabric hood designed for restraint. They conceal the face and are generally fixed at the base with a band around the neck. In theory, they are used to protect corrections workers from spitting or biting. In practice, they cause harm and they cause deaths. Every other jurisdiction has gone before South Australia and, unfortunately, we now only come up at the back of the pack in addressing and righting this wrong.

I note that Wayne Fella Morrison was a Wiradjuri, Kokatha and Wirangu man. He was 29 years old when he died—when he was killed—in South Australia's Yatala Labour Prison. Of course, he died in hospital later on but his last conscious breath was taken with a spit hood on, face down in the back of a prison transport van. We do not know quite what happened in that van. There was no CCTV and there were certainly more questions raised than answers given through the arduous processes that followed.

The Northern Territory banned the use of spit hoods on minors in 2019, following the shocking investigation aired on ABC TV that showed Dylan Voller restrained in a chair in Darwin's Don Dale Youth Detention Centre and forced to wear one of these spit hoods. South Australia has, in more recent times, implemented what is an intended administrative ban. That is not good enough. This parliament will effect real change in the legislation, in the act, as it should be and as we should have done so many years ago.

We will not bring Fella back. We will go some way to honouring his legacy, and certainly I join in my mentioning tonight of Latoya Rule and her tireless advocacy for justice for her brother, for justice for her people, and pay tribute to that work. With those few words, the Greens will support that bill.

The Hon. J.A. DARLEY (22:40): I rise to make a brief contribution on this bill. I understand that the correctional services department was investigating alternative arrangements for the use of spit hoods, but there would be several months before they obtained separate equipment. I would like to obtain clarification on this point from the Hon. Connie Bonaros, if possible. If alternative arrangements have been made or sufficient time has elapsed for these arrangements to be made, then the prohibition is more than reasonable and I will support this bill.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (22:41): I rise to speak on the Statutes Amendment (Spit Hood Prohibition) Bill 2020 and indicate I am the lead speaker for the government. The bill proposes a prohibition of the use of spit hoods in five pieces of legislation: the Correctional Services Act 1982, the Mental Health Act 2009, the Sheriff's Act 1978, the Summary Offences Act 1953 and the Youth Justice Administration Act 2016.

In 2019, the Hon. Connie Bonaros introduced a similar bill, the Statutes Amendment (Spit Hoods) Bill, which amended the same pieces of legislation as the bill before us. However, that bill only prohibited the use of spit hoods on persons under the age of 18 years. I indicate the government will be supporting this bill. Since the introduction of the 2019 bill, a number of agencies have taken steps to remove or prohibit the use of spit hoods.

I am pleased to inform the council that spit hoods are not used in any operational context across the agencies referenced by the bill. Earlier this year, the Department for Correctional Services determined to ban the use of spit hoods across all South Australian prisons. The decision was made following a comprehensive review of alternative protective measures for correctional services officers, where risk of contamination by means of bodily fluids is identified. It is anticipated that spit hoods will be removed from South Australian prisons by the end of September 2021.

In a youth justice setting, the Marshall Liberal government committed to banning the use of spit hoods in the youth justice system and on children detained under the Mental Health Act 2019 in

September 2019. On 1 July 2020, the use of resident worn spit protection for all young people, regardless of age, was prohibited at Kurlana Tapa, the youth justice facility. This followed recommendations by the Ombudsman of South Australia, which were provided to the Department of Human Services in September 2019.

In the mental health setting, the standard to reduce and eliminate where possible the use of restraint and seclusion applied under the Mental Health Act, updated and released in May 2021, provides that the least restrictive intervention must be used first. A formal authorisation is required to use a restrictive practice, including an approved restrictive mechanical device. The Chief Psychiatrist has advised that spit hoods would not be approved as a mechanical device for children or adults. The Marshall Liberal government supports this bill.

The Hon. C. BONAROS (22:44): Can I start by thanking the Leader of the Opposition, the Hon. Kyam Maher; the Hon. Tammy Franks; the Hon. John Darley; and the Hon. Stephen Wade on behalf of all the political parties in this place for their support in relation to this bill. I can assure you that even in the moments that we have been speaking Wayne's family have been in contact to say that they are overwhelmed by the support that they are seeing in this place this evening. I am glad that is the case for them, and I am glad that we have come together in this place to pass these very important laws.

