LEGISLATIVE COUNCIL

Thursday, 18 November 2021

The PRESIDENT (Hon. J.S.L. Dawkins) took the chair at 11:00 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

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and questions without notice to be taken into consideration at 2.15pm.

Motion carried.

Parliamentary Committees

JOINT COMMITTEE ON THE EQUAL OPPORTUNITY COMMISSIONER'S REPORT INTO HARASSMENT IN THE PARLIAMENT WORKPLACE

Adjourned debate on motion of Hon. R.I. Lucas:

That the report of the committee be noted and that the recommendations of the joint committee that the code of conduct for members of parliament be adopted and that the standing orders of the council be amended to incorporate the code of conduct within the standing orders and that, upon the code of conduct being adopted by the Legislative Council, the statement of principles previously adopted be superseded by the code of conduct, be adopted.

(Continued from 16 November 2021.)

The Hon. R.I. LUCAS (Treasurer) (11:03): As has been circulated sometime earlier in the week, this is actually the motion that the report of the joint committee on the recommendations arising from the Equal Opportunity Commissioner's inquiry be noted, and the recommendations of the joint committee that the code of conduct be adopted. This is the first motion. Given the contributions, I understand that it is likely to be—one never likes to predict—uncontroversial and will be approved. If that is the case, I will then be moving, based on advice, a recommendation for the formal adoption of the standing orders, and I think there has been the flagging of a potential amendment.

I am just clarifying that, when I move that second motion, I am able to speak to both the motion and the mooted amendments. So at this stage, we are just voting on this first motion that is here on the *Notice Paper*.

Motion carried.

The Hon. R.I. LUCAS: I move:

That council adopt a new standing order providing for a code of conduct for members of parliament as follows.

As I briefly outlined earlier, this proposal is a formal adoption within our standing orders of the code of conduct for members of parliament. I do not propose to go through all of that; that has been explained in our earlier speeches on the earlier motion. But to briefly summarise, there is a preamble and then there is the actual code of conduct. A number of us addressed the distinction between the preamble and the actual code of conduct, and I do not propose to go over that again.

What I will say is that since I last spoke on this particular issue our lower house colleagues—we do not always have to be mindful of what they have done, but I think on this occasion it is important that we at least note that because I think it is important to note what they have done and therefore in relation to an issue of consistency between the houses.

The House of Assembly has already adopted the recommendations of the joint committee as is. In the House of Assembly, I am advised, all Liberal members, all Labor members and all 15 million crossbenchers—or whatever that number is at any point in time; without dissent, I should say, is perhaps a better way of putting it—unanimously adopted the actual recommendations of the joint committee without further amendment.

Whilst I have indicated, and I do so again now, the government's opposition to the about to be moved amendments to the code, to be moved by the Hon. Mr Simms, I now add the additional argument from the government's viewpoint that should the Legislative Council adopt the further amendments we would have a position where the code of conduct that exists for House of Assembly members would be different to the code of conduct that was adopted by the Legislative Council.

There is nothing unlawful about that, so I am not suggesting that there is. I do, however, add to the argument that I made earlier, that we do not support the actual substance of the recommendations of the amendment anyway, for the reasons I have outlined. Secondly, I think there is now this additional issue that there has been this unanimous vote of all government, opposition and crossbench members in the House of Assembly.

I think the strength of this code of conduct was that there was a unanimity of all represented there. There is now unanimity of all in the House of Assembly, and I would hope that there will be eventually, if the amendments are unsuccessful, unanimity in this chamber from government, opposition and crossbench members, that we are now all pledged to incorporate the recommended standing orders into the standing orders of this place, as well as into the House of Assembly, to help govern the behaviour of members henceforth.

For those reasons, I move the adoption of this new standing order. Whilst the proposed amendment has not been moved yet—the Hon. Mr Simms will do that in a moment—it will be the government's position that we will be opposing the amendment and supporting the adoption of the recommendations of the committee.

The Hon. R.A. SIMMS (11:09): I move to amend proposed new standing order 455B:

After 'Code of Conduct', first appearing, insert 'and should a Member wilfully contravene the Code, the Council may require the Member to apologise; or pay a fine; or may suspend the Member from the service of the Council.'

This is a straightforward inclusion. It is modelled on the code of conduct that operates in the state of Victoria. I understand the points the honourable Treasurer has made in terms of wanting to ensure uniformity between the houses, but at the same time I think we have a responsibility to ensure that any code we put in place is effective and has real teeth.

I think the people of South Australia expect that if you do the wrong thing in a workplace you face consequences, that you face potential sanction or penalty. It would send the wrong message if we supported a range of laudable principles today, but we did not actually stipulate what consequences may flow for members of parliament who do the wrong thing. I think it is appropriate that we put some of those things in the standing orders.

Members may well ask how great would a fine be, or how long would a suspension last. The Victorian legislation provides some clarity on this and so if we were to establish this principle in the parliament today then we could certainly finesse that down the track. I think this is an important principle for us to establish. It is one that the community will expect of us and I am hoping that this chamber will support the amendment being advanced by the Greens.

The Hon. K.J. MAHER (Leader of the Opposition) (11:11): I rise very briefly to speak to the amendment and thank the Hon. Robert Simms for bringing the amendment to this chamber. However, we will not be supporting the Hon. Robert Simms' amendment at this time. That is not to say we are closed to the idea of supporting something like this in the future, in the next parliament. We do agree with some of the reasons the Treasurer has laid out.

I think it is a desirable outcome that there is uniformity between the House of Assembly and the Legislative Council; that is, all members elected to this parliament, regardless of the chamber, fall under the same rules. I suspect also that many of the sanctions that are outlined in the Hon. Robert Simms' amendment could probably be imposed by the Legislative Council without the

amendment if the Legislative Council so chose to do that. So as I have said, we are not opposed to the idea and we are open to re-visiting it in the next parliament.

The Hon. C. BONAROS (11:12): Can I state for the record, as I did when I spoke to this issue a few days ago, that in principle I am not opposed to what is being proposed, but I am very mindful of the process that we have just gone through with this committee. I appreciate the issues that we have all asked, in terms of those penalties, could be addressed, but I am also very mindful of all the other problems that I outlined when I spoke the other day, particularly around issues of parliamentary privilege and so forth, that still need to be ironed out.

By no means is this exercise finished, and it is my firm view that there is much more work that still needs to be done. I think the process that we went through in that committee and the reason we reached that unanimous position was that some of these issues are not as clear-cut as they appear on the face of it. That was certainly my take from it. I have been outspoken in this place about the need for consequences. I think there are avenues for consequences that exist. We did flesh this out during the committee process and I agree with the Leader of the Government and the opposition that we should have uniform codes between the houses.

That is not to say that I am opposed to having penalties in the code, but at this stage, based on the fact that we reached that unanimous position—and it has been baby steps to get to this point, very slow baby steps—I do not want to do something that will take us outside that agreement, knowing full well that there are a number of other equally important issues—and I say it again, parliamentary privilege—that need to be addressed. My firm intention is that this will be considered into the next parliament and that we can consider something that all members are comfortable with and that applies equally to both chambers of this parliament.

The Hon. J.A. DARLEY (11:15): For the record, I will not be supporting the amendment. I agree to the principle of the matter, but I cannot sign a blank cheque on matters that we do not know how the consequences will be determined and what they may be.

The council divided on the amendment:

Ayes.....2
Noes 18
Majority 16

AYES

Franks, T.A.	Simms, R.A. (teller)	

NOES

Bonaros, C.	Bourke, E.S.	Centofanti, N.J.
Darley, J.A.	Girolamo, H.M.	Hanson, J.E.
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Maher, K.J.	Ngo, T.T.
Pangallo, F.	Pnevmatikos, I.	Scriven, C.M.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.

Amendment thus negatived; motion carried.

The Hon. R.I. LUCAS (Treasurer) (11:19): I move:

That new standing order 455B be presented to the Governor by the President for approval, pursuant to section 55 of the Constitution Act 1934.

Motion carried.

Bills

ELECTORAL (ELECTRONIC DOCUMENTS AND OTHER MATTERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 November 2021.)

The Hon. R.I. LUCAS (Treasurer) (11:20): I thank honourable members for their contribution to the second reading and look forward to the committee stage of the debate.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. K.J. MAHER: I rise to speak briefly at clause 1. It is an issue that I canvassed in my second reading speech, but I wish at clause 1 to place on the record further concerns given developments that have happened in the federal parliament since we considered the second reading of this bill. I canvassed in my second reading the fact that this is happening at the very last minute, essentially in time-on of the last quarter, to change the rules about how an election is to be conducted a few short months before an election.

We oppose that sort of change completely, given the amount of time that has been available to make changes in the past. But the area that we feel is most egregious is reducing the amount of time that electors have to get on the electoral roll. In fact, later in the committee stage we will be moving amendments that actually give effect to the number one recommendation of the Electoral Commissioner, that is, to allow enrolment up to and including election day.

A measure to try to reduce the amount of time that electors have to get on the roll seems to be a worldwide phenomenon or tactic of parties on the right of centre to reduce people's ability to vote. Particularly in the US, it is a phenomenon and a tactic known as voter suppression. What the bill before us seeks to do is to contribute to that by allowing less time for an elector to get on the electoral roll, and that is the complete opposite of the very first recommendation of the Electoral Commissioner.

What we have seen in recent weeks is a move for similar voter suppression being replicated by amendments to commonwealth electoral laws. The way the right of centre parties in the commonwealth parliament are attempting to do that is by requiring identification before you can vote. As many commentators have suggested, in terms of the federal parliamentary manoeuvre, it is a poor solution to a problem that does not exist.

In terms of voter fraud—that is, someone attempting to exercise a vote that they are not entitled to—statistics show it is a fraction of a fraction of 1 per cent of times that this occurs. It is a problem that does not exist, and it is a poor solution to a problem. That is the commonwealth government's attempt to try to restrict those who exercise their right to vote.

What will happen is that the commonwealth proposition will disproportionately impact young people, new citizens, low information voters and Aboriginal voters. It is widely accepted, and I know some of my colleagues in federal parliament like Senator Pat Dodson, Linda Burney, Senator Malarndirri McCarthy, some of the Aboriginal members of the federal Labor Party, are ferociously trying to resist the impacts that this will have on Aboriginal voters by requiring identification to try to solve a non-existent problem.

The attempts in this bill in contravention of the recommendations of the Electoral Commissioner to make it harder to enrol by virtue of lessening the time you can enrol, will have the same effect, that is, it will disproportionately impact young people, new citizens, people with less access to information and Aboriginal people in attempting to get on the roll to vote. We will have amendments that we bring forward later in this bill to try to increase not decrease the franchise of people who vote.

There was analysis done some time ago in terms of Aboriginal people voting and I think I will roughly get the figures right, that about half of Aboriginal voters who are entitled to be on the roll are not on the roll. Of the half who are on the roll, only about half vote in any given state or federal election, and informality rates are several times higher than non-Indigenous voters. Leading in a study that I saw some time ago, a bit under 20 per cent of Aboriginal people who might be able to exercise a vote actually do so at each election.

Anything that makes it harder for Aboriginal people, young people, new citizens and those with low information and access to vote, I think is a shameful thing to do. Given the measures the commonwealth parliament is trying to pass in terms of voter identification, this sort of voter suppression tactic will be fiercely resisted by the Labor Party. I will have more to say in amendments that go to that later in the bill, but I wanted to place that on the record given the attempts for voter suppression that are occurring in the federal parliament since we discussed this at the second reading.

Clause passed.

Clauses 2 to 3 passed.

Clause 4.

The Hon. R.A. SIMMS: I move:

Amendment No 1 [Simms–1]—

Page 3, after line 11 [clause 4, before subclause (1)]—Insert:

(a1) Section 4(1), definition of *elector*—delete '18 years' and substitute '16 years'

This is an amendment that seeks to change the definition of elector from the age of 18 to 16. Currently, as we know, voters go on the roll at the age of 18 in South Australia. This would make voting optional for people who are 16 and 17 in state elections. We in the Greens think that is entirely appropriate. If someone is old enough to pay taxes, old enough to work, old enough to drive, then they should be old enough to vote and have a say on the direction of our state.

We also face some big challenges at the moment. Those challenges are multigenerational. Issues like climate change—the impact of an issue like that will be felt across the generations. We know that young people, particularly of school age, have been leading the charge for climate action. They should have a say on the direction of their state and their country, and the best way we can do that is by giving them an opportunity to vote. We also see this as being an exciting way to engage people more in civics and improve understanding of our politics as well.

The Hon. R.I. LUCAS: The government opposes this amendment to lower the voting age. The age of majority in South Australia is 18. The commonwealth, all other states and territories and most other countries have a voting age of 18. The government's view is that there are many other ways that younger people can make their voices heard and help to shape government policy. The government, therefore, has in the past and continues to oppose this particular move.

The Hon. C. BONAROS: SA-Best does not have a fixed position on the age, as the Greens do, but what I can say—and I am going to disappoint the Hon. Robert Simms—is that we will not be supporting the amendment now, basically because it is not one of our policies; it is a Greens policy.

The Hon. R.A. Simms: Don't let that stop you.

The Hon. C. BONAROS: No. But that is something that we are considering very close to an upcoming election. I think if we were to give serious consideration—I am not suggesting that we have that position; I am just stating the obvious—if we were to consider lowering the age for voting, then I imagine there would need to be quite a bit of work that would need to go into that, and I do not think that work should be done between now and March of next year.

Again, I am passing no commentary on our position in terms of 16 or 18. I am comfortable with 18, personally, as the voting age; that is my position. But even if we were to contemplate that change, I certainly would not be comfortable to do it in the time frame available to us, especially because there is an election in March. It is my firm view that even if we had unanimous support in

this place, we would need some sort of campaign leading up to those changes, and we simply do not have the ability to do that at this stage.

The Hon. K.J. MAHER: I will very briefly say that the Labor opposition would be keen to explore this, but for similar to reasons outlined by the Hon. Connie Bonaros we will not be supporting it at this time.

The Hon. J.A. DARLEY: For the record and for the reasons already given, I will not be supporting this motion.

The Hon. R.A. SIMMS: Just to sum up on the amendment, I am disappointed to hear that there does not appear to be support in the parliament for this initiative. I note the comments of the Hon. Connie Bonaros. Feel free to copy Greens policies any time: we have some good suggestions we can share. But this is an issue we will continue to promote. In the interim, young people that do not have an opportunity to vote will have no option but to continue to be out on the streets protesting and taking action on the climate crisis and other issues that affect their future.

Amendment negatived; clause passed.

Clause 5.

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

Amendment No 1 [Maher–1]—

Page 3, lines 15 and 16—This clause will be opposed

This amendment is, in effect, to oppose a clause of this bill. I might outline for the benefit, particularly of crossbenchers, this amendment and how it relates to further amendments.

We have a suite of amendments that relate to early voting. There are parts of this bill that look at ways to make early, particularly pre-poll, voting easier to occur and that promote earlier voting. Whilst we believe that we should be doing everything we can to enfranchise as many people as possible to vote, we are concerned with the move away from voting on election day.

There are a whole number of reasons for that. One, and probably the most compelling, is that by election day voters get complete information. We know that parties—major, minor—and Independent members of parliament or those who are seeking election for the first time will roll out policies right up to and including the day before the election to maintain interest in that party and what they stand for.

Encouraging or promoting or seeking that people vote earlier necessarily means that there will be greater incidence of people voting without the benefit of all the information to weigh up as to who they might vote for. It is not just the policies that are rolled out, it tends to be that, as a campaign drags on towards the end, it is often where you see some of the unintended consequences that parties and candidates have with their policies in terms of the political debate. Doing things to encourage voters to vote with less full information we think is not good for democracy and for weighing up a balanced judgement.

There is another factor, and I was trying to think how to explain it, but I often look at—and have for many years—the US elections, where early voting is a common feature. It does not have an election day where there is that common movement in the nation to exercise their democratic right on a single day, because it is spread out over so much time. The tradition, certainly in Australia, where the majority of electors cast their vote on election day, brings together a nation in a common endeavour in exercising their democratic right. I think there is something to be said for that institution and that day where people are exercising their right on election day. Again, doing things to erode that takes away from, I think, one of the good aspects of our democratic system.

There is also some of the nuts and bolts of how campaigning works. If you were to have many more people voting before an election—and I think it was the evidence of the Electoral Commissioner to estimates committees that, if the bill passes with some of the changes to make it easier to vote early, it is the intention to have 47 early voting centres around the state. The major parties probably will be able to do it; they will struggle to staff for 12 days 47 voting centres around the state but I suspect they will be able to do it with some degree of difficulty. Certainly, Independent

candidates, and particularly those in the Legislative Council who rely on votes throughout the state, I suspect will have much more difficulty than the major parties in trying to staff 47 booths for 12 days before an election.

Later on, I will have amendments that actually make changes to move from 12 days of early voting to seven days. That is a change to the status quo. At the moment it is 12, but later on I have amendments proposed to make it seven days; that is, you would have one of every day of the week to vote early. It would start on the Monday before the election: you would have Monday, Tuesday, Wednesday, Thursday and Friday for early voting, and then you would have the Saturday of the general election where—for the reasons I have outlined before—you would hope and anticipate that you would have the majority of the electorate voting with the full information on that one day, with a common cause to come out and vote on election day. They are for later on.

What I am suggesting here, of course, via the amendment, is not to change anything with the status quo; it is to preserve the status quo, and that is that it ought to be promoted to vote at a polling booth. We are not changing anything with this one, we are just suggesting that we keep the status quo—that is, it ought to be promoted to vote at a polling booth on the day. Certainly, later on, I will be moving amendments that actively make changes to the status quo in terms of early voting, and that is for the reasons I have outlined, to encourage people to vote on the day.

I know there are suggestions, particularly in this environment where we find ourselves in a COVID pandemic, that spreading out voting and having less people at any particular time at a polling booth is desirable. I agree with that, but I do not think changing the Electoral Act in terms of early voting is the only way to do that. I think in second reading speeches there were other members who made comments that I think are very valid, that if it was the government's desire to have less people at any given polling booth, you could, for example, triple the number of polling booths that are available for people to vote at, and then you would have one-third of the people at each given polling booth.

There are other ways to achieve the same end when circumstances require it. I do think circumstances require it now, and I would encourage the government, regardless of what happens to these amendments, to consider further funding for the Electoral Commission to have more polling booths on the Saturday of the election. I think that makes sense regardless of what we do with early voting. But, certainly, this first one does not make any changes; it preserves the status quo, and that is promoting voting at a polling booth on election day.

The Hon. R.I. LUCAS: The government opposes this particular amendment and, when we get on to the more substantive elements of what the Leader of the Opposition has just addressed, we will be opposing those as well. Towards the end of his contribution, the leader addressed what is going to be a significant issue for us for this election. We hope it is only this election, but who knows in terms of future elections. That is in relation to maximising people who participate in our election whilst enduring a global pandemic.