I would like to just take the opportunity while I am on my feet to address the concerns or questions that have been raised by the Hon. John Darley. They have certainly been addressed with me via the office of Minister Tarzia, the Minister for Police, Emergency Services and Correctional Services. They relate specifically, as alluded to by the Hon. Stephen Wade, to what the policy will be after September, when spit hoods will no longer be available in our detention settings or custodial settings.

I have been advised by the government that a detailed information manual for the staff, 'Spit hood removal—way forward', has been drafted and is being reviewed by the deputy chief executive. That manual contains comprehensive information on risk mitigation strategies, risk reduction and management of prisoners who are spitting or threatening to spit.

It is still estimated that the removal of spit hoods will occur by the end of September 2021, according to the announcement that was made in relation to the phase-out of spit hoods. The general managers, with support from security managers, will oversee the removal. All references to spit hoods in standard operating procedures will be removed. In terms of the alternatives, consultation on alternative PPE, as I referred to in my second reading explanation, for staff is still being undertaken. Communication with the PSA and representatives from DCS is continuing. A trial of PPE similar to that used by youth justice occurred in August 2021; however, I think that was deemed unsuitable, and alternative options are still being considered in that context.

I can also advise, based on the information I have—and I think I might have mentioned this already—the phase-out period that was committed to by the government is in place, and those alternatives, again as alluded to by the minister, are being considered in terms of identifying suitable PPE that can be used in place of spit hoods.

With those words—and I hope that clarifies the Hon. John Darley's queries—on behalf of SA-Best and on behalf of Wayne's family I offer my sincere thanks to all members in this place for their support on this very important piece of legislation, which as I said I hope will go some way towards easing the pain that Wayne's family has had to endure for some five years now, pain that by no stretch of the imagination will ever be overcome, especially given that as we know and as was referred to by the Hon. Tammy Franks there is still a coronial inquest underway, which to date has taken some three years.

I am sure that coronial inquest and its findings will also provide the family with some more answers to what can only be described as very tragic circumstances for them and, of course, for Wayne. With those words, again I thank honourable members for their support.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–1]—

Page 3, line 7 [clause 3, inserted section 86AA(1)]—Delete 'an adult person' and substitute:

a person

Just for the record, all of the amendments are related. They all deal with the same issue, and that is broadening the scope of the bill to ensure that it includes a person rather than an adult, to ensure that it covers the jurisdiction of adults and minors and that it will apply to the Adelaide Youth Training Centre in addition to the other detention and custodial settings that are already outlined in the bill.

Amendment carried; clause as amended passed.

Clause 4.

The Hon. C. BONAROS: Again, for the benefit of members, all of the remaining amendments are related to the first one. I move:

Amendment No 2 [Bonaros–1]—

Page 3, line 20 [clause 4, inserted section 48A(1)]—Delete 'an adult person' and substitute:

a person

Amendment carried; clause as amended passed.

Clause 5.

The Hon. C. BONAROS: I move:

Amendment No 3 [Bonaros–1]—

Page 3, lines 32 and 33 [clause 5, inserted section 9J(1)]—Delete 'an adult person' and substitute:

a person

Amendment carried; clause as amended passed.

Clause 6.

The Hon. C. BONAROS: I move:

Amendment No 4 [Bonaros–1]—

Page 4, lines 11 and 12 [clause 6, inserted section 82A(1)]—Delete 'an adult person' and substitute:

a person

Amendment carried; clause as amended passed.

Clause 7.

The Hon. C. BONAROS: I move:

Amendment No 5 [Bonaros–1]—

Page 4, line 25 [clause 7, inserted section 33A(1)]—Delete 'an adult person' and substitute:

a person

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. C. BONAROS (22:54): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (INTERVENTION ORDERS AND PENALTIES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 8 September 2021.)

The Hon. R.A. SIMMS (22:55): I rise very briefly on behalf of the Greens to speak in favour of this bill. We note that this bill is going to impose stricter penalties on those who breach intervention orders, and we think that is entirely appropriate when one considers the terrible impact that domestic violence has, not only in our state but also right across the country. I want to acknowledge on behalf of the Greens the leadership of Katrine Hildyard MP in the other place in bringing this important matter to light in the parliament. With those words, I commend the bill.

The Hon. J.M.A. LENSINK (Minister for Human Services) (22:56): I rise to place some remarks on the record in relation to this legislation, which has already passed the House of Assembly, having been introduced by the member for Reynell. She has been working collaboratively with the Attorney-General on elements of this particular legislation, which essentially increases penalties for a number of provisions in the intervention order regime.

Of course, the matter of repeat breaches of intervention orders is something that was also addressed in 2018 by the Attorney. It was a government election commitment to help to reduce the scourge of domestic and family violence that takes place in our community. Certainly, feedback that we have had from victim survivors or heroes, whatever terminology people wish to use, is that they have felt at times that the orders were not worth the paper they were written on because they could be breached, and particularly breached repeatedly, so that is something that has been of concern and something that has been addressed in part by the Attorney's bill.

This bill was amended in the other place to include a commencement clause so that the bill commences on a day to be fixed by proclamation. This will ensure that SAPOL, the DPP and the courts have sufficient lead-in time prior to the new increased penalties commencing. The original bill from the member for Reynell removed the ability to charge an expiation fee. An amendment was moved to reinsert an increased expiation fee, as failing to comply with a term of intervention order to undertake an intervention program may be very trivial—for example, failing to attend the program on one occasion. It was considered appropriate for it to be possible to expiate such an offence, rather than laying a charge to be dealt with by the courts.

The bill also seeks to remove the monetary penalty from the offence and create an aggravated offence of 10 years' imprisonment. Four new subsections are inserted in section 31 of the substantive legislation. These new subsections do two things. Firstly, they define the circumstances in which an offence will be aggravated, that is, where the offender knew or suspected or ought reasonably to have known or suspected that a child would see, hear or otherwise be exposed to the offending conduct. Secondly, they ensure that offences under section 31 will continue to be prosecuted as summary offences in the Magistrates Court.

Without this amendment, the increased penalties would mean that, for the major indictable charges—that is, those offences with penalties greater than five years' imprisonment—the Magistrates Court would no longer be able to deal with them and they would be committed to the District Court. This would lead to a significant increase in the number of matters to be dealt with by the District Court by way of jury trial and for the DPP who would prosecute them.

However, in order to ensure that offenders are subjected to the appropriate penalty once found guilty, if the Magistrates Court determines that a penalty of more than five years' imprisonment should be imposed, it must commit the defendant to the District Court to be sentenced. Minor technical amendments were made to this amendment in the House of Assembly by the Attorney-General to update the paragraph references as the Sentencing Act has been amended since the bill was first introduced. With those comments, I indicate government support for this bill.

The Hon. C. BONAROS (23:00): I rise to speak on the Statutes Amendment (Intervention Orders and Penalties) Bill, which seeks to remove the financial penalty for breaching intervention

orders and impose harsher custodial sentences and penalties. We know that one in four Australian women have experienced violence by an intimate partner. One in five have experienced sexual violence.

Tragically, Indigenous women over 15 years of age are 34 times more likely to be hospitalised for family violence than non-Indigenous females. In 2020, 52 per cent of women murdered in Australia were killed at the hands of family members and 32 per cent by their partners or ex-partners. So far this year, 31 women have been killed by violence, according to the Counting Dead Women project.

This bill seeks to increase the penalty for a first breach of an intervention order from a maximum of $10,000, or maximum of a two-year imprisonment term, to five years, or seven years for an aggravated offence. For second and subsequent breaches, the increase is to 10 years, or 12 years if the offending is aggravated. An aggravated offence is to include offences involving or witnessed by children, which I think is an extraordinarily important element of this bill.

The Australian Bureau of Statistics 2016 Personal Safety Survey found 68 per cent of women who had children in their care reported the children had seen or heard violence. The bill also inserts these offences into the Sentencing Act, so that the serious repeat offender provisions apply, and that is also a welcome measure.

While we welcome the changes in penalty, I think we also have to be very realistic because this is not the only answer and there is certainly a long way to go. I think we wish it were this simple, but the reality is it is not. Not all perpetrators are going to be deterred by an increase in penalty. Not all perpetrators are going to stop and think, 'I might go to gaol for 12 years or I might be sentenced as a serious repeat offender now and be required to serve four-fifths of my head sentence.'

Victims need more supports. They need timely access to services, including interpreters. There needs to be greater communication by police to a victim or applicant when an intervention order is about to be served. I am told victims are often left in the dark as to when an intervention order is about to be served, which is particularly terrifying if they are living with the perpetrator.