I can indicate to the committee that I have just approved or I am in the process of approving another significant increase in the Electoral Commission's budget for the upcoming election, because the Electoral Commission is going to extraordinary lengths to try to provide a COVID-safe environment for the election. If the Leader of the Opposition's package of amendments gets up, we may well see a relatively significant reduction in the number of people who do participate in voting at the coming election. That may well be the leader's intention. He may well have a view that COVID-hesitant people are more likely to favour the government perhaps.

The Hon. K.J. Maher: I think the evidence is there actually.

The Hon. R.I. LUCAS: Well, I do not know. I have not seen any evidence, and I am not interested in which way they vote or they do not vote. The Electoral Commission's charter is to try to give the maximum opportunity for as many people to participate in an election, and part of that is obviously the issue of a COVID-safe environment within the polling booths or pre-election polling booths to the extent that that is possible. That will include social distancing, one would assume masks and hygiene. There are proposals for cleaning the pencils and a whole variety of other quite elaborate proposals. The government is providing funding to the Electoral Commissioner for ongoing hygiene

and sanitation of every polling booth in the state on the day and the pre-election polling booths as well. There will be a management of outside polling booths in terms of social distancing, and the like.

Any of us, and I suspect it is probably all of us, at some stage or another in our political careers—well, clearly we have all voted—have also probably been on polling booths for our particular political parties or organisations we might have been supportive of. We are all aware that there can be very extensive queues at particular periods of the day within our polling booths. Some polling booths are more suited to that than others. It also depends on the weather conditions in relation to whether or not people are happy to queue in a long line without any shade, whether it is raining or whether it is hot, or whatever it might happen to be. We are all aware of the examples of large numbers of people in a small space queueing to vote in polling booths on election day or even at pre-election polling booths.

The government is mindful of the advice we have received from the Electoral Commission. As I said, my view is that if a range of these amendments from the Leader of the Opposition are passed into law, then we potentially might see a significant reduction in the number of people who do actually participate in voting on election day. I think that is a tragedy. All of us will look at these particular provisions. If you are there representing your particular political party or interest, that may or may not influence your views to some degree. Ultimately, the Electoral Commission is there to try to maximise the participation of as many people as possible in the safest possible environment on election day or in the period leading up to election day.

As I said, the government is strongly opposing the package of amendments that will address the more substantive ones later on. This is one part of that overall package, and we are opposing this as well.

The Hon. C. BONAROS: I rise to indicate for the record that SA-Best does support voting on polling day. That is our position. I think we should be doing absolutely everything we can to encourage that. We acknowledge the need for voting outside polling day, but this particular amendment is a permanent change. It is not a COVID change; it is a permanent change. Outside a COVID environment, we are suggesting that there should be a move towards permanently removing the requirement for the EC to permanently encourage voting on polling day, and that is simply something we do not support.

I have spoken in this place before about the importance to us of the news cycle of the weeks or the days leading up to an election and the impact that can have on political parties. That is a very real and significant issue for political parties that they have to grapple with. I note the Hon. Kyam Maher has amendments that address that issue as well, but as a general principle I am not willing to support a permanent measure that goes well beyond the scope of any concerns around COVID and removes the requirement for ECSA to encourage voting on polling day.

The Hon. J.A. DARLEY: For the record, I will be supporting the opposition amendment.

The Hon. R.A. SIMMS: The Greens will not be supporting the opposition's amendment. I understand where the honourable leader is coming from in terms of his concerns. However, we do consider that the views that the government has put, and indeed those of the Electoral Commissioner, are compelling in this instance. We are in the middle of a once-in-a-generation pandemic. There will be people who are hesitant about turning up at polling booths on the set election day, and so from our perspective it makes sense to make things a little bit easier to stagger the process. To the Hon. Cory Bonaros's point about the—

An honourable member: Connie.

The Hon. R.A. SIMMS: Sorry, Connie Bonaros; apologies. I went back into my old Senate days there. I am used to facing off against Cory.

Members interjecting:

The Hon. R.A. SIMMS: I do apologise. To go to the point the Hon. Connie Bonaros made, this idea that the outcome on the election day is the best outcome, I would remind members of the terrible fiasco that unfolded in the United States in 2016 when Hillary Clinton was on the cusp of victory and then there was a cuckoo thrown in the nest by the FBI a few days prior to the election

which changed the outcome quite dramatically. The idea that taking the pulse of a state or nation on one particular day always produces the best outcomes is maybe one that should be considered.

The committee divided on the clause:

Ayes.....9
Noes 10
Majority 1

AYES

Centofanti, N.J.	Franks, T.A.	Girolamo, H.M.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Simms, R.A.	Stephens, T.J.	Wade, S.G.

NOES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Hanson, J.E.	Hunter, I.K.	Maher, K.J. (teller)
Pangallo, F.	Pnevmatikos, I.	Scriven, C.M.
Wortley, R.P.		

PAIRS

Hood, D.G.E.	Ngo, T.T.

Clause thus negatived.

Clause 6 passed.

Clause 7.

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

Amendment No 2 [Maher–1]—

Page 3, line 23—Delete 'prescribed by the regulations' and substitute:

considered appropriate by the Electoral Commissioner

I indicate that this will be a test amendment for not just [Maher-1] No. 2, but [Maher-1] Nos 5, 8 and 9. Essentially, what this does is it deletes a new clause in this bill that relates to how to determine to advertise elections and their various components. What the government's bill seeks to do is allow the advertising about elections and various components to be done by regulation. What our amendment No. 2 and amendments Nos 5, 8 and 9 seek to do is allow that to be determined by the Electoral Commissioner rather than by the government of the day by regulation.

There is a possibility—and there is another amendment that is much later on, I think the very last one, that goes to this point—that once parliament rises, whenever that may be in this parliament, the government of the day could then promulgate regulations in terms of how the election is run, particularly how the election is advertised, and parliament would have no ability to influence that because parliament would not be sitting and it could not be disallowed.

We on this side place faith in the Electoral Commissioner that the Electoral Commissioner is capable of how to determine to advertise elections and their various components, and think it is better done by an independent Electoral Commissioner than the government of the day doing it by regulation that the parliament may have no chance of influencing once it rises.

The Hon. R.I. LUCAS: The government is opposing the amendment. The government's view is it is appropriate to set out the requirements for giving notice in regulations. The government would obviously consult with the Electoral Commissioner in the preparation of any regulation made under this section.

The Electoral Commissioner has a broad responsibility, set out in section 8 of the Electoral Act, to carry out appropriate programs of publicity and public education in order to ensure that the public is adequately informed of their democratic rights and obligations under the act. The legislation only sets out the minimum requirements. The Electoral Commissioner already has discretion about advertising options.

The Hon. R.A. SIMMS: I indicate that we will be supporting the Labor amendment.

The Hon. C. BONAROS: For the reasons outlined by the mover, I indicate we will be supporting the amendment.

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

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

New clause 9A.

The Hon. R.A. SIMMS: I indicate that I will not be proceeding with my amendment.

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

Amendment No 3 [Maher–1]—

Page 3, after line 27—Insert:

9A—Amendment of section 29—Entitlement to enrolment

Section 29(1)(a)(iii)—delete subparagraph (iii) and substitute:

(iii) has their principal place of residence in the subdivision and—

(A) has lived at that place of residence for a continuous period of at least 1 month immediately preceding the date of the claim for enrolment; or

(B) lives at that place of residence and satisfies the Electoral Commissioner with evidence that complies with any requirements of the Electoral Commissioner that they will live there for more than 1 month from the date of the claim for enrolment; and

This new clause is in relation to a principal place of residence, to change enrolments for an election. This new clause would allow someone who has changed their principal place of residence to change their enrolment prior to completing one month of residency, if they can satisfy the Electoral Commissioner that they will live there for more than one month from the claim of enrolment. This could be in the form of a lease, for example, a tenancy agreement, a statutory declaration or any other form of evidence approved and accepted by the Electoral Commissioner.

This provision seeks to ensure that we increase the franchise as much as possible to ensure that as many people as possible can exercise their right to vote. For the reasons I have outlined in terms of other areas where votes might be supressed, we think this amendment is reasonable. If you can demonstrate that you will live at the claimed enrolment address for more than one month from the time you claim that enrolment, and there is that evidence, you should be entitled to have that address and vote at the address you have claimed.

The Hon. R.I. LUCAS: The government opposes this new clause. This is an alteration to the present enrolment arrangements which would require the Australian Electoral Commission to make significant alterations to websites, forms and any other enrolment materials specifically for South Australia. Consultation would need to occur with the Australian Electoral Commission as a national enrolling body. It is likely they would have difficulties, given their present election window. The AEC has already advised that it is not possible to introduce enrolment up to and on the day before the next South Australian election, which we will address later in the committee stage.

I would add my concerns about the potential for election fraud, that is, that the proposal from the Leader of the Opposition, as I understand it, is that I can merely take out a one-month lease in a marginal seat and indicate that I will call that my principal place of residence and I am therefore entitled to switch my enrolment into that marginal seat. That would seem to be the natural corollary

of what the Leader of the Opposition has just said, that is, that proof of this would be a lease arrangement, agreement, or something along those lines.

If I can go along and say that I have a one-month lease, that I am moving out of my existing accommodation—I happen to live with my parents or three of my flatmates and I take out a one-month lease in the marginal seat of Badcoe, Adelaide, or whatever it might happen to be—that I am automatically entitled to be enrolled there, even though I have not demonstrated that I have actually lived there for one month.

I can understand how the Labor mind works, having observed from the other side of the political fence the Labor machinery in operation, but for the reasons I have outlined on behalf of the government and also my own experience of Labor operatives, I am very concerned at this particular proposed amendment.

The Hon. K.J. MAHER: I might just ask the Treasurer to maybe make a comment if he feels capable of doing so. If the Treasurer says, under the Labor amendments, you can take out a one-month lease—

An honourable member: No, you said that.

The Hon. K.J. MAHER: —no, this is what the Treasurer said—and then be entitled to vote in a marginal seat, say Badcoe or Adelaide, my question to the Treasurer is: if you took out a one-month lease prior to enrolments closing, could you then, with that one-month lease, under current law, seek an entitlement to enrol in Badcoe or Adelaide?

The Hon. R.I. LUCAS: The whole idea of a lease was raised by the Leader of the Opposition. I was unaware of his thinking behind this particular amendment. My understanding of the current enrolments is you have to demonstrate that you meet the enrolment requirements that you have live there for a period of time, whatever the period is. It is a month, I suppose.

The ACTING CHAIR (Hon. I.K. Hunter): Three months.

The Hon. R.I. LUCAS: I am advised by the Acting Chair it is three months. But there is a period of time in the legislation that requires you to be able to demonstrate to the Electoral Commission that you are entitled to vote in a particular electorate, whatever that particular entitlement is.

The government's position is to oppose this particular amendment, but I am concerned at the potential, as the Leader of the Opposition has outlined, for proof of an intention to be that you be able to demonstrate that you have a lease agreement for whatever the required period of time might happen to be and you do not have to demonstrate that you actually live in that electorate. You just say, 'I have a lease agreement. I am intending to live in this particular electorate for this particular period.'

The Hon. C. BONAROS: For the record, we do not have a necessarily fixed position on this particular amendment other than to say that in principle we do support what the Hon. Kyam Maher is expressing. I had not thought that people could be as devious as the Treasurer has outlined today.

The Hon. R.I. Lucas interjecting:

The Hon. C. BONAROS: It had never crossed my mind that people would go to such lengths to ensure that they sink the election of a candidate by going to the effort of moving their place of residence just because they care so deeply about not voting, or voting, for a particular candidate. Perhaps it is a relative, and that is why they want to move and make sure they can live in the correct postcode. With all due respect to the Treasurer, I do not buy that argument, but I would like him to just outline a little bit further the AEC implications, which concern me much more than the potential for voter fraud.

The Hon. R.I. LUCAS: As I interjected—and I should not have—we have seen dead people vote in state elections. Let me assure you, if you have been around watching election behaviour, I think there were a number of examples in the AWU elections going back into the 1980s which were well documented where many people, dead and buried for many long periods of time, voted often and regularly in AWU elections.

The advice we have been given—and I think this has been debated in other clauses as well—is we have a common electoral roll with the Australian Electoral Commission. The Australian Electoral Commission is the national organiser of joint electoral roll arrangements, which we share with them. When we come to a later provision, which is the one which is about enrolments up to and on the day before the next state election, we have been advised already, so I am told, by the Australian Electoral Commission that it will not be possible to make those sorts of changes to the common electoral roll for that to actually occur, given we are this late into the countdown to an election.

Obviously they have a federal election in and around the same time as we are going to have a state election, so the advice that I have been given from the Attorney-General's officers is that this would require the AEC to make significant alterations to websites, forms and any other enrolment materials specifically for South Australia. Before this would actually be able to operate, there would need to be consultation with the AEC as the national enrolling body. If the AEC are saying at this particular stage they do not have the time to do—

The Hon. K.J. Maher: So you want to be rewarded for doing it so late?

The Hon. R.I. LUCAS: It is not a question of reward. If the AEC says they cannot do something, there is not much use us passing a law which says they should do it. We do not actually control the AEC. I am not sure in what universe the Leader of the Opposition is living, but we do not actually control the Australian Electoral Commission. If we say, 'The AEC shall do this,' and the AEC says, 'You don't control us, and we can't do that,' then we are going to have to be mindful that we will have that particular difficulty if our state electoral law is saying that they have to do it.

They are issues that it is competent for this house to address during this committee stage. If people are minded to support the Leader of the Opposition's position, they will need to be mindful of the fact that, certainly in relation to the other amendments that we are going to address in a while, they have given us clear advice that they are just not going to be able to do it within the time frame that we are talking about.

If the Leader of the Opposition says it occurs in other states, it may well have occurred a year or so prior to an election, and they had the time to do whatever it is that was required to be done in those particular jurisdictions, but we are now well into November, and we have a state election in March and a federal election anytime in and around that particular period.

The Hon. R.A. SIMMS: I am quite concerned that the honourable Treasurer has introduced this kind of Trumpian rhetoric into this debate. I do hope that, if the Liberal Party lose the next election, we will not be hearing bleating about stolen elections and dead people voting and so on, because it is concerning to hear the honourable Treasurer taking us down that path.

We are supportive of the amendment being advanced by the Labor Party. I do understand the concerns that the Treasurer has raised in terms of time frames, but, to be frank, the fault for that lies with the government, because they have put this bill forward at a minute to midnight. If there were issues around resources and so on, they could have been dealt with had they brought this bill to the parliament earlier in the piece rather than in the last quarter of a parliamentary sitting year on the eve of an election. The Greens are supportive of this change, but we would urge the government, if the change is legislated for, to ensure the commission has the resources it needs to be able to make the changes required.

The Hon. C. BONAROS: Can I just indicate for the record that I am happy to test the argument that has been put between the houses, because what we do know for sure when it comes to elections is that the Australian Electoral Commission always seems to come through with the goods before election day. We introduced optional preferential voting for this chamber, I think it was, in December of the year prior to an election, and we were being told that that was going to wreak havoc on election day, and it went quite smoothly. In fact, we would say it went quite well.

So I am not convinced that it is going to have those sorts of outcomes, and I do agree with comments and the sentiments of the Hon. Rob Simms. For those reasons, I would like to test the argument that has been put between the houses and have some further advice about whether or not this would cause the issues that we are being told it will cause.

The Hon. R.I. LUCAS: I will just respond briefly. The Hon. Mr Simms says we should just provide the additional resources, but the issue is we do not fund or resource the Australian Electoral Commission. That is the commonwealth. He might be thinking of his days in the Senate, when he was talking to Senator Cory Bernardi. We are in the Legislative Council and we do not control the Australian Electoral Commission. We have the Hon. Connie Bonaros here, not the Senator Cory Bernardi. We cannot make a decision to either direct the Australian Electoral Commission or indeed provide additional resources or not to the Australian Electoral Commission. That is a commonwealth jurisdiction.

The other issue I would raise is the issue that the Hon. Mr Simms and the Hon. Mr Maher have raised and that is, we have created this problem because we introduced the bill so late. Well, this was not actually in our bill. We were not proposing this so we did not have this problem. It is a bit disingenuous for both members to say, 'Well, you should have introduced this. You should have read our minds that we were going to introduce these changes, and it would require this particular arrangement with the Australian Electoral Commission.' It was not actually in our bill.

Members interjecting:

The ACTING CHAIR (Hon. I.K. Hunter): Order! We have a process. The honourable Treasurer is on his feet.

The Hon. R.I. LUCAS: We had no idea that these amendments were going to be moved and therefore there was no prospect of us being able to envisage that we would have this particular dilemma with the Australian Electoral Commission.

Members interjecting:

The ACTING CHAIR (Hon. I.K. Hunter): Order! Are there any honourable members who have not taken part in the debate wishing to make a contribution?

The Hon. J.A. DARLEY: For the record, I will not be supporting the opposition amendment.

The committee divided on the new clause:

Ayes 11
Noes 8
Majority 3

AYES

Bonaros, C.	Bourke, E.S.	Franks, T.A.
Hanson, J.E.	Hunter, I.K.	Maher, K.J. (teller)
Ngo, T.T.	Pangallo, F.	Scriven, C.M.
Simms, R.A.	Wortley, R.P.	

NOES

Centofanti, N.J.	Darley, J.A.	Girolamo, H.M.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.	Wade, S.G.	

PAIRS

Pnevmatikos, I.	Hood, D.G.E.

New clause thus inserted.

Clause 10 passed.

New clause 10A.

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

Amendment No 4 [Maher–1]—

Page 3, after line 31—Insert:

10A—Amendment of section 32—Making of claim for enrolment or transfer of enrolment

Section 32—after subsection (1a) insert:

(1b) If a person makes a claim for enrolment or transfer of enrolment pursuant to section 69(1a), the person will be taken to have made a claim for enrolment or transfer of enrolment in accordance with this Act (even if the claim does not comply with the requirements to be in the manner and form approved by the Electoral Commissioner and given to an electoral registrar).

This forms part of a suite of amendments that, in effect, allow enrolments or transfers of enrolments up to the close of polls on election day. As I said at the outset, this is one we believe is quite fundamental and believe so probably most strongly of any of the things we are putting forward on this bill. This was the first, the number one, recommendation of the Electoral Commissioner in their report on the 2018 election. There were 16 or 19 recommendations; this was the very first one.

The government has had years to act on the recommendations. The government has chosen—it is all within the government's control—that the bill be debated at this time, at the end of November. That is the government's choice. It is very cute for the Treasurer to say, 'Well, we couldn't have known that these amendments were going to be put up.' If the government had put this bill up in a timely manner, it would have known about these amendments in a timely manner.

The government is seeking to use their tardiness, their sloppiness, as a weapon against these amendments, and I am just not going to accept that. It is squarely on the government that it is being debated at this time. It is on the Attorney-General and it is on the Treasurer that we are debating it at this time.

Other jurisdictions (from memory, the Northern Territory and Queensland) allow very similar provisions: enrolments up to and on election day, and that works. If this was something we were trying for the first time in any jurisdiction around Australia there might be—I would not accept it, but there might be—an argument from the Treasurer that this was difficult to implement close to an election. Well, it works in other jurisdictions. We do not accept that you cannot make things work, and it is essentially rewarding the government for their own tardiness if you accept the argument that we are doing this close to an election.