There are calls for greater education for our judicial officers as well, something that needs to be seriously considered by our judiciary and also by this parliament. Lawyers are becoming increasingly frustrated that magistrates are not always consistent in their approaches in relation to these issues. They say some insist on the victim getting into the witness box and being in the same room as the perpetrator and some do not.

We also know that victims of domestic violence are reluctant to call the police for fear of triggering a mandatory report to child protection. Women in prison are a particularly vulnerable group. They are often presented with the choice to stay in prison or accept an early release by living with a perpetrator. Without available housing, many choose the latter, only to return to alcohol or drugs to soothe the trauma which sees them return to prison again.

As I said, these are complex issues and we welcome these measures in this bill as positive steps forward, and I acknowledge that this is not the only bill that we have seen. We have seen, I think, some very good pieces of legislation introduced this year across the political spectrum, including pieces of legislation that have been introduced into this place by the Attorney-General which seek to advance some of the issues that we have highlighted today. These are all really important measures, and it is certainly my hope that we can all work together on these issues. There are certainly conversations that need to be had and conversations that need to keep going.

I am grateful to the opposition and the Hon. Emily Bourke, who has carriage of this bill in this place, for bringing the bill to this place, and obviously the Hon. Katrine Hildyard for introducing this bill in the first instance. I hope that we can keep up the good work that we have seen of late in this place when it comes to issues that are the subject of legislation or bills like this. With those words, SA-Best supports the bill.

The Hon. E.S. BOURKE (23:06): Like a number of the bills that have been discussed tonight, this bill has found its way into this chamber because of the unnecessary loss of life. In saying that, I would also like to acknowledge that these laws will be introduced in the wake of the horrific murder of Hannah Clarke in Queensland, a mum, and her beautiful three children who were

murdered by their possessive and controlling father who was also the subject of countless intervention orders.

These stories often capture a nation. They capture a nation because, perhaps, it is an unthinkable crime that is committed with innocent lives being taken by someone who should be their protector, not their predator. As we have highlighted tonight, we have seen too many lives lost at the hands of someone who should be their protector.

With more than one woman killed in Australia every week by a partner or a former partner, it is fundamental that we continue to explore ways to eliminate this appalling statistic. Labor is deeply committed to ending this domestic violence, and while this bill alone will not achieve this outcome it is an important step in the right direction.

I would like to thank the many members who have spoken tonight: the Hon. Robert Simms, the Hon. Connie Bonaros and the Hon. Michelle Lensink. I would also like to thank the members from the other place: the Hon. Vickie Chapman and also the person who has worked tirelessly on this bill to bring it into the parliament, and that is the member for Reynell, Katrine Hildyard, for the work that she has done on this bill and her ongoing advocacy in this place.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. E.S. BOURKE (23:10): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Motions

AFGHANISTAN

Adjourned debate on motion of Hon. C.M. Scriven:

That this council—

1. Acknowledges the more than 26,000 Australians who served in Afghanistan and mourns the ultimate sacrifice 41 Australian soldiers made while serving our countries;

2. Supports the people of Afghanistan during this difficult time and acknowledges the sacrifices made by many Afghan people over the last 20 years working with Australian and NATO partners to help free Afghanistan from the Taliban;

3. Supports and commits to work with the local Afghan community of South Australia and provide assistance where appropriate;

4. Calls on the Morrison government to implement the following actions:

   (a) immediately grant all Afghan nationals who are already in Australia on Safe Haven Enterprise visas (SHEVs) and Temporary Protection visas (TPVs) a path to permanent residency and ultimately Australian citizenship;

   (b) subject to all necessary security and health checks facilitate migration to Australia of Afghan residents (including their families) who have worked with or assisted Australian Defence Forces or consular personnel in Afghanistan, in recognition of their service to Australia;

   (c) immediately announce a humanitarian refugee visa program for Afghan ethnic minorities, such as the Hazaras and advocates for women's rights and human rights, journalists and other activists at risk due to Taliban rule; and

   (d) prioritise and increase the number of Australian family reunion visas for Afghan Australians.

(Continued from 25 August 2021.)