As the Hon. Connie Bonaros correctly pointed out, I think it was in the lead-up to the 2014 election where the procedures for not just counting votes but how votes were cast in an election were changed in the December before the election. That was despite the advice that this could not be done; it was going to be too difficult. Guess what? It was done.

I have every confidence that a change that brings enrolments into line with how other jurisdictions do it can be done before the election, as it has in the past, even when it was said it was going to be difficult to do so. I am absolutely convinced there can be processes that can be worked out between the state and the commonwealth electoral commissions in terms of whether votes could be cast as declaration votes to make sure they are preserved to give effect to enrolments up to election day.

As I said, it was the number one recommendation of the Electoral Commission. This is something that I would have preferred happened a year or two years ago in enacting the number one recommendation of the Electoral Commission. If the Treasurer's argument that it is getting too close to an election or, 'We have only just known about this late in the piece,' is accepted, then it is rewarding the government for their own tardiness and it creates an incentive to do things like this at the last minute so you do not have to accept amendments.

This one, as I have said, we think is fundamental. The government's proposal makes it harder to get on the electoral roll. It closes the time that you have to get on the electoral roll. That is the opposite of what the Electoral Commissioner has suggested. That would make voting more difficult. That would disenfranchise more people.

What we are seeking to do, as I said, is what is done already in other jurisdictions. Quite frankly, I have every confidence that this can be made to work.

The Hon. R.I. LUCAS: The government is opposing this particular amendment. I am advised that this amendment goes further than the Electoral Commission recommendation and actually includes transfers of enrolment as well as late enrolment for new electors. The government is opposing both, allowing for both late enrolment and late transfer of enrolment at the present time.

The state Electoral Commissioner sought advice from the federal Electoral Commissioner regarding this particular issue. By letter dated 7 September, the Electoral Commissioner, Tom Rogers, wrote a letter to Mick Sherry, the state Electoral Commissioner, as follows:

> Dear Mr Sherry,
>
> Implications for potential enrolment on the day.
>
> As discussed in our phone calls late last week, I am aware that the South Australian government is considering potential amendments to South Australian electoral legislation with the intent of enabling citizens to enrol on the day of the state elections. As you and I both discussed, similar provisions apply to some but not all other Australian state jurisdictions, nor is this facility available for federal elections.
>
> The levels of cooperation between our two agencies is excellent so it pains me to inform you I have grave doubts about our ability to support the implementation of this measure in time for your next state election in March 2022.
>
> The AEC is already fully committed to the planning and conduct of the next federal election which can be called any time between now and late May 2022. The substantial complexity of preparing a federal election with a COVID overlay, recent significant legislative change and implementation of free distributions in two states have created the conditions for the most complex election in our history.
>
> Adding additional complexity without sufficient time for adequate planning and resourcing introduces a serious risk of electoral failure. Such provisions are technically possible and when implemented with adequate planning can further extend the franchise. However, given how deep we mutually are in the South Australian federal electoral cycles, I am unable to guarantee sufficient support in the days following your election to guarantee all on-the-day enrolment would be finalised in time for those votes to be included in your count.
>
> This is particularly the case given the state and federal events may be temporally close. Of course, were this measure to be implemented for future elections, we would be happy to work with you on implementation costs and risk mitigation. I am happy to discuss this matter with you further,
>
> Yours sincerely,
>
> Tom Rogers.

That letter was written on 7 September. That is actually two months ago, when he was indicating that they did not have enough time, and here we are two months later in November. So if there was not enough time in September, one can imagine there is certainly not going to be enough time, given that this bill, if it passes, may well pass in November or, if the Speaker of the House of Assembly has his way and we are reconvening in December, it may well not pass until December.

Given the bill is being amended here, it will have to go back to the House of Assembly for further consideration. The Hon. Ms Bonaros has indicated her willingness to work between the houses, potentially on at least one amendment or one set of amendments, so this bill might not pass the state parliament until December. If there was a problem meeting a deadline in September, one can just write your own explanation if it does not pass until December.

I have read the letter in its entirety and the two phrases which concern me, I guess, and I would hope might concern honourable members in this chamber, is where the Electoral Commissioner says 'serious risk of electoral failure'. If that is not a clear warning sign, let's make it quite clear that the federal Electoral Commissioner has used that phrase 'a serious risk of electoral failure'. He also goes on to say:

> …I am unable to guarantee sufficient support in the days following your election to guarantee all on-the-day enrolment would be finalised in time for those votes to be included in your count.

So he is actually saying that he cannot guarantee, if we go ahead with this—and that was in September and we are now looking at going ahead with it in November or December—he is saying,

'I can't guarantee that all of your on-the-day electoral enrolments will be finalised in time for those votes to be included in your count.'

If that is the case, and I am only reading the words of the Australian Electoral Commissioner, people who believe that they have voted and that their vote is going to count may well find, if the Australian Electoral Commissioner's view of the world is accurate—and I have no reason to doubt it; it is not a partisan person or position—that some of them have been misled into believing that they can enrol right up until election day and that their vote will count. The Australian Electoral Commissioner is saying, 'Well, I can't guarantee.'

I can only repeat to the Hon. Mr Simms that it is not an issue I control with the Australian Electoral Commissioner. We cannot direct him, and we certainly cannot provide additional resources as a state government to fund the Australian Electoral Commission. He is saying we have all these other things going on at the moment, and he does not say it is highly likely but there is clearly a reasonably strong prospect that the federal election is going to be in and around our state election timetable and he is just not in a position to do it. He says if you want to do it for future elections, then there is plenty of time to work together to do it.

The reason I have read explicitly word for word the Australian Electoral Commissioner's words is, if this was to pass and if this is what the state electoral law is going to look like then no-one is going to be able to say that they were not warned by an independent Australian Electoral Commissioner of the potential consequences (1) of electoral failure, and (2) that he cannot guarantee that certain people who think they have voted lawfully will actually have their votes counted in the state election. I think that would be a travesty, and it is for those reasons the government maintains the position that we have adopted that this particular amendment and series of amendments should not be supported.

The committee divided on the new clause:

Ayes 11
Noes..... 8
Majority..... 3

AYES

Bonaros, C.	Bourke, E.S.	Franks, T.A.
Hunter, I.K.	Maher, K.J. (teller)	Ngo, T.T.
Pangallo, F.	Pnevmatikos, I.	Scriven, C.M.
Simms, R.A.	Wortley, R.P.	

NOES

Centofanti, N.J.	Darley, J.A.	Girolamo, H.M.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.	Wade, S.G.	

PAIRS

Hanson, J.E.	Hood, D.G.E.

New clause thus inserted.

Clause 11.

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

Amendment No 5 [Maher–1]—

Page 4, line 7—Delete ‘prescribed by the regulations’ and substitute:

considered appropriate by the Electoral Commissioner

This is, as I outlined at amendment No. 2 [Maher-1], a series of amendments that are to the same topic, that is, allowing the Electoral Commissioner to determine how to advertise, rather than it being done by regulation. I indicated that amendment No. 2 would be the test clause. So much has gone on I am having trouble remembering, but that was successful, I think.

The Hon. R.I. Lucas: No, you lost.

The Hon. K.J. MAHER: We lost the amendment?

The Hon. R.I. Lucas: No, you won.

The Hon. K.J. MAHER: The sneaky and tricky and devious and misrepresenting Treasurer—

The Hon. R.I. Lucas: Nevertheless, he knows which ones he won and lost.

The Hon. K.J. MAHER: The Treasurer has indicated to me that I won that amendment, and I ought to press on with rest of them, and I thank him for his advice. As I said, it is the second in the series that also then will include Nos 8 and 9 that go to allowing the Electoral Commissioner to determine how to advertise elections and their components rather than by regulation.

The Hon. R.I. LUCAS: One word of advice to the honourable Leader of the Opposition, because he will be here after the election and I will not be: it is always useful to remember which votes you have won and which ones you have lost. It is a very useful skill to develop in committee stages. This amendment and a couple of others we accept are consequential. We oppose it, but we are not going to speak to it.

Amendment carried; clause as amended passed.

Clause 12.

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

Amendment No 6 [Maher–1]—

Page 4, line 10—Delete '2' and substitute '14'

This goes to the same issue as amendment No. 4, which I distinctly remember this chamber decided to support, and that is enrolments up to and including election day. This amendment allows the rolls to be open for 14 days after the issuing of the writs to give effect to what the chamber viewed to pass in amendment No. 4.

The CHAIR: The Hon. Mr Simms, do you want to indicate your intentions?

The Hon. R.A. SIMMS: The Greens will be supporting this amendment.

The Hon. R.I. LUCAS: Very clever trick, but it is the government's view that this is not consequential on—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: I just say it is the government's view that this particular amendment is a separate issue and has not been determined yet by the committee. The end result might be the same, but it is certainly a different issue. The bill changes the date of close of rolls from six days after the issue of the writ to two days after the issue of the writ. These changes were made on the recommendation of the Electoral Commission and were consequential on changes made to postal voting timelines.

This opposition amendment significantly extends the date for the close of rolls from the current six days after the issue of the writ to 14 days. This amendment would create major delays in processing postal votes. The opposition amendment goes against the Electoral Commission of South Australia recommendation, which is intended to enfranchise postal voters. The South Australian Electoral Commissioner, Mr Mick Sherry, wrote an open letter to—

The Hon. R.P. Wortley interjecting:

The CHAIR: The Hon. Mr Wortley!

The Hon. R.I. LUCAS: The South Australian Electoral Commissioner, Mr Mick Sherry, wrote an open letter to members of the South Australian parliament on 25 October of this year, explaining the Electoral Commission's proposal to change the date for the close of rolls, and I quote:

> The basis of the Electoral Commission's proposal was to provide for an almost equivalent period during which postal votes could be issued with the best chance for them to be received and returned to be included in the count. Without this equivalent period, a significant number of postal voters would be inadvertently disenfranchised. While I understand there has been considerable debate regarding the bringing forward of the date for the close of the roll it is not to disenfranchise young people, or others who have not enrolled prior to that date, as they are required to do by law when they become entitled.
>
> The close of the rolls is the major focus of our earliest component of the election advertising campaign and it commences around four to six weeks prior to the issue of the writs. Since the introduction of fixed-date elections, at the 2006 state election, those barriers resulting from the calling of an election without notice prior to the issue of the writs have been removed. The election advertising campaign will commence during January 2022 and avail every South Australian the opportunity to ensure their enrolment is brought up to date by the date set for the close of the rolls.

I think it is comforting for South Australians to know, and members in this chamber to know, that the Electoral Commission—independently—is going to commence their advertising campaign in January. Clearly our election is currently scheduled to be 19 March. It can be delayed by up to three weeks depending on the timing of the federal election, so the state election could be anywhere between 19 March, as currently scheduled, or through to early April under provisions of the Constitution Act, or the Electoral Act, or both.

An advertising campaign in January by the independent Electoral Commission will be urging all people who are entitled to vote and who have not enrolled, for whatever reason, to do so and there will be an extended period, I would imagine. I presume the Australian Electoral Commission may or may not be doing similar things although they do not have the advantage of a fixed electoral date. They have an end-by date, as I understand it, which is May of next year, but anyway, that is their issue, not ours. The government sees this as a significant, different issue, which is still to be determined by a vote of this committee.

The Hon. K.J. MAHER: I thank the Treasurer for his comments and I can say, from my recollection—I am pretty sure it is correct—that this was a suggestion, when we were drafting it with parliamentary counsel, to make it easier to give effect to the enrolment closing up until election day. From my memory it was so there would be less votes counted as declaration votes because the rolls would not have closed. It would make it easier administratively in giving effect to enrolments up to and on election day. But if there are reasons, I am happy between the houses to work with the government.

If the desire of this council for enrolment up and to election day can be given effect—and there are reasons why this should be shortened—we will work with the government, but certainly this was done sitting down with parliamentary counsel and drafting to give better administrative effect to the enrolment up to and including election day. If there are genuine reasons that do not detract from what the council has passed in enrolment until election day we are happy to work between the houses on it.

The Hon. R.I. LUCAS: The Leader of the Opposition is indicating issues that might relate to the amendment that has just passed, which the government was opposing. What we are saying here is that this is an important separate issue which is this issue of allowing people to vote in that period leading up to election day, and that is a significant issue in a range of other amendments that are obviously going to be canvassed during the committee stage of the debate.

I think it is important not to look at this particular amendment as to what its implications might be in relation to the amendment which has just gone past. It is actually to consider this significant substantive issue in and of itself and that is this general principle, on which some members of this committee stage have already expressed a view as to whether they actually support a period of time prior to the election where people are encouraged to vote during that period of time and not just on the election day. For this particular reason we are opposing this amendment. There are others, of course, that will come later in the committee stage.

The committee divided on the amendment:

Ayes.....11
Noes 8
Majority 3

AYES

Bonaros, C.	Bourke, E.S.	Franks, T.A.
Hanson, J.E.	Maher, K.J. (teller)	Ngo, T.T.
Pangallo, F.	Pnevmatikos, I.	Scriven, C.M.
Simms, R.A.	Wortley, R.P.	

NOES

Centofanti, N.J.	Darley, J.A.	Girolamo, H.M.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.	Wade, S.G.	

PAIRS

Hunter, I.K.	Hood, D.G.E.

Amendment thus carried.

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

Amendment No 7 [Maher–1]—

Page 4, after line 10 [clause 12, after subclause (1)]—Insert:

(1a) Section 48(4)(a)—delete '3 days after the date fixed for the close of the rolls' and substitute:

9 days after the date of the issue of the writ

This amendment follows on from the last amendment. What this amendment does is allow the rolls to stay open without impacting on the close of nominations. Specifically, what this amendment does is decouple the close of nominations from the closing of the roll. This amendment retains assigned time from the close of nominations but simply measures it from the issuing of the writs.

The Hon. R.I. LUCAS: My advice is the government is opposing this amendment, but we lost the earlier vote and this is consistent with the Leader of the Opposition's earlier vote so the government's position is to oppose the scheme of arrangement which is being voted on. We see this as part of that package so we oppose it but we will not be dividing.

Amendment carried.

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

Amendment No 8 [Maher–1]—

Page 4, line 14—Delete 'prescribed by the regulations' and substitute:

considered appropriate by the Electoral Commissioner

This is the third in the series of amendments that allow the Electoral Commissioner to determine how to advertise elections in the various components rather than by regulation, the first one being at amendment No. 2 [Maher-1], which was definitely won in this chamber, definitely voted for, I distinctly remember. So I move the third out of four of the amendments to this area.

Amendment carried; clause as amended passed.

Clause 13.

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

Amendment No 9 [Maher–1]—

Page 4, line 19—Delete 'prescribed by the regulations' and substitute:

considered appropriate by the Electoral Commissioner

This is the final amendment in relation to the Electoral Commissioner determining how to advertise elections in the various components rather than by regulation.

Amendment carried; clause as amended passed.

Clauses 14 to 21 passed.

New clause 21A.

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

Amendment No 10 [Maher–1]—

Page 7, after line 20—Insert:

21A—Amendment of section 69—Entitlement to vote

Section 69—after subsection (1) insert:

(1a) A person is entitled to vote in an election for a district if the person—

(a) is entitled to be enrolled on the electoral roll for the district (whether by way of enrolment or transfer of enrolment); and

(b) after the close of rolls for the election and no later than 6 pm on polling day, makes a claim for enrolment or transfer of enrolment (as the case requires) under section 32 to the Electoral Commissioner or an officer.

(1b) If, in relation to a person claiming an entitlement to vote under subsection (1a), the district for which the person is entitled to be enrolled as an elector for the purposes of this Act is not able to be determined at the time of the making of the claim, the person is entitled to make a declaration vote for each district for which the person might be entitled to be enrolled, provided that—

(a) the Electoral Commissioner must, as soon as reasonably practicable after the making of the claim, determine the district for which the person is entitled to be enrolled as an elector; and

(b) the Electoral Commissioner must ensure that only the declaration vote in respect of that district is accepted in the counting of votes for the purposes of the election.

This relates to amendment No. 4, that is enrolments up to and including election day. This simply allows enrolment on that day by applying it as a declaration vote. That was a suggestion to give effect to the package that allows for that. I commend the amendment.

The Hon. R.I. LUCAS: The government is opposing this particular amendment. We concede it is part of an earlier package, but I place on the record the advice I have received that it does create an additional problem as part of that package, which I have not addressed before. The government is opposing this amendment to late enrolments for the reasons I have already placed on the record, but the further reason why this package of amendments creates a problem is as follows.

Enabling one elector to make multiple declaration votes creates a large administrative burden for the Electoral Commission and increases the risk of errors being made in processing these declaration votes. It would also create the need for a single elector to complete multiple Legislative Council ballot papers.

That is not an issue that I have raised before. Those who are supporting this package of amendments might need to address what the department is identifying as a potential consequence of this package of amendments. I would hope no-one is intending a single elector to have to complete multiple Legislative Council ballot papers. It is a foreboding enough task for those of us who want to vote below the line to fill out one Legislative Council ballot paper, let alone multiple Legislative Council ballot papers.

For those who are supporting this particular amendment, and for those of us obviously vested in the interest and the convenience of Legislative Council voting, you might need to apply yourselves to whether or not you agree with this advice that I have received. I am assuming it is not an intended consequence. If it is an unintended consequence, you might consider what you might like to do to repair the problem, if you agree with the advice that I have been given that there is a problem.

The Hon. R.A. SIMMS: Can I ask a question of the mover of the amendment about that and whether they have a response to that advice or issue? That is not something that I had anticipated as a consequence of the amendment. I am sure it is not the intention of the mover.

The Hon. K.J. MAHER: That is certainly not the intention of what is being moved. From memory, in discussing this it was specifically to apply to House of Assembly ballot papers. I am not sure how a declaration vote necessarily gives rise to multiple Legislative Council ballot papers, but I am surprised that it is being raised here as the amendment is being moved, and this is the first time it is being raised. Again, I only have my print-out copy rather than the filed copy date, but it is weeks, if not some months, ago that these amendments have been moved. I am surprised, if there is such a live issue, that it has not been canvassed before, as it could have been sought to be looked at.

This is something that would be surprising, given my recollection of sitting down and drafting these with parliamentary counsel. If there is a genuine live issue and one that the government has known about for some time, I can undertake to the council that we as an opposition will be very keen for the government to put submissions forward to us in between the houses and, if there is indeed an issue, sort it out.

The Hon. R.I. LUCAS: We think the way to sort it out is not to proceed with the package of amendments. It is not for us to assist the Leader of the Opposition in terms of getting his amendments right. The consequences of his amendments are his responsibility and his responsibility alone in terms of the amendments that he brings to the table. Mr Chairman, as you said, if in a majority this chamber supports them—I am not sure whether there is a solution; there may well be one—the honourable member will need to take further advice to see whether or not there is a solution to the issue that has now been identified.

New clause inserted.

Clause 22.

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

Amendment No 11 [Maher–1]—

Page 7, after line 24 [clause 22, after subclause (1)]—Insert:

(1a) Section 71—after subsection (1) insert:

(1a) However, an elector to whom section 69(1a) applies may only exercise their vote by making a declaration vote.