The Hon. I. PNEVMATIKOS (23:10): I rise today in support of the Hon. Clare Scriven's motion. Over the past 20 years, Australia, the US and other allied nations have suffered great losses in the declared war on terror, but none as much as the people of Afghanistan. The US-led invasion's supposed function was to expel and dismantle terrorist groups and safeguard the Afghan people. However, in waging this war, tens of thousands of Afghan civilians have been killed in the crossfire. The recent termination of US occupation has led the country back in time to 20 years ago, to Taliban rule. This poses the complicated question of why a government was formed that was unsustainable without the economic and military aid of the US.

However, this war did have its merits: it fought for the rights of women and girls to access education and to be free of persecution. The future of women and girls in Afghanistan today is very unsure. If you are a woman or a girl at this moment in Afghanistan, it means:

- you cannot attend school or work safely;
- you cannot attend university without wearing a burqa and being segregated from men and the teacher;
- you cannot participate in politics;
- you cannot participate in public sports; and
- you cannot protest against the government.

Just to be Hazara means to face a potential genocide. The resurgent Taliban's face—as changed, inclusive and legitimate—is steadily slipping. Their interim government, formed on 7 September, unsurprisingly consists only of men and no-one from ethnic or religious minorities. A spokesperson of the organisation said, 'It's not necessary that women be in the cabinet.' To quote Afghanistan's embassy in Canberra, this cabinet is 'illegitimate, unjustifiable and un-Islamic'.

Further, to see how women in Afghanistan are valued by this organisation you would only have to look out a window. Their erasure of women from the public space can literally be seen by the painting over of images of women on buildings and billboards. Equally as concerning is the imminent poverty crisis. Afghanistan is on the brink of economic collapse as a result of frozen foreign aid. Ninety-seven per cent of the population may shortly be below the poverty line, according to the UN.

In the withdrawal of the occupation, this crisis was predictable. Just like our efforts in this war, Australia's rescue missions were seriously deficient. By 26 August, the government extracted 4,100 people from Kabul, including Australian citizens, visa holders and Afghan nationals who aided Australian defence forces. However, there are Afghans who aided the ADF who have been left behind, leaving them at risk of persecution. When probed, the Prime Minister simply stated, 'Support won't reach all that it should.' This is simply not good enough.

Australia must step up to the plate and implement the proposed actions. As the future for foreign aid in Afghanistan is uncertain, the bare minimum Australia can do is to create pathways for Afghan asylum seekers to take refuge in Australia. Currently, the Australian government has allocated 3,000 humanitarian places for Afghan nationals; however, this is not a special intake of refugees. The allocation is deducted from our already dwindling humanitarian visa program, a program that has been cut by 5,000 places this year alone, going from 18,750 places in 2020 to 13,750 currently.

The UK and Canada are both offering 20,000 new humanitarian visas. Amnesty International Australia and refugee advocates have suggested Australia should match this baseline. I believe Australia can and should do better for the people of Afghanistan. Our prime minister has also recently said in reference to this crisis, and I quote:

> We will not be allowing people to enter Australia illegally, even at this time. Our policy has not changed.

By its very definition, there is no such thing as an illegal asylum seeker or refugee. For people in Afghanistan who have insecure access to funds and local flights, what does he suggest is the optimal way for those seeking asylum to enter Australia? Furthermore, the most our government has done for those on temporary visas is to state that, 'No Afghan visa holder will be asked to return to

Afghanistan at this stage.' Empty words that do not reassure the many Afghan Australians on these visas who fear the possibility of deportation to an unsafe country.

The reality is the nation of Afghanistan is highly at risk of civil war, poverty and terrorism, and our country has played a part in the war. Australia must offer a path to permanency and ultimately citizenship now and give Afghan temporary visa holders peace of mind and the ability to call Australia home.

Lastly, I would like to acknowledge our strong Afghan community in Adelaide who have banded with the Muslim community groups to assist with visa applications and fundraising. The Afghan Australian Women's Association, Human Appeal Australia, Adelaide Sisters Association, Islamic Society of South Australia and the Islamic Information Centre of South Australia have raised over $150,000 for emergency relief in Afghanistan in a single event. If the federal government modelled the Afghan Australian community's selflessness and perseverance our humanitarian efforts would be far more ambitious than they are now. Australia can and should do better for Afghanistan.

Debate adjourned on motion of Hon. G.M. Girolamo.

Bills

FAIR TRADING (MOTOR VEHICLE INSURERS AND REPAIRERS) AMENDMENT BILL

Introduction and First Reading

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

At 23:19 the council adjourned until Thursday 23 September 2021 at 14:15.