The amendment again relates to the making of a declaration vote, and it forms part of the package to allow enrolment up to and including the day.

The Hon. R.I. LUCAS: I indicate that the government opposes this, but we accept this is part of a lost earlier vote.

Amendment carried; clause as amended passed.

Clauses 23 to 25 passed.

Progress reported; committee to sit again.

Sitting suspended from 12:56 to 14:15.

Parliamentary Committees

PRINTING COMMITTEE

The Hon. T.T. NGO (14:16): I bring up the first report of the committee.

Report received and adopted.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Treasurer—

Reports, 2020-21—
- Administration of the Freedom of Information Act 1991
- Commissioner for Victims' Rights
- Coroners Court
- Courts Administration Authority
- Legal Practitioners Disciplinary Tribunal
- Legal Profession Conduct Commissioner
- Legal Services Commission South Australia
- Outback Communities Authority
- South Australian Local Government Grants Commission
- Summary Offences Act 1953—Part 16A—access to data held electronically
- Surveyors Board of South Australia
- The Law Society of South Australia
- The Legal Practitioners Education and Admission Council (LPEAC)
- The Public Trustee
- Training Centre Review Board
- West Beach Trust

Club One—Report 2020—2021 section 24A(4) Gaming Machine Act Special Club License condition 3—reference to distribution of funds among community, sporting and recreational groups

Report of the Attorney-General made pursuant to section 71 of the Evidence Act 1929 relating to suppression orders made pursuant to section 69A of the Evidence Act 1929 for the year ending 30 June 2021

Controlled Substances Act 1984—Return of Authorisations Issued Under Section 52C(1)—1 July 2020 to 30 June 2021

Return pursuant to section 74B of the Summary Offences Act 1953 Road Blocks—Authorisations issued for the period 1 July 2021 to 30 September 2021

Return Pursuant to Section 83B of the Summary Offences Act 1953—Dangerous Area Declarations—Authorisations issued for the period 1 July 2021 to 30 September 2021

Review under section 74A of the Police Act 1998 for the period of 1 July 2020—30 June 2021

Review under section 34(1) of the Serious and Organised Crime (Unexplained Wealth) Act 2009 for the period of 1 July 2020—30 June 2021

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

Guardian for Children and Young People—Report, 2020-21

Response to the Natural Resources Committee Recommendations on the Final Report: Inquiry into Urban Green Spaces

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

Reports, 2020-21—
- Barossa Hills Fleurieu Local Health Network
- Central Adelaide Local Health Network
- Chief Psychiatrist of South Australia
- Child Death and Serious Injury Review Committee
- Department for Correctional Services
- Eyre and Far North Local Health Network
- Flinders and Upper North Local Health Network
- History Trust of South Australia

Limestone Coast Local Health Network
Northern Adelaide Local Health Network
Parole Board of South Australia
Riverland Mallee Coorong Local Health Network
South Australia Ambulance Service
South Australia Ambulance Service Volunteer Health Advisory Council
South Australian Adult Safeguarding Unit
South Australian Fire and Emergency Services Commission (SAFECOM)
Southern Adelaide Local Health Network
Teachers Registration Board of South Australia
Women's and Children's Local Health Network
Yorke and Northern Local Health Network

43rd Report of the SA Parliament Social Development Committee's review of the South Australian Public Health Act 2011—Department for Health and Wellbeing responses to recommendations

Retirement Villages Act 2016—Review dated September 2021

Social Development Committee—Inquiry into the Surgical Implantation of Medical Mesh in South Australia—Submission from the South Australian Government dated October 2021

ANSWERS TABLED

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

Question Time

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

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 Health and Wellbeing regarding the COVID response.

Leave granted.

The Hon. K.J. MAHER: The government's COVID strategy document, released on 17 November 2021, states:

> Mainstream GP clinics that do not have established respiratory capacity may not treat patients with respiratory or COVID-19 symptoms.

From 23 November, according to the government's COVID-19 strategy, do South Australians experiencing any level of COVID symptoms have to go to a special, separate GP clinic even if they have had a negative test, and when the document says 'may not treat patients' is that given validity with any particular order or direction?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:23): I will certainly seek clarification for the honourable member, but I suspect that 'may not treat patients' might mean that individual GP practices may choose not to treat patients. We have seen that in the pandemic thus far, and particularly we have seen it in relation to children. It's one of the main reasons why we have had a disproportionately large increase in ED presentations to the Women's and Children's Hospital. That's one of the reasons why we have invested in the virtual urgent care service at the Women's and Children's Hospital. But I will seek information for the honourable member.

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Supplementary arising from the answer: is it the minister's contention and advice to this chamber that the 'may' refers to choosing whether they can or not, or it is that they shall not?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:24): My suggestion is that I expect it means may—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The leader asked a supplementary and he should listen to the answer.

The Hon. S.G. WADE: My understanding is that may means may.

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Further supplementary arising from the original answer: minister, if you don't know what the words in your own document mean, how can South Australians be expected to know?

The Hon. S.G. Wade: I regard that as a comment.

The Hon. K.J. MAHER: No, it's a question.

The PRESIDENT: It's up to you, minister. The Deputy Leader of the Opposition has the call.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The deputy leader has the call.

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

The Hon. C.M. SCRIVEN (14:25): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding the COVID response.

The Hon. K.J. Maher interjecting:

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

The Hon. J.M.A. Lensink interjecting:

The PRESIDENT: And so is the Minister for Human Services.

The Hon. C.M. SCRIVEN: Shame, Michelle!

The PRESIDENT: Order! I think the crossbench might be busy having lots of questions today because at the moment the opposition and the government aren't showing that they deserve them.

Members interjecting:

The PRESIDENT: No. Let's put it this way: we are getting to the stage of me asking a question.

Leave granted.

The Hon. C.M. SCRIVEN: The COVID-19 Health System Response Strategy document released yesterday references positive COVID-19 patients potentially transferring to hospital using 'an individual's private vehicle'. The same document also says, and again I quote:

> The utilisation of SAAS vehicles will be limited to those individuals requiring acute emergency care where routine transfers can be delivered through partnership agreements with contracted providers or an individual's private vehicle.

My questions to the minister are:

1. Will positive COVID-19 patients be expected to drive themselves to hospital?

2. Is the government privatising the transport of positive COVID-19 cases between hospitals?

3. Who exactly are the contracted providers who will be tasked with taking positive COVID-19 patients to hospital?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:27): The reality is that about half of our ED presentations are self-presentations. It's not uncommon for sick people to be transported or self-transported. In terms of COVID, I think it's important to appreciate that the vast

majority of patients will have very mild symptoms. In fact, when they are making their way for testing or treatment, they may not be aware of their COVID-positive status.

In terms of transportation of COVID-positive people, there is a whole series of documents that have been released this week and one of them includes the SA Ambulance Resilience Plan, which is a detailed description of how the Ambulance Service intends to be ready in three phases of possible response.

Members interjecting:

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

The Hon. S.G. WADE: In terms of vehicles, the plan involves relocating all response-capable vehicles to the frontline. The plan also envisages that non-ambulance transport will be used for some COVID patients. There will be additional fleet and early servicing, and there will be use of private providers for low acuity transfers, as required. Before the members opposite start bleating 'privatisation', I will remind honourable members that in the former Labor government a significant—

Members interjecting:

The PRESIDENT: Order! The minister will continue.

The Hon. S.G. WADE: As the Hon. Robert Simms I am sure discovered in his committee inquiry, the former Labor government had the Southern Adelaide Local Health Network using non-SAAS patient transport, as did a number of country hospitals. They might bleat about privatisation, but their record speaks for itself—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —that when the health system needs transport—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —it should be able to engage a range of stakeholders, including SAAS.

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

The Hon. C.M. SCRIVEN (14:29): Supplementary arising from the answer, where the minister referred to private providers: who are these private providers?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): I would just like to clarify: was the honourable member referring to the former Labor government's contracts in the Southern Adelaide Local Health Network or the former Labor government's contracts with the country local health networks?

Members interjecting:

The PRESIDENT: Order!

COVID-19 BUSINESS GUIDANCE DOCUMENTS

The Hon. E.S. BOURKE (14:30): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding health.

Members interjecting:

The PRESIDENT: The deputy leader will give the Hon. Ms Bourke the courtesy of being heard.

Members interjecting:

The PRESIDENT: Order! And so will the minister.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. Wortley interjecting:

The PRESIDENT: The Hon. Mr Wortley!

The Hon. E.S. BOURKE: I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding health.

Leave granted.

The Hon. E.S. BOURKE: The government's general guidance document for businesses specifically references 'a specific guidance document is available' for community healthcare services, including GP practices. My questions to the minister are:

1. When will the government give certainty to GPs by releasing specific guidances for primary healthcare services on how to manage a positive COVID-19 patient?

2. When will the government be releasing the specific guidance documents on managing a COVID case that has been promised for critical services, essential businesses and high-risk industries?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:31): I appreciate the honourable member was not here in the last couple of days, but I have answered this question in the last couple of days and the answer hasn't changed. They will be released in the next day or two.

The PRESIDENT: I will listen to the Hon. Ms Bourke, who is going to attempt to ask a supplementary on that answer.

COVID-19 BUSINESS GUIDANCE DOCUMENTS

The Hon. E.S. BOURKE (14:31): When the minister says 'in the next day or two', can he understand the anger and confusion in the community—

The PRESIDENT: Just a question. Just ask the question.

The Hon. E.S. BOURKE: Can the minister clarify in the next coming days what this plan will look like? Why can't you just confirm it today in this parliament?

The PRESIDENT: That's it, the question.

The Hon. S.G. WADE: Is that a question?

The PRESIDENT: Yes, it is a question.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:32): If that was a question, if the honourable member is wanting to say can I tell her what we are going to release in the next two days, I would refer her to the list that she has just referred to.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens has the call.

GFG ALLIANCE

The Hon. T.J. STEPHENS (14:32): My question is to the Treasurer. Can the Treasurer update the council on the progress of GFG in Whyalla?

The Hon. R.I. LUCAS (Treasurer) (14:32): I think members will have been pleased to have read the public announcements a few weeks ago now in relation to the refinancing by GFG and actions that have been taken in relation to court actions from Greensill and related entities against GFG.

Since that time, representatives of GFG have re-engaged with government offices, particularly those within Treasury and possibly also within Energy and Mining, but certainly within

Treasury. The former government prior to the election put $50 million on the table with certain conditions, and the Marshall Liberal government when elected said we would honour that particular commitment from the former government, and it is still on the table.

I have answered similar questions over the first three years of this government, saying we were not prepared to have the funding used to help refinance GFG or to pay off debts of GFG. We were, similar to the former government, only interested in looking at the infrastructure or infrastructure related projects designed to improve the efficiency and long-term viability of the steelworks at Whyalla.

Whilst there are commercial-in-confidence negotiations going at the moment and I can't place on the record any of the detail of that, there are discussions going on in relation to certain potential infrastructure projects, within the construct of them being to assist the long-term efficiency and viability of the steelworks, and consistent with the publicly stated long-term vision of Mr Gupta and GFG for the Whyalla Steelworks as eventually being a green steel operation, carbon neutral.

The projects, as I said, on my advice are consistent, at least, with that long-term vision that GFG and Mr Gupta have outlined for the future of the steelworks. I am hopeful that at some stage in the not too distant future there can be some agreement with GFG about a long-term commitment that governments—Labor and Liberal—have given to GFG in terms of the steelworks up there, and certainly if there can be any agreed infrastructure projects consistent with the parameters I have outlined, as Treasurer, the government will happily sign off on those particular projects, if they can be agreed.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (14:35): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about doctors at the Women's and Children's Hospital.

Leave granted.

The Hon. C. BONAROS: In what has been called a major victory for our tireless public health doctors, the Employment Tribunal this week ruled in favour of doctors being allowed to take industrial action at the WCH, saying the planned work bans would not pose a serious risk to patients. In doing so, it rejected a bid by the Women's and Children's Health Network to stop the doctors' union from undertaking work bans in the paediatric emergency department.

In making his determination, the tribunal's Deputy President, Magistrate Stephen Lieschke, refused to prohibit proposed industrial action at the WCH by SASMOA because he had not been convinced it would cause any major harm, saying it might in fact do the opposite. Mr Lieschke said the evidence before him did not support the Women's and Children's Health Network's submission that SASMOA's members had:

> …exaggerated their concerns over patient safety and their own health.
>
> To the contrary their evidence demonstrates their genuine professional concern over the health and safety of patients who have to wait to be seen in their department, and the deep widespread distress and fatigue caused by the current working arrangements.

My questions to the minister are:

1. Do you agree with the network submission that SASMOA's members had 'exaggerated their concerns over patient safety and their own health'?

2. If so, what evidence do you have to support such an insulting statement?

3. If not, will you demand that the Women's and Children's Health Network apologise to those doctors?

The PRESIDENT: Before calling the Treasurer, I would just remind the Hon. Ms Bonaros that one of those questions at least sought an opinion from the minister. The Treasurer is going to take the call.

The Hon. C. Bonaros: I will retract the word 'insulting.' I will leave that to the—

The PRESIDENT: No; it is beyond standing orders.

The Hon. C. Bonaros: I said I will retract the word 'insulting.'

The PRESIDENT: Anyway, the Treasurer has the call.

The Hon. R.I. LUCAS (Treasurer) (14:38): As the minister for industrial relations I am responsible for the ongoing attempted negotiation with SASMOA in relation to a fair and reasonable enterprise agreement and we are continuing to endeavour to achieve that. As the industrial relations minister, I am also responsible for the South Australian Employment Tribunal to which the honourable member has referred, and to Mr Lieschke and his comments.

Certainly, actions that either agencies, or parts of agencies, or networks in this case—local health networks—take in relation to proposed industrial action, the agencies or the industrial relations section of Treasury are simply seeking to ensure that any industrial action taken does not impact in any harmful way in relation to the patients and patient safety and, in some cases, staff safety as well.

In some cases the Employment Tribunal and their representatives, either commissioners or the tribunal themselves, have ruled that various attempted industrial actions might place patient safety at risk and therefore have ordered unions not to proceed.

I suspect the actions that were being taken, if I can move aside from the language that might have been used—and I do not have the detail of the language to which the honourable member has referred—are seeking to, in essence, get a ruling as to whether or not they agree with a view that I take it in this case the network believed that there may be some risk to patient safety by action being taken.

In some cases, the Employment Tribunal rules to say to the union that they cannot proceed with industrial action in that particular form, that they can proceed in a different way. The UWU claim, in relation to cleaning rubbish bins and the like, that they were authorised to take certain actions but not other actions. In this particular case there appears to have been a ruling by the tribunal that the tribunal member was not convinced that patient safety in particular was at risk.

In relation to the flavour and nature of the various statements that might have been made in the tribunal hearing, I am happy to take advice. As I said, I am the responsible minister. More importantly, as the minister representing the government, I remain open to trying to see a sensible, reasonable settlement of enterprise bargaining arrangements, and I believe, as is always my case, I have been asked to meet with the leadership of SASMOA tomorrow afternoon, and I readily agreed on the first request to meet with them to listen to any concerns they might have. As industrial relations minister I do not recall—

The Hon. E.S. Bourke: You might meet with your new leadership team.

The Hon. R.I. LUCAS: I am happy to meet with union bosses on any occasion, as the Hon. Ms Bourke knows. I meet often with the shoppies union bosses and others. We have very cordial and convivial discussions on frequent occasions.

In relation to SASMOA, the more important issue is trying to settle the ongoing agreement. I will not repeat what the minister has said on innumerable occasions, and that is that the main concern SASMOA has raised, not just in relation to the Women's and Children's Hospital but generally, is that their priority is not salaries and wages, it is resources. The minister has outlined the massive increase in resources.

What I have said to SASMOA and I will say to them tomorrow, is, 'We've heard what you've asked us to do, you've said to us your priority isn't salaries, your priority is increasing of resources', and I will be able to outline to them, as the minister has done here, the massive increase in resources that this government has provided to the health system generally and continues to provide post this budget this year by way of further resources and responses.

As always, I will be open to a friendly discussion that, if they can think of better and more efficient ways of spending the massive increase in resources that we are providing to achieve better outcomes, the minister and I and the government are always open to good suggestions, and I am always happy to talk with the leadership of the union.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. C. BONAROS (14:42): My opening question was: does the government, in this case the Treasurer, agree with the Women's and Children's Health Network submission that SASMOA's members had exaggerated their concerns over patient safety and their own health?

The PRESIDENT: I call the Treasurer, but I remind the member that she is seeking an opinion. The Treasurer can answer, if he wishes.

The Hon. R.I. LUCAS (Treasurer) (14:43): I am generous to a fault, and I never like to upset the Hon. Ms Bonaros. In relation to the statements to which the honourable member has referred, I would like to see the nature of the statements and the actual statements that the health network made, and to see whether or not that is a fair reflection. I am not disputing it, because I have not seen them, but I think it is not unreasonable for me to take advice to see what was actually said, and then I am very happy to ring up the Hon. Ms Bonaros and say that I have had a look at them and that I either agree or disagree—or maybe I sit on the fence. Let me at least have a look at them before I venture an opinion, and I will do it outside the chamber so that I do not transgress the standing orders.

COVID-19 HEALTH ADVICE

The Hon. R.P. WORTLEY (14:44): My question is to the Minister for Health and Wellbeing regarding health:

1. When will the government be releasing its specific advice for schools on how to manage a positive COVID-19 case?

2. How are schools, parents and children supposed to be prepared when we now just have two full school days until 23 November?

3. Given Professor Spurrier said on radio yesterday that she had provided advice some time ago regarding school vaccine mandates, when exactly did the professor first recommend a vaccine mandate in education settings?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:44): In relation to the second question, I will take the honourable member's question on notice. In relation to the issue about schools' readiness, the education department released, if you like, a road map, a plan on a page—whatever one might like to call it—for schools and preschools earlier this week. It dealt with issues such as COVID-safe measures at schools, site operations, delivery mode and so forth.

There were two strategies: one for schools and one for preschools. I am sure there will be further advice coming out from the education department and also the fourth separate guidance document does also relate to childcare services, primary and high schools. As I said before, those separate guidance documents should be out in the next day or two.

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

COVID-19 HEALTH ADVICE

The Hon. R.P. WORTLEY (14:46): When exactly did Professor Spurrier first recommend a vaccine mandate in education settings?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:46): I've got nothing to add to my indication that I will take that question on notice.

WOMEN'S HONOUR ROLL INDUCTEES

The Hon. N.J. CENTOFANTI (14:46): My question is to the Minister for Human Services—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! There is a member on her feet.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Leader of the Opposition, there is a member on her feet. She will be heard in silence.

The Hon. R.P. Wortley interjecting:

The PRESIDENT: Order, the Hon. Mr Wortley!

Members interjecting:

The PRESIDENT: Order!

The Hon. N.J. CENTOFANTI: My question is to the Minister for Human Services regarding women. Can the minister please outline how the Marshall Liberal government acknowledges and celebrates the diversity of women in our community and their commitment to effecting change?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:47): I thank the honourable member for her question. Indeed, we have just recently celebrated the 2021 Women's Honour Roll inductees. Can I acknowledge that a couple of members in this chamber have had their mothers inducted into that roll, including yourself, Mr President, and the Leader of the Opposition. We do pay tribute to the many women across South Australia, including regional South Australia, who have done amazing things for their communities, who we wish to acknowledge and celebrate.

Last night, it was our great privilege with the new Governor, Her Excellency, who presented the awards to all of the new inductees. I have to say that the response from her house had been very rapid in agreeing to host last night's award. I acknowledge that the member for Reynell was also there as well as a number of staff from the Office for Women and DHS, and Aboriginal Affairs and Reconciliation as well. I thank the nominators and the nominees and the people who were on the selection panel for participating.

We had 19 inductees last night—a very diverse range of women—and this important activity that we do is a feeder into the national award schemes. What we do know is that a lot of women don't nominate themselves for things. They tend to be very humble in their approach and so are often surprised when they find themselves nominated. Certainly last night I think every one of them felt incredibly honoured to have been inducted.

Traditionally it has often been men who have been recognised and still through the national award system the gender disparity is quite stark, so this continues to be an important function to get people on that pathway, if you like. A number of people who would be quite well known to members of the chamber include Belinda Valentine for her work in the child protection space and family protection; Rikki Cooke, who is the founder of Treasure Boxes; and Georgia Davies-Thain, who has been a campaigner for sex worker rights.

We have also had women in the medical and STEM field, Dr Christine Kirby and Genéne Kleppe, and a range of community leaders in a whole range of areas, including from Mundulla and Bordertown in the South-East. The full list of awardees is available on the Office for Women website. We thank these women for their service and look forward to continuing to recognise women into the future for the amazing work they do on behalf of the South Australian community.

COVID-19 VACCINATION ROLLOUT

The Hon. T.A. FRANKS (14:50): I seek leave to make a brief explanation before addressing a question to the Minister for Health and Wellbeing on the topic of vaccination rates in regional South Australia.

Leave granted.

The Hon. T.A. FRANKS: I have been contacted by concerned constituents who live in regional areas and country towns in South Australia with low vaccination rates. They are concerned how they will fare once we open the borders to interstate travellers, who frequently come through these towns. One of these towns is Peterborough, which is currently only at 58 per cent fully vaccinated. People in this town not only already struggle to access basic healthcare services and

hospitals and have lost their GP but are deeply concerned about the spread of COVID-19 in their community.

These concerns are further compounded by anti-vax conspiracy theories being letterboxed in the town. With the local pop-up vaccination clinic, there is a hesitancy because members of the community don't always have access to a medical professional there that they trust in a pop-up setting to discuss those concerns, particularly given the nature of the anti-vax letterboxing. My questions to the minister are:

1. How will those in rural South Australia, such as those in Peterborough, 'talk to their GP' about their concerns in these areas when they don't have a local GP and struggle to even have locums available?

2. What is SA Health doing to combat this anti-vaccination misinformation conspiracy theory material being letterboxed in this and other towns?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:52): In relation to the issue of GPs at Peterborough, I have relatively recently met with the Mayor of Peterborough and the local member, the Hon. Dan van Holst Pellekaan. My understanding is there are discussions going on between the local health network and the local health medical practice, which I think is called Goyder's Line Medical practice. There were moves underway to try to continue a GP service. I think the arrangements are at least to the end of February, but certainly there have been discussions with the network.

In terms of the regional vaccination program, all of our local health networks are actively involved in providing vaccines in their local areas, and there is significant activity underway not only with local clinics in terms of hospital-based and community-based clinics but also with mobile vaccination vans. Honourable members will recall that I highlighted the work being done in the northern area using mobile vans, and that is also continuing across country South Australia as well.

The honourable member raises the issue of dealing with misinformation. One of the key strategies of the government has been to deploy Wellbeing SA to try to identify issues in low uptake communities and respond to them. One of those responses is building vaccine confidence in the community, which is a training program facilitated by Professor Katina D'Onise, a leading public health clinicians who is known to this house. She was one of the lead advisers on the termination of pregnancy legislation.

Over 500 people have registered for this training. It is particularly targeted at CALD communities and Aboriginal and Torres Strait Islander communities. It would be fair to say that there is misinformation being disseminated right across the community, but much of the training work, as I understand it, that the honourable professor is doing is to try to equip leaders to take the message into their own communities.

We will continue to try to deal with misinformation. We will continue to try to have strategies which connect with communities. For example, this coming weekend there is a family fun day, which is seeking to engage the Aboriginal community. There has been a very good take-up of Bunning's-based pop-up clinics and also—

The Hon. J.M.A. Lensink: A snag and a jab.

The Hon. S.G. WADE: Have a snag with your vax, or whatever the expression is. I think it is also important to stress that what is becoming evident in a number of these communities is that the conversation is not a quick one. Often there will need to be information going into communities that there might need to be an ongoing conversation until the family or even the community makes a decision.

I suppose from a European cultural point of view, we tend to see vaccination as an individual decision but certainly for a number of these communities it is actually a collective decision, a community decision. You need to engage the family and the community, and that conversation may take time.

COVID-19 HEALTH SYSTEM RESPONSE STRATEGY

The Hon. I. PNEVMATIKOS (14:56): My question is to the Minister for Health and Wellbeing regarding health, but I seek leave to make a brief explanation before asking that question.

Leave granted.

The Hon. I. PNEVMATIKOS: The government's COVID strategy document released yesterday states, and I quote:

> …there will be a number of identified, self-nominated Respiratory-Ready GP Clinics that can maintain higher levels of infection prevention and control…measures to reduce the risk of infection transmission between patients and staff.

My questions to the minister are:

1. Where exactly will the respiratory-ready clinics be?

2. Where can South Australians find a list of respiratory-ready GP clinics, or will they have to call the minister's office where they will take the question on notice like the minister does in this chamber?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:57): My understanding is the commonwealth already publishes their respiratory clinics on their website and I am sure that when SA Health identifies their respiratory clinics in accordance with that document, they will also be put on the website.

REPAT HEALTH PRECINCT

The Hon. H.M. GIROLAMO (14:58): My question is for the Minister for Health and Wellbeing. Can the minister please update the council on the government's progress at the Repat Health Precinct?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:58): I thank the honourable member for her question. On Tuesday of last week, 9 November, I had the pleasure of attending the Repat Health Precinct along with the Premier and the member for Elder in the other place to announce another milestone with construction being completed for the town square and sports stadium.

Looking back on that same date four years ago, Labor moved the last patient off the site and closed the Repat as part of its Transforming Health experiment. I am extremely proud to be a part of the Marshall Liberal government, which saved the Repat from sale and is investing in reactivating this much-loved site. The town square is located in the heart of the site and will act as a central hub where all patients and visitors can access the square in their health recovery journey.

The square is an expansive space with walking paths, landscaping, access to the sports stadium, the Veteran Wellbeing Centre, the community playground and the SBF Hall, with one of the pods of the hall being converted into a cafe for the site which directly faces the town square. The town square has been named Bill's Place, after Bill Schmitt, a highly-respected veteran.

Just two days later, I returned to the Repat on Remembrance Day, and I acknowledge that the Hon. Tung Ngo was representing the parliamentary opposition on that day. I had the privilege to plant a descendant of the Lone Pine within the town square, marking the significance of the Repat site and the continued connection to the veterans of South Australia.

As I mentioned earlier, the visit on the 9th also saw the opening of the new sports stadium. The stadium has been specifically designed to be suitable for wheelchair users, including community wheelchair sports such as basketball and football. These community events will complement the primary day-to-day use of the gym which will be for those who are receiving health care at the Repat.

An example of this is the use of the gym for patients using the brain and spinal cord injury rehabilitation facility. This facility is on track to reach construction completion by the end of this year. With these milestones and the overall state and commonwealth government investment of $125 million, the Repat is coming back to life—a site that was destined for closure under the government of the members opposite.

As we continue to celebrate more milestones in the reactivation of the Repat, it is becoming increasingly clear that the disastrous Transforming Health experiment almost destroyed a treasure of South Australian health care. I am proud to say that the Repat will be a treasure—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —for our state's healthcare system for decades to come.

COVID-19 RAPID ANTIGEN TESTING

The Hon. F. PANGALLO (15:01): I seek leave to make a brief explanation before asking the minister—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Pangallo has the call, and he can start again, please.

The Hon. F. PANGALLO: I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about COVID testing.

Leave granted.

Members interjecting:

The PRESIDENT: The Hon. Mr Pangallo will be heard in silence. Order!

The Hon. F. PANGALLO: Recently, I asked the minister whether the government was considering allowing rapid antigen COVID test kits to be made available in South Australia. In the other states they are not only legal but demand has resulted in them being in short supply. Present legislation here is in place that prevents the public from being able to purchase these kits.

This week, the TGA published a list of 13 test kits approved for use that have minimal clinical sensitivity of at least 80 per cent and minimal clinical specificity of at least 90 per cent. People are advised to follow up positive results with a PCR test.

My question to the minister is: considering the more onerous impositions that are now going to be imposed on the business community and the health sector, as well as aged care, and as borders are set to open and COVID is expected to enter the state and claim lives, why isn't SA Health following the example of the other states and making these kits available to enable quicker responses to infections, and why must South Australians who now fear getting the disease or transmitting it unwittingly, be placed at a clinical and health disadvantage compared to other states?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:03): I am sorry if I gave the impression in my last answer that SA Health was totally prohibiting the use of rapid antigen testing, and that there wasn't a prospect of them being used by citizens in the future. My understanding is that rapid antigen testing is already being used for freight drivers, not without PCR testing but alongside PCR testing.

My understanding is that planning continues for use of rapid antigen testing in terms of business continuity for health facilities, and specifically this morning's South Australian Ambulance Service COVID-19 resilience plan in its section on clinical enablers indicated that it was intending to use rapid antigen testing.

So rapid antigen testing is already used under the supervision of SA Health. The honourable member, I appreciate, is wanting more than that. He is wanting it to be able to be accessed by individual citizens. My understanding from SA Health is that it is their expectation that rapid antigen tests would be appropriate but at a very different stage of the pandemic.

In a community where you have low or no community transmission my understanding is SA Health believes it is better to continue to use the higher reliability PCR tests but that as we do let COVID in we make every effort to slow the spread of the disease, but in due course, my understanding would be that there would be a point where SA Health would say that the COVID in the community is such that rapid antigen testing by private individuals would be appropriate. The

bottom line is we are in a very different situation to Victoria, New South Wales and the ACT, and it is SA Health's view that we should maintain the current prohibition.

If I could clarify for the honourable member, this is not legislation. This is not legislation in the sense that it's a statute of this parliament or a regulation of the government. It is, as I understand it, a direction of the State Coordinator under the Emergency Management Act. If you like, it behaves like a regulation, but it's not what we would normally call legislation.

The PRESIDENT: The Hon. Mr Pangallo, a supplementary.

COVID-19 RAPID ANTIGEN TESTING

The Hon. F. PANGALLO (15:06): Will the minister be talking to the State Coordinator and pointing out to him that these home test kits are freely available in other states, and what is the State Coordinator's tipping point before these kits are actually made available to South Australians? Do we have to wait until—

The PRESIDENT: You have asked the question.

The Hon. F. PANGALLO: Just about three more words: do we have to wait until it is spreading throughout the community?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:07): First of all, I would like to clarify this: that the direction is certainly issued by the State Coordinator, but on a matter like this the State Coordinator would rely heavily on SA Health's advice. I can assure you that, because of the high level of interest in the community and, to be frank, interest by other governments and also business, it would be true to say that a number of businesses are interested in how rapid antigen testing can assist them in their business continuity plans. I can assure you that SA Health is often having to discuss the relevance of rapid antigen testing.

To be frank, I am not aware of the threshold in terms of the level of community transmission where SA Health would be anticipating broader use of rapid antigen testing. But certainly, as I said before, in the context of particularly high-risk environments such as freight driving, hospitals, ambulance services, there are already plans to use rapid antigen testing, if it's not already being used.

COVID CARE CENTRES

The Hon. J.E. HANSON (15:08): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding health.

Leave granted.

The Hon. J.E. HANSON: The government's COVID strategy document, released on 17 November, references 'newly established COVID Care Centres for patients requiring additional treatment interventions'. However, there's been no public mention of the centres to date. I also note that the date on the front of the strategy document is listed as 12 November. My questions to the minister are:

1. What are the exact locations of the COVID care centres, and exactly when will they be fully operational?

2. Why did the minister release a strategy on 17 November that is dated 12 November, when the public is desperate for information about these matters?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:09): Yet another question from the opposition that is based on fallacies.

Members interjecting:

The PRESIDENT: The Leader of the Opposition will not have conversations with his backbench. The minister has the call.

The Hon. S.G. WADE: The honourable member is suggesting that we haven't announced our COVID care centres. Well, that's just not true. I went to the Royal Adelaide Hospital and, together with the chief executive of the local health network, was very pleased to be able to announce that

the first COVID care centre will be co-located with the emergency department. My understanding is that it will be open by 23 November.

COVID CARE CENTRES

The Hon. C.M. SCRIVEN (15:10): Supplementary: the minister refers to the first COVID care centre; where will the other ones be?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:10): My recollection is that there are going to be initially five: three in the metropolitan area—north, south and central, and two in the regions.

COVID CARE CENTRES

The Hon. C.M. SCRIVEN (15:11): A further supplementary: where exactly will these five COVID care centres be located, and when exactly will they be fully operational?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:11): I am happy to take the honourable member's question on notice. My understanding—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —is that the specific locations—

Members interjecting:

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

The Hon. S.G. WADE: —have not been identified.

COVID CARE CENTRES

The Hon. C. BONAROS (15:11): Supplementary: have staff been allocated to or assigned to these new centres?

Members interjecting:

The PRESIDENT: Order! The minister has the call. The Hon. Mr Wortley ought not to make remarks like that.

The Hon. K.J. Maher interjecting:

The PRESIDENT: The leader is out of order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:12): The part of the COVID response that deals with the COVID care centres, on my understanding, is that it's part of the COVID response cohort.

Members interjecting:

The PRESIDENT: Minister, resume your seat.

Members interjecting:

The PRESIDENT: Order! The opposition has asked some supplementaries, the Hon. Ms Bonaros has asked a supplementary and the rest of the chamber would like to hear the answer. The minister has the call.

The Hon. S.G. WADE: I thank the honourable member for her supplementary question. My understanding is that the staffing for that particular facility would be out of the COVID response, which is around 350 extra staff in terms of doctors, nurses, allied health workers and general support staff. The conundrum I face of course is that it's hard to know whether it might actually be part of the 1,200—

The Hon. K.J. Maher interjecting:

The PRESIDENT: If the Leader of the Opposition listened, he might learn something—

The Hon. S.G. WADE: —nurses that we are recruiting, more than double the annual intake of graduate nurses.

Members interjecting:

The PRESIDENT: —and the Opposition Whip. Order!

The Hon. S.G. WADE: It could be another part of the 370 nurses that we are recruiting across our local metropolitan health network.

Members interjecting:

The PRESIDENT: Order! Has the minister concluded his remarks? No? Well, then continue.

The Hon. S.G. WADE: This is the conundrum I face: when the government is recruiting up to 1,920 health professionals to deliver health services—

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: —it could be out of our local health network recruitment, it could be out of our 1,200 graduate nurses—

The PRESIDENT: The minister will resume his seat.

The Hon. S.G. WADE: —or it could be part of our COVID response.

The PRESIDENT: The minister will resume his seat. The Hon. Mr Simms has the call.

COVID-19 BUSINESS SUPPORT

The Hon. R.A. SIMMS (15:14): I seek leave to make a brief explanation before addressing a question without notice to the Treasurer on the topic of business support during COVID-19.

Leave granted.

The Hon. R.A. SIMMS: A report released earlier this week found that the amount of vacant retail space in the Adelaide CBD is at its highest level since 1993. With South Australia's borders set to open on Tuesday, Business SA CEO, Martin Haese, has called for the federal and state governments to provide reasonable financial support to those businesses that are forced to close down due to staff being in quarantine. My question to the Treasurer therefore is: what is the government's plan to assist or compensate businesses that will be impacted by COVID-19 in the weeks ahead, and what is the government's plan to reduce shop vacancies in the CBD?

The Hon. R.I. LUCAS (Treasurer) (15:15): If I could just lower the temperature of question time a little bit and modulate and moderate my voice a little, the second part of the question is relatively easy; that is, the only solution to challenges for job growth and economic growth is actually to adopt the sort of policies this government is adopting to grow the economy and grow jobs.

I would imagine the Greens would support the position this government is putting that there is no earthly reason why our state's economic growth and jobs growth shouldn't at least track at around about the national average over a long period of time. For 20 years, we have tracked at about half or two-thirds of the national average.

If we want to keep young South Australians in South Australia and if we want to attract people to South Australia, we have to make sure that jobs growth and economic growth track at around about the national average during that period. The only sensible way of doing that is to make sure that the costs of doing business in our state are competitive nationally and internationally. We do not have to be the cheapest jurisdiction in the nation or the world, but we certainly can't afford to be the most expensive.

We have to be competitive, because all the other attributes that we have and we love—the fact that we are the third most livable city in the world, the most livable city in Australia, our work-life

balance arrangements, the fact that we have a government which is leading the nation and is one of the leaders in the world in terms of zero emissions and renewable energy policies—all of those attractions that we have, all of those things, are inbuilt ticks and attractions for people to want to invest and to grow jobs in the state.

The only solution to the sort of issues Martin Haese and others are identifying in terms of jobs, not just in the CBD but in the regions and in the suburbs as well, is that we have to have an environment that allows people to grow jobs. In the CBD, what we are seeing with the announcement cognisant today, PwC and others coming to the CBD, albeit at Lot Fourteen and the eastern end of CBD Adelaide, nevertheless still the CBD, is thousands and thousands of jobs both now and over the future for people in the CBD. What that does is it gives the capacity for cafes and restaurants and others to do business in the city. That's the challenge that this government has.

I could speak further, but I won't. Not that this was a Dorothy Dixer; this came from the Hon. Mr Simms. It is almost a Dorothy Dixer but I won't treat it as a Dorothy Dixer—I won't on the second part of the question. The first part of the question is, and I responded to that question I think from the Hon. Mr Pangallo earlier in the week, that we recently applied to the federal government for assistance for the relief programs and grant programs provided to Mount Gambier. The federal government said, consistent with their public policies nationally, they are moving away from providing federally funded business assistance. For that reason, in Mount Gambier we went ahead and we funded the Mount Gambier assistance for the period of the lockdown, as a state government.

There is nothing that currently exists in relation to ongoing business support, to answer the question specifically. We will monitor what, if anything, other state governments do. At this stage, we are not aware of any ongoing state government funded programs. We are not aware of any federal government funded programs in relation to the specific circumstances to which Martin Haese and the honourable member have referred. We will monitor it, but at this stage the answer to the question is that we do not have current programs that meet that particular descriptor the honourable member has asked about.

COVID-19 BUSINESS SUPPORT

The Hon. R.A. SIMMS (15:19): Supplementary: just to confirm, Treasurer, aside from monitoring you are not doing anything in terms of providing any support to businesses at the moment?

The Hon. R.I. LUCAS (Treasurer) (15:19): No, we actually provided state government funded assistance to Mount Gambier recently. In relation to what might exist today, the answer to the question is we are doing a lot. We are trying to reduce the cost of doing business for everybody so that their businesses can grow. If you are talking about: do we have a grant program for those businesses that are failing and are in trouble? We do not have a grant program at the moment for those businesses that are failing, or closing, or running into specific problems in relation to COVID. I can't be any more explicit than that. It is a direct answer to a direct question.

SHACK LEASES

The Hon. J.A. DARLEY (15:20): My question is to the Minister for Human Services representing the Minister for Environment and Water. Can the minister provide a brief summary of the implementation of the government's shack policy, which includes approximately 300 shacks on Crown land adjacent to the River Murray and Glenelg River and coastal locations in South Australia and 150 shacks in national parks?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:20): I thank the honourable member for his question and once again would like to acknowledge that he has been a staunch supporter of shacks in South Australia throughout his time in this place, along with probably every other political party apart from the Labor Party, who have poured scorn and disparaged shacks, which have been such a large part of South Australia's heritage particularly in regional areas, for many decades.

I am pleased that we have made quite some progress in relation to shacks, both those located on Crown land and shacks located in national parks. To that end, I would like to also acknowledge that there have been leaders in those local regions who I well remember from our fights

against the Labor Party, against them trying to turf people out of the places that they had enjoyed for recreation, particularly in summertime, for many decades, including Brett Orr from the Glenelg River, Keith Turner from Milang and Geoff Gallasch from the Coorong. They have also been working with other key stakeholders, including local councils, government agencies and traditional owners, as part of the delivery of our commitment which we took to the last election.

During 2020, applications opened for lessees to apply for longer tenure at their shack sites. Applications closed for lessees located on Crown land on 30 June this year. There were 182 lessees applying for longer tenure from a total of 221 lessees located on Crown land, so that is more than 80 per cent. Applications are still open for lessees in national parks to apply for longer tenure. These will close on 31 December.

Forty-two applications have been received so far from a total of 86, which is approximately half. DEWNR have been processing the applications as they are received, so 45 offers of long-term tenure have already been made, including for shacks that are located at Milang and on the Glenelg River. So far, 30 lessees have returned their signed lease agreements.

I think it is important to point out that there are unique circumstances for each of those shack sites which require bespoke outcomes for each of those, so the government has been pleased to work collaboratively with stakeholders throughout this. I think it is also important to point out that lessees who are located in national parks, including Coorong National Park, Dhilba Guuranda-Innes National Park, Little Dip Conservation Park and Kellidie Bay Conservation Park, should consider getting their applications in for longer tenure as soon as possible, so that they can be assessed through that process.

Bills

ELECTORAL (ELECTRONIC DOCUMENTS AND OTHER MATTERS) AMENDMENT BILL

Committee Stage

In committee (resumed on motion).

Clause 26.

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

Amendment No 12 [Maher–1]—

Page 8, after line 34 [clause 26, after subclause (2)]—Insert:

(2a) Section 77(2)(b)—delete '12' and substitute '7'

We adjourned before we got to the substantive new area of amendments in this bill. This is one I canvassed briefly in some remarks at clause 1. There was an earlier amendment about promoting polling on election day, which retains the status quo. This one actually makes an amendment to the Electoral Act in terms of early voting.

What this seeks to do, as I outlined very briefly at clause 1, is rather than 12 days for early voting—that is the Monday almost two weeks before the election day—this seeks to have early voting open for seven days. That is in effect to give one of every day of the week for people to vote. Early voting would start before the election and have one of every day to be able to vote, so six days of pre-poll and election day itself.

I gave reasons for this earlier. It is our view that it is desirable that people vote on election day. Some of the reasons I outlined before are the ability for voters to have all information to the greatest extent possible before they vote on election day. We do know that policies continue to be released, events continue to unfold right up to election day, and the earlier people vote the less able they are to consume the fullness of information and make that informed choice.

I also went through the fact that having more people vote on election day has served Australian elections very well in the past. It is almost a celebration of our combined democracy and civic duty to have that one day where we have elections. It is also a practical thing. I have bemoaned in the past the fact that in some areas, like the APY lands, you could have voting on a two-hour block six or seven days before an election for voters who vote at some of the lowest rates in the country.

I have often contended that, if in the APY lands, in booths that have some hundred votes each in the six main communities, you had a polling booth open on the day of the election you would get a significantly higher turnout; that is, rather than only being able to vote for a couple of hours on a Tuesday before the election. If it was known that you could vote between 9am and 6pm on the actual day of the election, it would increase turnout.

Encouraging as much as possible but also respecting the fact that there will be genuine reasons to vote early I think is good for our democracy. I note, as I said earlier, that there are reasons you would want to have more availability for voting, and that is highlighted at the next election, given the circumstances we face in the COVID pandemic.

I do not agree with the contention that there is only one way to resolve this, and that is to try to have more early voting. I would respectfully contend that resources could be used to have more polling booths on election day, for example. It stands to reason that, if you triple the amount of polling booths, each polling booth potentially would have only a third of the amount of voters.

I think there are other ways to provide for the challenges that we will face in a COVID act, and then there are the actual practical considerations of the ability to staff polling booths for the major parties that will find it easier, but for minor parties if, as the Electoral Commissioner has outlined in estimates, there are 47 pre-poll booths—and I think there was only one per three or four electorates in previous elections—for the whole of the 12 days, that dual combination of having three or four times as many pre-poll booths, as well as being open for the whole 12 days, will stretch all parties, quite frankly, very thin on the ground in terms of being able to provide the services that are usually provided to voters entering a polling booth.

We do not think, in terms of those practical issues, it is particularly feasible to have a combination of both the number of days we usually have as well as having 47 pre-poll booths, so we are moving the amendment to take it back from the current 12 days to seven days of pre-poll.

The Hon. R.I. LUCAS: The government, I think as we indicated earlier, is opposing this particular amendment. The Electoral Commissioner's election report noted the very significant increases in demand for pre-poll voting in recent years, and this demand is expected to continue. Almost four years ago, evidently the percentage of pre-poll voting was a bit over 10 per cent or 11 per cent or something. I think in some other jurisdictions in the last three to four years it has been, and I will stand corrected on this, as high as 30 per cent or 40 per cent of the total vote being pre-poll.

I must admit, when I first started out in parliament, I very much subscribed to the view that the Hon. Mr Maher has just subscribed to. But he is a very conservative person; he does not change those views. I am a person prepared to listen to contemporary opinion and thought processes and move with the times. Some are stuck in the mud of the past in terms of opinion, but some of us are prepared to listen to what people actually—

The Hon. K.J. Maher: What did you say in the VAD debate? 'As the world changes around me, I don't change my views.'

The CHAIR: Order!

The Hon. R.I. LUCAS: The world has moved on. With some things, I rue the fact that things have moved on, but the world has changed and it is inevitable. I think, with or without changes, we are going to see more and more people take the convenience. Put aside COVID, which I will address in a moment, because the recent trends have been both before COVID and during COVID, when we have seen big increases in the number of pre-poll voting. I think people just want the convenience of being able to vote.

There may well be people who are playing sport on Saturdays or they may all be hardworking shoppies union people working in retail outlets on Saturday or doing shift work in the variety of jobs that are now required on weekends and on Saturdays in particular. It is just inevitable that people seek convenience in much of what they do in their lives. Election day is exactly the same. We can rail against it and say, 'We are going to corral you all in and force you all to vote on one particular day,' but it is not going to work. People are demanding the capacity to have greater flexibility in terms of when they vote, when they might drop in.

We are seeing the challenges in relation to vaccinations at the moment. We are now moving mobile vaccination centres to where people are, whether it is in the Myer shopping centre or wherever you happen to be, to try to provide the convenience of being able to get your jab. In relation to voting, it is the same thing: the convenience. The Electoral Commissioner is recognising that, so rather than having a small number of pre-poll outlets, they are looking at, as I understand it, having one in every electorate. I think they are looking at having a significant increase, and I think it might be as much as one in every electorate, so that people who want to pre-poll vote can do that, rather than having to be corralled into half a dozen or a dozen major regional centres or suburban centres or the like.

Members can fight against the tide of greater convenience and flexibility for people, but it is inevitable. People want that flexibility. Many of them—not all of them—are quite happy to have formed a view about a government or a member as to whether they want them or not over four years, and what is going happen in the last two or three weeks, for many of them, is not going to influence them.

For some it might, but the reality is, even with our existing laws, more and more people are going to avail themselves of early voting. It means they do not have to go to a polling booth and queue up on a Saturday, because you never know what time of day you can guarantee that there will not be a lengthy queue and you are going to be harangued by hundreds of election workers for all the major parties, at least if you do it at one of these polling centres during the two or three weeks before the election.

The Hon. Mr Maher laments the fact that it is going to be harder to be able to mobilise people for that. Some of the people are probably quite relieved about that. It means they will get into their polling booth without being molested by dozens of polling workers from all sorts of—not just political parties, but these days on election day you have all sorts of other interest groups, whether it be unions or activist groups or the others, who are all wanting to influence voters on that particular day.

Even though they do not have their own candidate, they have someone they do not like or they do like, and they are campaigning for that particular person. That will still occur on election day, but increasingly there will be fewer people who are going to be voting on election day. They will be taking advantage of it earlier. I think that is a general comment about the world moving on. As I said, members can rail against that and try to fight against the tide of public opinion, but that is the inevitable reality.

We have the overlay this time of COVID. There is no doubting that electoral commissions around Australia and around the world, I suspect, are having to acknowledge that they are going to have to do much more in terms of how to actually manage safely an election voting period. They do see the opportunity for early voting as being an important element of that for a COVID impacted election, as I have outlined earlier, being able to spread more people out over a longer period of time in a number of different centres.

If we see a significant increase in the number of people who have voted before election day, then that will mean fewer people crowding into polling booths on election day. For all that, the government view is it make sense to provide for the added convenience and flexibility that more and more South Australian voters are demanding.

The Hon. R.A. SIMMS: To be honest, the Greens can see arguments on both sides of this debate. I must confess to being a bit of a traditionalist when it comes to voting. I do enjoy the excitement of election day.

The Hon. K.J. Maher: Democracy sausages.

The Hon. R.A. SIMMS: The democracy sausage, absolutely. However, I am also persuaded by the argument that the honourable Treasurer has put that, in the middle of the pandemic, now was not the time to reduce the number of days available for pre-poll voting. Particularly in the context of a global pandemic, people will want to avail themselves of that opportunity. That is not to say that there will not be potential implications for political parties in terms of being able to staff booths.

That said, the overriding consideration should be what is in the best interests of the voter and what we can we do to assist them and encourage people to vote during a challenging period.

On that basis, we are inclined to support the existing regime. Do not get too used to us being in agreement, Treasurer, but on this occasion we are supporting your position.

The Hon. C. BONAROS: We will be supporting the opposition, for the reasons I have already outlined.

The Hon. J.A. DARLEY: I will not be supporting the amendment.

The committee divided on the amendment:

Ayes.....9
Noes 10
Majority 1

AYES

Bonaros, C.	Bourke, E.S.	Hanson, J.E.
Hunter, I.K.	Maher, K.J. (teller)	Ngo, T.T.
Pangallo, F.	Pnevmatikos, I.	Scriven, C.M.

NOES

Centofanti, N.J.	Darley, J.A.	Franks, T.A.
Girolamo, H.M.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Simms, R.A.	Stephens, T.J.
Wade, S.G.		

PAIRS

Wortley, R.P.	Hood, D.G.E.

Amendment thus negatived; clause passed.

Clauses 27 and 28 passed.

Clause 29.

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

Amendment No 13 [Maher–1]—

Page 10, after line 4 [clause 29, after subclause (5)]—Insert:

(5a) Section 84A—after subsection (2) insert:

(2a) Regulations relating to an assisted voting method that involves telephone voting must at least provide for the method to include the following requirements:

(a) a witness who listens to the entire telephone communication between a prescribed elector voting using the method and the officer taking the vote and ensures that—

(i) the prescribed elector's vote is accurately marked by the officer in the presence of the witness; and

(ii) the officer then reads the marked vote aloud to the prescribed elector; and

(iii) the prescribed elector confirms that their vote has been accurately marked or, if the prescribed elector seeks to amend their vote, the officer accurately marks the amendments and reads the amended marked vote aloud to the prescribed elector;

(b) a witness who performs the functions referred to in paragraph (a) in relation to an assisted vote—

(i) records a unique identifier number (being a number provided to the prescribed elector in relation to their assisted vote) on the declaration envelope into which the vote is to be placed; and

(ii) signs the declaration envelope; and

(iii) folds the ballot paper and seals it inside the declaration envelope.

(2b) Regulations made under section 84A(2)(f) cannot disapply or modify the operation of subsection (2a) in relation to an assisted voting method that involves telephone voting.

This amendment spells out the requirements for telephone voting as outlined by the Attorney-General herself. As a number of members have raised in both chambers at the second reading, there are concerns about maintaining the integrity of voting with telephone voting. This amendment has simply sought to put the pro tem Attorney-General's words into legislation. I anticipate that regulations about this would be very similar to what this amendment actually puts in legislation. But when it comes to the integrity of something as sacrosanct as the integrity of voting, we feel it is important to be spelt out in the legislation and not left for regulation.

The Hon. R.I. LUCAS: The government is opposing the amendment. The amendment to put the process of telephone-assisted voting into the act, I am advised from the government's viewpoint, is unnecessarily prescriptive. The process for telephone voting may evolve over time as technology changes and it will be important to have the flexibility to update processes and regulations. The government has consulted with the Electoral Commission in preparing regulations. I am advised that a draft regulation setting out the proposed process has been circulated to members for their consideration.

The Hon. R.A. SIMMS: The Greens are supportive of the Labor Party amendment. I indicate also that we will be supporting the subsequent amendment as well that deals with some similar issues. It strikes me as quite odd that we would not provide this level of clarity in the legislation when we are talking about something as important as the information that is provided to a voter, particularly in relation to voting over the telephone. It strikes us in the Greens as being very important that that is actually enshrined in legislation rather than being left to the discretion of the government of the day.

The Hon. C. BONAROS: We will be supporting the amendment.

Amendment carried.

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

Amendment No 14 [Maher–1]—

Page 10, lines 6 and 7 [clause 29(6), inserted definition of *prescribed elector*]—Delete the definition of *prescribed elector* and substitute:

prescribed elector means—

(a) a sight-impaired elector; or

(b) an elector with a disability within the meaning of the *Disability Inclusion Act 2018* (other than sight-impairment); or

(d) any other elector, or class of elector, specified for the purposes of this definition in a direction under section 25 of the *Emergency Management Act 2004*.

This is on the same topic of telephone voting. This amendment spells out which electors are eligible for telephone voting, rather than leaving it to the regulations.

The Hon. R.I. LUCAS: The government opposes the amendment. This amendment does not allow for categories of prescribed electors to be prescribed by regulation. It does not include overseas electors. One of the reasons for telephone-assisted voting is to provide an option for overseas electors who struggle to return their ballots in time to be counted. The government considers that the flexibility to add or remove categories of electors by regulation is a key part of the workability of telephone-assisted voting, especially in relation to ensuring COVID-safe elections.

The importance of the telephone-assisted voting for overseas electors and other categories of electors is highlighted in the Electoral Commissioner's open letter to members, as I understand it, dated 25 October 2021. I quote:

It was proposed that telephone voting be a suitable alternative for electors who were overseas and unlikely to be able to receive and return a postal vote and to those who might find themselves affected by risks associated with the COVID-19 pandemic. The latter would be electors unable to attend to vote where they are resident in a health or care facility with significant risks that might prohibit the traditional visits by electoral officers, and those who may be subject to a direction to isolate or quarantine for a period that would preclude them from attending to vote.

Amendment carried.

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

Amendment No 15 [Maher–1]—

Page 10, after line 7—Insert:

(7) Section 84—after subsection (4) insert:

(5) For the purposes of paragraph (b) of the definition of *prescribed elector* in subsection (4), the regulations may declare that a reference to a disability in that paragraph—

(a) will be taken to include a disability of a kind prescribed by the regulations; and

(b) will be taken not to include a disability of a kind prescribed by the regulations.

This amendment is related to the last amendment to do with electors eligible for telephone voting.

Amendment carried; clause as amended passed.

Clauses 30 and 31 passed.

Clause 32.

The CHAIR: We now move to amendment No. 4 [Simms-1], which relates to clause 32, page 10, after line 23.

The Hon. R.A. SIMMS: Mr Chair, that is a consequential amendment. We are not progressing with that.

Clause passed.

Clause 33.

The Hon. R.I. LUCAS: I move:

Amendment No 1 [Treasurer–1]—

Page 11, lines 15 and 16 [clause 33(2), inserted subsection (4)]—Delete 'this Act and the requirements prescribed by the regulations' and substitute 'this section and the other relevant provisions of this Act'

The government has consulted with the Electoral Commission and had regard to the New Zealand electoral scheme. The government originally intended to put the detail of early counting processes and safeguards into regulations. However, to provide additional certainty about the early counting process, these provisions will now be included in the Electoral Act rather than the regulations.

The Hon. K.J. MAHER: I am very pleased to rise and offer support for government amendment No. 1 and the subsequent government amendment No. 2. I can indicate that, when we get there, I will not be moving my amendment No. 19 [Maher-1] as we had planned. I am very pleased that the government has taken on board what were opposition amendments. We are happy to support the government amendments to put into legislation what we think are pretty important safeguards.

It is to do with the pre-poll scrutiny. I am pleased they have been put into legislation rather than left for regulation. These were, I know, important ones. I can remember being at a briefing with the Electoral Commissioner talking about this. Under changes to the act, it allows for counting of some votes to start earlier than when the polls close.

Concerns were raised at the briefing about the absolute need for results that may be being viewed earlier not to be able to be in any way leaked out—the idea that you could possibly have some early results before other polls closed. We see it in US elections where polling closes earlier on the east coast than the west coast and you have some idea of where you are tracking by virtue of polling results.

You see it to some extent in federal elections, between the eastern and western coasts as well. We would not want a situation where voters may be discouraged from voting because they think there is a foregone conclusion of an election. So we are very pleased the government has taken up what was in our amendment No. 19 and put it into legislation, and we are happy to support amendments Nos 1 and 2 from the Treasurer.

The Hon. R.A. SIMMS: We have a unity ticket, I think, Chair, because the Greens are also supportive of this amendment. We thank the government for putting it forward. We agree with the comments made by the Hon. Kyam Maher on behalf of the Labor Party that it is important to enshrine these principles in legislation.

The Hon. C. BONAROS: For the record, I indicate SA-Best's support for the amendments also.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Amendment No 2 [Treasurer–1]—

Page 11, after line 16 [clause 33(2), after inserted subsection (4)]—Insert:

(5) In connection with section 89(4), the following requirements apply in relation to the scrutiny of ordinary votes taken at a pre-polling booth before polling day undertaken before the close of poll:

(a) the scrutiny is to be conducted in 1 or more areas determined by the Electoral Commissioner (*restricted areas*);

(b) the Electoral Commissioner must appoint an officer as a responsible officer for a restricted area;

(c) a person must not enter a restricted area before the close of poll unless—

(i) the responsible officer grants the person permission to enter the restricted area, which may be subject to conditions determined by the responsible officer; and

(ii) the person gives the responsible officer an undertaking not to leave the restricted area before the close of poll;

(d) a person must leave a restricted area on being required to do so by the responsible officer for the restricted area;

(e) a person must not enter a restricted area before the close of poll if the person is in possession of a device that enables information to be conveyed to a person or machine outside the restricted area;

(f) a person in possession of a device of a kind referred to in paragraph (e) in a restricted area before the close of poll must surrender the device on being required to do so by the responsible officer for the restricted area and the responsible officer may retain the device until the close of poll;

(g) a person who is or has been in a restricted area must not, before the close of poll, disclose to any person outside the restricted area any information relating to the scrutiny of votes (including the counting of votes) undertaken before the close of poll.

(6) A person who contravenes or fails to comply with a requirement under subsection (5)(c) to (g) is guilty of an offence.

Maximum penalty: $5,000.

(7) A person who contravenes or fails to comply with an undertaking made, or a condition of a permission granted, under subsection (5)(c) is guilty of an offence.

Maximum penalty: $5,000.

(8) The Electoral Commissioner may grant a person an exemption from a provision of subsection (5) to (7) in an emergency or to deal with an urgent situation.

(9) A person who contravenes or fails to comply with a requirement to leave a restricted area under subsection (5)(d) may be removed from the restricted area by a police officer or a person authorised by the responsible officer for the restricted area to remove the person.

This is really the substantive amendment, and I will quickly read the explanation for those avid readers of *Hansard*. The government has consulted with the Electoral Commission and had regard to the New Zealand electoral scheme to develop a process that ensures that information will not be leaked by persons undertaking early counting. The Electoral Commissioner will determine an area to be a restricted area. People entering this area will need to undertake to abide by any conditions of entry and surrender any devices that allow information to be communicated outside the restricted area.

Penalties apply to any person who fails to comply with an undertaking of condition of permission of entry. Penalties also apply to a person who discloses any information relating to scrutiny of votes before the close of poll to a person outside the restricted area. The Electoral Commissioner has the power to make exemptions to these strict rules to deal with an emergency or urgent situation, if required.

Amendment carried; clause as amended passed.

Classes 34 and 35 passed.

Clause 36.

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

Amendment No 16 [Maher–1]—

Page 11, line 27 to page 12, line 9—This clause will be opposed

This amendment is in relation to who has the jurisdiction to adjudicate and decision-making power over false and misleading advertising in relation to an election. At the moment, it is the Electoral Commissioner who has those powers. The government's bill proposes to move the decision-making powers from the Electoral Commissioner to SACAT. On one level and superficially you can understand a desire to do that, to have SACAT rather than the Electoral Commissioner adjudicate on powers. However, we do have concerns about how that will work in practice.

I know from my previous role before coming to parliament as state secretary of the Labor Party that during an election campaign there is often a need for complaints to be made against things that will have a prejudicial effect on an election campaign and to be made outside normal business hours. If there was a complaint at night or on a weekend, we are concerned that the registry may not be available to take the complaint. I know from past experience that the Electoral Commission has been available to take a complaint after hours and on weekends, for example.

The other concern we have in relation to not just the timeliness that I have mentioned but consistency of decision-making, when it is the one adjudicator on decisions you tend to get a consistency in the decisions that are being made. I know and appreciate that the Electoral Commissioner will have help, and I suspect Crown law are helping and giving advice, but it is the one decision-maker making decisions, and we think that is good for consistency.

We would be concerned it might fall to—depending who the decision-maker from SACAT was at different times during the campaign. They might be different individuals who bring their own experiences and thoughts to a decision and risk the consistency that you may otherwise have from necessarily the one decision-maker. If there are ways to improve the efficiency and effectiveness of the Electoral Commissioner making the decisions, we are open to those.

For the reasons I have stated, we are going to oppose that it be SACAT, for the reasons of autonomy, particularly making and lodging complaints outside when a registry may be open and in terms of consistency of decisions. For those reasons, we are going to oppose these particular changes in this bill.

The Hon. R.I. LUCAS: The government is opposing the proposed amendment. I will address some comments to that but also address some general comments to some concerns I have in relation to where this is all heading. If I can outline the government's position formally first. This amendment opposes clause 36, which amends the misleading and advertising provisions contained in section 113 of the act.

Currently, this section allows the Electoral Commissioner, if satisfied that an electoral advertisement contains a statement purporting to be a fact that is inaccurate and misleading to a material extent, to request that an advertiser withdraw the advertisement and publish a retraction. There is then the option for the commissioner to make an application to the Supreme Court seeking orders for withdrawal and retraction.

Clause 36 of the electoral electronic documents bill removes this function from the Electoral Commissioner and provides that an application can be made to the SACAT seeking orders for retraction and withdrawal of a misleading advertisement. There are rights of appeal to either the Court of Appeal or a single judge of the Supreme Court under the South Australian Civil and Administrative Tribunal Act, depending on whether or not the original decision was made by a presidential member of the tribunal.

In the election report, the Electoral Commissioner set out the significant challenges of regulating misleading advertising. The amendments in clause 36 would mean that the Electoral Commissioner would be able to focus on administering the Electoral Act in the lead-up to the election without having to become involved in potentially partisan disputes. The Electoral Commissioner will still have the option to either make an application to the tribunal himself or apply to be joined to any proceedings.

This is an increasingly vexed part of electoral law, and it is going to get worse and more complex as we go along. I think this is a cry for help from the Electoral Commissioner, because the Electoral Commissioner is seeing what is developing and he is seeing what is about to happen. I think we will see, if we do not make these changes at this particular election, a very significant problem. Let me put on the public record for those of you who will be in the next parliament looking at the Electoral Commissioner's report, if this provision is not changed, if this is not a highlight or a feature of the Electoral Commissioner's report—I was going to say I would take all of you to lunch, but no, I will take maybe one or two of you to lunch.

The Hon. K.J. Maher: Down to the bottom of the Myer Centre?

The Hon. R.I. LUCAS: Yes, down to the Myer Centre. I will meet youse all at the Myer Centre, Mr Chairman, and shout you, those who want to have a meal with me in the Myer Centre and are prepared to slum it with the ex-Treasurer.

Members interjecting:

The CHAIR: Order!

The Hon. R.I. LUCAS: Amidst the mirth and frivolity, there is a very serious point that I am making and that is I am putting on the public record that I believe a significant part of the Electoral Commissioner's report at the next election—clearly, COVID will be a key one because inevitably that is going to be all encompassing—one of the key parts of the report, is going to be the problems the Electoral Commissioner has with this particular area of the law.

Part of it, I suspect, is a either a new interpretation the Electoral Commissioner has of this particular provision or new Crown advice, perhaps, that he has in relation to how it should be interpreted. We have on the opposition benches at least two former party apparatchiks or operatives or ex-state secretaries. I served in a similar role a hundred years ago in the Liberal Party. There are a number of people who have served in their party organisations and are familiar with the cut and thrust and the to and fro of election campaigns and complaints about misleading advertising flowing around left, right and centre.

What I am told at the moment is that the Electoral Commissioner is already being increasingly diverted by either, as I said, a new interpretation of the Electoral Commissioner or a new advice that is governing a new determination, which is essentially saying that a single social media post by a member of parliament or a candidate, a single post, as opposed to something which is promoted and

advertised, is electoral advertising. Everybody at the moment is lodging complaints under this particular provision for single social media posts by politicians, candidates, political parties and others, about single posts.

The previous interpretation by at least the two major parties and certainly I assume some of the minor parties as well—I cannot speak for them—has been a distinction between a single post by a member, or a candidate, or a political operative, as being, in essence, an expression of public opinion about which you can take issue and say, 'Hey, you are wrong,' and a whole variety of others like that.

You might be governed by the laws of defamation, or not, but it was not construed as political advertising. It was a statement being made by an individual. You could make the statement on radio, or you could make the statement on television, or you could make the statement by way of a letter to an individual, or whatever it is, but if you actually make the statement on social media—on Twitter, or on Facebook in particular—the new interpretation is that that can be construed as misleading advertising.

What is happening at the moment is the Electoral Commission is being inundated with complaints from all and sundry in relation to individual social media posts which have not been promoted by way of advertising, that is you pay extra to get extra coverage, which was I think the old interpretation by political parties and operatives, but a single post is now being construed. That is where we are at the moment and it is going to obviously become more intense—we are four or five months away from an election—over the election period and the period immediately leading up to the election.

So we are going to have a single—and I understand what the Hon. Mr Maher says—a single person should make all the decisions. What I am just saying is it is going to be physically impossible for the Electoral Commissioner, the single person, to make all these particular decisions because he has actually got to try to run a COVID-impacted election campaign and all that that will require. It may be in and around about the same time as working their way around a federal election campaign in terms of polling booth bookings and all of those issues which state electoral commissioners will have to look at and the Australian Electoral Commission will have to look at as well.

For all of those reasons, this issue of trying to allow the Electoral Commission to actually run the election and having somebody else make some decisions about this very vexed area of electoral law in my humble view makes a lot of sense. I understand the point the Hon. Mr Maher says: 'In the ideal world, if you have one omnipotent being who sits there and can adjudicate on every issue that would be terrific.' Those of us who are familiar with, for example, the return to work jurisdiction know that is a physical impossibility.

Again, you might get great consistency if you have one omnipotent being sitting in the Employment Tribunal making every decision in relation to workers' compensation issues, but there are just far too many for it to be done by one. Therefore you have a range of people who have to operate to the law and make their interpretations of what the law might be. That is just a simple fact of too much work for one particular person to handle all of the cases.

I am not sure where the numbers end up in relation to all of this, but if the numbers end up with leaving it with the Electoral Commissioner, as I said, mark my words here and today that I think this will be a significant part of the report highlighting the very significant problems that the Electoral Commissioner has been left with in terms of not only managing the election, but trying to manage thousands of individual complaints from individuals about what they claim to be misleading advertising.

The Hon. R.A. SIMMS: I must say I am impressed with the honourable Treasurer's capacity because he can pre-empt what is going to be in the commissioner's report before the election has even occurred. I might be Machiavelli, but he is certainly a remarkable soothsayer. I do have some questions around how this change may work in practice. The Greens are open to considering the change that the government is proposing.

I guess one of the key concerns for us is around the resources that are going to be given to the Civil and Administrative Tribunal, recognising that that is a clearing house for a number of

different disputes. I would invite the Treasurer to speak to that and to outline whether there will be any additional resources allocated to the tribunal to deal with the influx of matters that may come before it.

The Hon. R.I. LUCAS: All issues in relation to resourcing, if I put on my Treasurer's hat, we are quite happy to consider. At this particular stage, obviously, the decision has not been taken, and therefore the SACAT probably has no line of sight at all as to what the Electoral Commissioner is—I should not say that, they may well have had some discussions I guess, but clearly he has not experienced an election period campaign before and therefore it will it not happen until it happens.

I am told that the advice the Attorney-General has given is that the government will consider any additional resourcing, and I accept that from her viewpoint, but ultimately I as Treasurer make the decisions, unless the Attorney-General has a spare bucket of money in the A-G's Department, but if she does not have a spare bucket of money, more often than not, like the Electoral Commission we have just approved additional funding to the Electoral Commission for the COVID-related extra expenses they believe they are going to have to incur. If it goes this way, an essential part of a working democracy, with the Treasurer's hat on we would have to provide appropriate resourcing to allow the job to be done.

The government is not handing it over to someone so they cannot do the job, because what we are saying is that at the moment the Electoral Commission is going to struggle to do the job as it is. The government's position is: here is a more appropriate place for it to occur. The advice I have just been given is that the tribunal may sit at times and places that the president directs; that proceedings can be conducted entirely on the basis of documents. I understand the process, but the resourcing question the member has put to me is a reasonable one and as Treasurer, as we have done with the Electoral Commission, if there is a valid case to be made to allow an election to be conducted as democratically and sensibly as possible, we will make sure that the appropriate resource is provided.

I suspect that our side of politics will be making as many complaints as all the other sides of politics, so it is not a partisan thing here. Ultimately, somebody has to resolve these issues. We do not believe a single person is now going to be able to adjudicate on all of them. Even if it is the Electoral Commissioner, and it is left with him, whether it is Crown Law officers or others, he is going to have to have a team of people providing advice, and he will not be able to go through each and everyone of them—he will have to rely on advice and ultimately make decisions if he has to or delegate responsibility to one or two deputies to whom he may well delegate to handle these sorts of issues.

The Hon. R.A. SIMMS: A further question: has the government sought the advice of SACAT in relation to these changes, and are they supportive of the changes, or is this a case where we are going to be allocating the work from the Electoral Commissioner to someone who does not want to take on the job?

The Hon. R.I. LUCAS: I was momentarily diverted, but my adviser tells me that the answer to the question is yes, SACAT has been consulted.

The Hon. R.A. SIMMS: With that in mind, the minister has said they have been consulted. Did they give an indication of whether they are supportive of taking on this additional role?

The Hon. R.I. LUCAS: The Attorney-General was asked some questions along these lines, but the primary emphasis from the questioner in the House of Assembly was more about resourcing, I think, in terms of the question. In the nature of those responses, the Attorney-General indicated that she had had some discussions with Justice Judy Hughes, who is the President of SACAT, in relation to it. Most of the questions seem to be directed towards the issue of resourcing and whether there would be additional resourcing. I think the Attorney's answer was at that stage they were not asking for additional resourcing but, as I said, they may well not have been aware yet of the extent of the challenge.

I do not know if there is a specific answer but, with SACAT, frankly, in the end, the parliament decides the jurisdictional issues. We have had this debate before. I am not sure whether on all of those occasions they wanted it or welcomed it or whatever else it was, but the parliament ultimately made a decision and said, in our view, it was appropriate that SACAT take this particular

responsibility. So whilst I would be interested in their views, it would not be determinative from my viewpoint as a legislator as to whether they were happy with it or not.

Ultimately, I think we have to make a decision. There are some major issues here about who should adjudicate on these partisan issues. Is it best that we leave it with, in our view, what is going to be an increasingly overloaded Electoral Commissioner, or do we give it to a body that actually has these sorts of responsibilities to try to determine, yes or no, right from wrong, in relation to this particular provision of the law?

The Hon. R.A. SIMMS: I just have a final question. I do not want to make a meal of an entree, but just to query the penalties available under the new regime that the government is proposing, are they proposing that everything remain the same in terms of the powers available to SACAT when conducting an investigation into a report made to them?

The Hon. R.I. LUCAS: The answer to the question is no, no change in the offences. It is just the jurisdiction issue.

The Hon. C. BONAROS: I am pleased to overwhelmingly support this particular provision. I was responsible for the complaints handling process during the last election. It was a diabolical mess, nightmare, whatever you want to name it, and that is without all the other issues that the Treasurer has canvassed today. The reality is they simply are not in a position to deal with those complaints and the volume of complaints that get lodged with them.

I am sure that the funding can be sorted, but tied to that is the timeliness of the responses, because once those ads are out there and the damage is done, there is very little that you can do to undo the damage, particularly on polling day as people are turning up to the booths and seeing all manner of corflutes with misleading advertisements on them, which are influencing swinging voters who are on the way to the booth to cast their vote.

In reality, what we saw at the last election was the response was very slow. This is not a criticism of ECSA; it is just the reality of what happened. The response was very slow. There were responses being received well after the election was actually finalised and by that stage any damage that was done by those advertisements had already been done. So I am very hopeful that we are putting SACAT on notice, if you like, and that there is an expectation from the parliament also that when we are considering those complaints they will be dealt with in a timely manner both in terms of withdrawing the advertisements and in terms of publishing any retractions or apologies or whatever the case may be. It is for those reasons that we support this amendment.

The Hon. J.A. DARLEY: I indicate that I strongly support the opposition's amendment.

The Hon. R.A. SIMMS: Having listened to the debate and the answers to the questions, I also will be supporting the government's position.

The Hon. R.I. LUCAS: I just have some final points, because, if I count, I think I have four votes. Just quickly, in relation to the issue the Hon. Ms Bonaros has raised, my understanding is that there are delays of some three to four weeks with complaints currently going to the Electoral Commission at the moment, and that is not even in the throes of an election campaign. Just imagine what it is going to be like in and around the election period.

I do not know that there is going to be a perfect system, whether we have SACAT or whether we have ECSA. One thing I would suggest to people who are looking at this issue of pre-poll voting or not, etc., is there is at least an argument with pre-poll voting that you can get those people out there who are trying to influence swinging voters beforehand with what some have complained to be misleading advertising. You have a chance to actually raise the issues earlier in the particular debate and get a decision, whether it be from the Electoral Commission or from SACAT.

The more people who are voting on the last day, the less chance you have, because it is all happening on that particular day and the chances of getting things retracted or removed is almost impossible under the existing system. It may well be very difficult under the new system as well for election day stuff.

I think it is another argument for the more people who are voting over a longer period of time. If people are making what others believe to be misleading statements earlier in the process you have

at least a couple of weeks to argue before, in this case, SACAT to say, 'Hey, stop them from doing this for the next 10 days of the election campaign,' rather than starting that argument on election day itself, when it might be too late.

The Hon. C. BONAROS: That raises a very interesting point, because as we saw at the last election both major parties saved their best work, in terms of misleading advertising, until the very last day, that being election day. I would seek some clarification as a result of that response and the contribution by the Treasurer as to whether SACAT is going to be dealing with these, open and operational and functional, on election day.

I can attest to the fact that at the last election the commission's office was taking complaints on election day for new advertisements which were being saved for that very special day. In fact, in many cases there were directions given that corflutes containing misleading advertisements be removed from polling booths. We certainly pursued a number of those. I might add that there were directions given in our favour in terms of having those ads removed on polling day itself, so I am certainly envisaging that SACAT will be functioning on polling day and be able to do the same.

The Hon. R.I. LUCAS: What I would suggest to the Hon. Ms Bonaros is, in 2018, as I understand it, only 10 or 11 per cent of people voted before election day in South Australia. I think the numbers in recent years have demonstrated that it will be many more are going to vote before election day. There may well have been an incentive for parties, the member might believe, to have left their biggest claims to election day because, if 90 per cent of people are voting on election day, you can afford to do so. If you find that 40 per cent or 50 per cent of people have already voted before election day, leaving everything to election day you are going to miss almost half of your target market.

As I said earlier, the reality is that more and more people are going to vote earlier for a whole variety of reasons. Therefore, those who might want to leave their best, as they might see it—or their worst, as the honourable member might see it—to election day will have frankly missed potentially a third or a half of their target market.

In relation to the more substantive question the member has asked, yes, it would make no sense at all for the new arrangements not to have operating facilities available on election day. I am sure the Attorney is attuned to that particular. I will be in discussion with the Attorney. We cannot make the arrangements now because it is not law yet, but if the legislation passes in this particular fashion there would be a requirement for that to occur.

The committee divided on the clause:

Ayes 11
Noes..... 8
Majority..... 3

AYES

Bonaros, C.	Centofanti, N.J.	Franks, T.A.
Girolamo, H.M.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Pangallo, F.	Simms, R.A.
Stephens, T.J.	Wade, S.G.	

NOES

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

PAIRS

Hood, D.G.E.	Wortley, R.P.

Clause thus passed.

New clause 36A.

The CHAIR: We now go to amendment No. 17 [Maher-1], which involves the insertion of two new clauses 36A and 36B, page 12, after line 9. We do have a similar amendment from the Hon. Ms Bonaros, which is the insertion of a new clause 36A, but that is the same as the Hon. Mr Maher's new clause 36B. Can I suggest that we do the first part of the honourable Leader of the Opposition's amendment.

The Hon. K.J. MAHER: If it assists the chamber, before moving my amendment if I could speak to it.

The CHAIR: Yes.

The Hon. K.J. MAHER: I indicate that if particularly the crossbench wish to speak to the views about the first amendment, that is, the banning of robocalls, and if the indications from the chamber are that that is likely to be supported by the crossbench, I indicate that I will not formally move either of my amendments in favour of the Hon. Connie Bonaros's amendment, which does the same thing about robocalls.

So I will just briefly speak about it and then, depending on the will of what the crossbench indicates, may or may not move mine. I indicate that if the crossbench are indicating that they will support the banning of robocalls, I will not move mine and I will support the Hon. Connie Bonaros's ban on robocalls. I will explain a bit further in talking to them.

The banning on robocalls is quite self-explanatory. It would not allow the making of telephone calls consisting of a pre-recorded electoral advertisement. Quite frankly, electors hate this. I do not think there is any other way to put it. Electors hate it particularly when it happens on two consecutive days at 6am, as happened in July 2019, from the Liberal Party. It is one of the areas that is open and is in the arsenal of what political parties may do, but I think it would be warmly welcomed if it was not one of the things that political parties were allowed to do.

That is the genesis for us moving this amendment. It is an amendment we moved in the lower house as well, and it is something we have committed to. If it is not successful in this bill or if this bill does not get proclaimed, we will continue it as a policy commitment to take to the coming election to implement should we form government after the next election.

The other amendment that forms part of amendment 17, is about the one square metre rule. We moved this in the lower house and the genesis of our thoughts on this were twofold: firstly, consistency with federal elections as this does not exist under the federal regime, and some of the experiences in terms of how it is applied. I cannot remember the exact wording in the act itself but if it is advertising an electoral office, the one square metre rule does not apply. I know this has led to various interpretations: for example, about a mobile electorate office and whether the one square metre rule applies to a mobile electoral office—it might be a van or another type of vehicle.

For the sake of consistency with the federal election and for those reasons that have been difficult and applied variously in the past, we have suggested the removal of the one square metre, but it forms part of the amendment and if the will of the chamber appears to be to support the ban on robocalls, we are prepared not to move amendment 17 in its entirety—that would repeal the one square metre rule—as well as robocalls, and just go with the Hon. Connie Bonaros's amendment.

The Hon. R.A. SIMMS: To assist the leader, I can indicate that the Greens will be supporting the Hon. Connie Bonaros's amendment to ban robocalls. To expedite the process I will make a few quick comments in relation to robocalls and then you can take my position as being put on the record.

The Greens regard robocalls as being a real scourge on our democracy. They are, as the leader has stated, really deeply unpopular. I cannot imagine the fury and disappointment that would befall a voter who hears their phone ring at 6am in the morning only to realise that it is the dreaded call from the Liberal Party spruiking their unpopular wares in the lead-up to an election. That would be a deeply disappointing and frustrating experience and, really, we do not want to see voters being subjected to that kind of spam approach in the lead-up to the election.

I also put on the record our frustration at what we have seen occurring with the Palmer United Australia Party and the ongoing spam text messages and unsolicited messages. These things are a form of virtual junk mail and voters really do not appreciate this kind of invasion of their personal lives, and so the Greens are very supportive of the amendment being proposed by the Hon. Connie Bonaros, and we thank her for putting this initiative forward.

The Hon. J.A. DARLEY: I indicate that I will be supporting the Hon. Connie Bonaros's amendment.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–1]—

Page 12, after line 9—Insert:

36A—Amendment of section 115A—Automated political calls

Section 115A(1) and (2)—delete subsections (1) and (2) and substitute:

A person must not make, or cause or permit the making of, a telephone call consisting of a pre-recorded electoral advertisement.

Maximum penalty:

(a) if the offender is a natural person—$5,000;

(b) if the offender is a body corporate—$10,000.

I move this amendment for all the reasons that have been outlined: they are a nuisance, they are a scourge on democracy, they are out of control, they are used for a number of reasons but, of course, particularly for political influence and political purposes.

There are no constraints on robocalls at present apart from the telemarketing industry standard, which has proved to be far from satisfactory in past elections. Technology and do-not-call registers have proven ineffective in blocking these calls, and during an election or other period, even if your number is on those do-not-call registers you can, of course, still receive calls relating to the election, including calls providing information, polling calls, research calls, calls for parties seeking campaign donations, all manner of things.

In 2019, ACMA formally warned the SA Liberal Party, as highlighted by the Hon. Rob Simms, for making polling robocalls during prohibited calling times. They were between 6.15am and 7.30am on at least two occasions. I do not know if there is anything worse: I would be pretty annoyed if anyone rang me at 6.15, frankly, but if it was the Liberal Party trying to sell their wares I would be particularly annoyed. I would also be annoyed if the Labor Party did exactly the same thing. I do not think anyone wants to be getting that sort of call. They are inappropriate hours, and they are an intrusion on people's privacy and their right to privacy and a disturbance in general.

I will point out that in a very recent survey some 80 per cent of voters indicated they did not want robocalls from political parties. The employment of robocalls is directly proportionate to the amount of money a party has to spend, as our recent experiences of being bombarded by the Clive Palmer robocalls and texts in the federal election demonstrated, and in theory, at least, they do give an unfair advantage to parties with deep pockets.

That is not the only reason we do not like them. They are just a pain in the butt. It is our firm view that they should not be allowed in terms of the election process. I am hoping that the government will see sense in this amendment and make up for its previous breaches—mistakes, sins whatever you want to call them—and support this amendment.

The Hon. R.I. LUCAS: Let the political party who has not sinned throw the first stone. It seems to be that everyone is pointing the finger at the Liberal Party. Let me assure you in this particular area our very good friends in the Labor Party—

The Hon. K.J. Maher: Not at 6 o'clock in the morning, we don't.

The Hon. R.I. LUCAS: I can assure you, Acting Chair, there have been any number of what some would claim as breaches of good protocol from both the Labor Party and the Liberal Party and minor parties as well.

The Hon. Ms Bonaros asks issues about whether this favours parties with deep pockets. In South Australia, of course, we are governed by restrictions on expenditure, so if a political party actually chooses to spend money on robocalls, as described, they cannot spend money on a variety of other mechanisms.

This parliament has actually acted to place restrictions on expenditure for the period of 1 July through to the election date in terms of total capped spending, and that is for all political parties and candidates. So in terms of the issue that this is in some way an advantage for political parties with deep pockets, this parliament has sought to address that particular issue and has done so for a number of years now.

The government's position is that we are opposing this amendment. The commonwealth Do Not Call Register Act 2006 permits robocalls relating to an election. The Australian Communications and Media Authority explains on its website that, as part of a healthy democracy, political parties, Independent members of parliament, candidates for election or interest groups, including trade unions, will use a variety of ways to communicate with you. During an election or other period, even if your phone number is on the Do Not Call Register, you may receive calls relating to the election, including calls providing information, polling calls, research calls and calls from parties seeking campaign donations.

The Unsolicited Political Communications Legislation Amendment Bill 2021 was introduced into the commonwealth parliament on 25 October 2021 by the federal member for Mayo. The bill allows recipients to unsubscribe from political texts and requires additional information to be provided about actors in robocalls. The bill does not make any changes to the Do Not Call Register Act. If robocalls are to be banned in Australia, these changes should first be made at the commonwealth level. This will avoid any legal arguments about potential inconsistencies between state and commonwealth legislation. For those reasons and others, the government opposes this, but we acknowledge that the numbers would not appear to be with us on this particular vote.

The ACTING CHAIR (Hon. I.K. Hunter): I would always believe that the Hon. Connie Bonaros would always take my calls but, if this motion is agreed to, I will have to reconsider.

New clause inserted.

Clause 37.

The ACTING CHAIR (Hon. I.K. Hunter): We have an amendment in the name of the honourable Leader of the Opposition, amendment No. 18 [Maher-1].

The Hon. K.J. MAHER: I will not be moving this amendment after the abject failure of my amendment No. 16 in this chamber.

Clause passed.

The ACTING CHAIR (Hon. I.K. Hunter): The next indicated amendment, No. 19 [Maher-1], is new clause 37A.

The Hon. K.J. MAHER: I can indicate I will not be moving this amendment either after the government sensibly adopted what was largely this amendment in Treasurer's amendments Nos 1 and 2.

Clauses 38 to 40 passed.

New clause 41.

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

Amendment No 20 [Maher–1]—

Page 12, after line 23—Insert:

41—Amendment of section 139—Regulations

Section 139—after subsection (2) insert:

(3) Subject to subsections (4) and (5), a regulation made for the purposes of this Act cannot come into operation during a prescribed period.

(4) A regulation made for the purposes of this Act may come into operation during a prescribed period if the Minister certifies that the registered officer of the major party that is not in government on the date falling 14 days before the making of the regulation has agreed in writing to the regulation coming into operation during the prescribed period.

(5) Subsections (3) and (4) do not apply to the substitution of a regulation by another regulation made for the purposes of Part 3A of the *Subordinate Legislation Act 1978* that is substantially the same as the regulation being substituted.

(6) A reference in this section to the *major party that is not in government* is a reference to the registered political party with the greatest number of members of Parliament, not including—

(a) the registered political party whose members of Parliament form government; or

(b) if the government is formed by the members of more than 1 party, or 1 or more parties and other members of Parliament, whether acting in coalition or otherwise—any registered political party or parties so forming government.

(7) In this section—

prescribed period—each of the following is a prescribed period:

(a) the period of 6 months immediately preceding the day after the day on which a general election must be held under section 28(1) of the *Constitution Act 1934*;

(b) the period from the issue of a writ for a by-election for a House of Assembly electoral district until the return of the writ.

There are many areas in this bill that allow for regulations to be made in relation to how an election is conducted. It has often been said by members of this chamber, particularly the Hon. Robert Simms' predecessor, the Hon. Mark Parnell, that things are better in legislation than regulation. I can remember many times in my years in this chamber that the Hon. Mark Parnell would move amendments that would put things into legislation, which would otherwise fall into regulation. Often, there is good reason for that. If it is in legislation, we all know what the rules of the game are effectively, and there is no more important area to know what the rules of the game are than at an election.

We are concerned with a large area in this bill that allows for regulations to be made in relation to the conduct of an election, and it is slightly less now because of the amendments that have been made. What particularly concerns us is the possibility that the parliament rises before an election. With this election for example, let's say we have the optional sitting week, and then after that first week of December when parliament rises and there is no more parliament, and regulations are then made, it will be completely up to the government of the day to decide how an election is conducted without the scrutiny of this chamber, without any possibility that regulations could be disallowed because parliament has risen. We think that poses a danger and risk we are not prepared to take.

This was not easy in terms of its drafting, but what the amendment seeks to do—and that is the reason why it is drafted as it is—is if regulations need to be made (and there is a possibility that regulations may be needed to be made once parliament has arisen) what the intention of the drafting has set out to do is to invoke caretaker provisions, that is, it cannot be unilaterally up to the government of the day. It needs to be agreed by the major parties.

I do acknowledge and understand that means that it is not a role for minor parties in the parliament, but that is what caretaker conventions do dictate in terms of decisions that need to be made for the benefit of the state but you are in caretaker mode and you need the concurrence of what is effectively the Leader of the Opposition. This is the best way we have been able to transcribe that into legislation. It will be the will of the chamber what to do, but I do think there is a genuine risk if it is left up to the government of the day to make regulations, once parliament has risen, about how an election is conducted.

The Hon. R.I. LUCAS: This is a bizarre position. It is not only a real smack in the face to the minor parties, it is basically saying, 'Well, forget about the minor parties. We the opposition are the ones that you need to consult.' The caretaker conventions have been, I think, respected by all governments and oppositions for a long period of time. The caretaker conventions operate for the

four-week period up until the election. This is not a caretaker convention. This is six months prior to the election. This is the Labor Party's definition, their new version of caretaking convention.

They had 16 years in government, and the caretaker convention period was one month (four weeks), which is accepted convention—I am not disputing that—but now that all of a sudden they are in opposition they say, 'Well, that was fine when we were in government, but now that we are in opposition we need to expand the definition of a caretaker convention because we can't trust this government for a six-month period rather than a one-month period.' It is one rule for the Labor Party and another rule for the Liberal Party.

As I said, it also says, 'At least our well-established processes for regulations have a process in relation to the parliament sitting, and minor parties and major parties and the like get to, under that particular process, express their particular point of view.' The process the Hon. Mr Maher has cooked up for himself is this government just has to consult the Labor Party in relation to these particular issues.

I think the Hon. Mr Maher answered some of the questions himself. This amendment was drafted with in mind that maybe some of the provisions the government had sought to include by way of regulation needed to be curtailed and he was trying to think of bizarre, unusual ways of, in his view, curtailing these new regulation-making powers. All of those that the Labor Party and the crossbenchers wanted to remove have been removed, and those particular provisions have been as the Labor Party and the crossbench would wish in terms of it.

Why would we need now to come up with some bizarre new notion of a six-month caretaker period? And the registered officer of a major party, who is that at the moment? Reggie Martin. We would have to go off to Reggie, who is soon to be a member of the Legislative Council for the Labor Party, to get his approval for all of these, for a six-month period leading into an election.

There are well-established precedents in relation to caretaking conventions. All governments of all persuasions and oppositions have broadly abided by them. There has been no major criticism—occasional criticisms and complaints, but no major criticisms—that they have not been.

The bizarre notion now is that we are going to unilaterally draw for ourselves a new six-month caretaker convention period within which Reggie Martin has to be consulted on everything that the government seeks to do. He is not even an elected official. He is not an elected member of parliament. He has no role other than he happens to be the next favourite son or daughter of the Labor Party to hold the state secretary's position. Well, whoop-de-do, that is great, but having him represented in this legislation as being the required go-to person to give a tick of approval, or something, for a six-month newly designed caretaker period makes no sense at all to the government, so we are strongly opposed.

The Hon. R.A. SIMMS: I indicate, on behalf of the Greens, that we will not be supporting this amendment either. I can certainly understand the desire of the Hon. Kyam Maher and the Labor Party to ensure that there is better oversight and to prevent the scenario, not dissimilar to the one that we have found ourselves in on this occasion, where the government has sought to change the electoral rules very close to an election period.

That said, I am not convinced that the regime that has been proposed by the Labor Party, that is, that the government of the day simply consult with a registered officer of the opposition political party, is the best way to manage that scenario. After all, this individual is not an elected person and I do not know that setting up a situation where simply two major political parties are involved in the process is going to safeguard against the issues that the Hon. Kyam Maher has flagged.

I think the best thing is to ensure that the matters of concern are dealt with through legislation rather than regulation. I think we have put a lot of the issues that were dealt with through regulation back into the legislation and going forward I would suggest that is a better way of approaching electoral law rather than setting up a dynamic where the two major parties can just kind of consult over a six-month period and determine the arrangements that might suit them.

The Hon. C. BONAROS: I am sorry to disappoint the Leader of the Opposition, but this is where the love ends, in terms of the amendments. We have seen what happens when the two major

parties get together and make arrangements to the exclusion of minor parties and it is not good. It is usually very bad, so that is not a risk that we are going to take in the lead-up to an election, of all things.

I appreciate the leader's comments in terms of its intent, but I think both the Leader of the Government and the Hon. Rob Simms have pointed out that not only is it an odd provision but one that effectively puts potentially an unelected registered officer, or whatever their title may be, in the position of being able to make regulations that impact the rest of us. It is certainly not one that I am convinced is neither necessary but more importantly appropriate, for the reasons that have been outlined.

The Hon. J.A. DARLEY: I will not be supporting the opposition amendment.

New clause negatived.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (16:53): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 November 2021.)

The Hon. K.J. MAHER (Leader of the Opposition) (16:54): I rise to speak on this bill. If my arithmetic is right, this is the fourth electoral bill that has come before this place this year. The major difference between the others and this bill is that most of the other bills altered how elections work, whereas this alters how campaign finances work. Large parts of this bill impact the rules around the capped expenditure period.

We have robust and I think, in terms of how systems work in other states, good campaign finance laws in South Australia, first implemented in 2013 but not to come into operation until after the 2014 election. This system was updated in 2016, well before it had been used in its first election, so there was effectively a bit over a four-year lead-in period before the system became fully operational at the start of the first capped expenditure period on 1 July 2017, and a one-year lead-in period for the changes made in 2016. This is not something that has occurred in this case.

There are some ways that the slight changes to how the campaign finance, reporting and disclosure obligations work in this bill. However, there is some concern with how some of the changes will operate. There was effectively a four-year lead-in period before this system came in. We are being asked to make changes well into the capped expenditure period now, which started on 1 July this year. We are now at the end of November. We are literally changing the rules halfway through the capped expenditure period.

To be quite frank, there are a number of items, one in particular that I will mention in a moment that we are not entirely sure how it will work, that are being proposed in this bill. We will oppose this bill at the second reading. We think there are far too many unanswered questions in this bill, particularly questions about how it will work and particularly in relation to reimbursement of special assistance funding.

I know that concerns have been raised from those who administer the campaign funding in relation to special assistance funding, prescribing what can be claimed and how it will actually work. For example, it has been raised with me that a small party that might have only one administrative person may need to track whether a phone call from an MP is a compliance call, or whether they just

want to know what a bank balance is, but then is an inquiry into the current standing of the account potentially compliance or perhaps to ensure that all the amounts have been properly recorded?

If a member of the public calls and asks about making a donation, is this for compliance purposes? What if they then ask whether a donation of $200 or more needs to be recorded—is this particular part of the conversation a compliance call? How do they record this time and calculate the percentage that has been spent on compliance matters? Who makes a decision as to what constitutes compliance work and how it will be checked/enforced?

For these reasons, there is a lot of difficulty. These concerns were raised months and months ago with the Attorney-General and her office and we do not have answers to them yet. To change the campaign finance rules so deep into the capped expenditure period, with so many unanswered questions, we oppose the bill.

Debate adjourned on motion of Hon. H.M. Girolamo.

ROAD TRAFFIC (DRUG DRIVING AND CARELESS OR DANGEROUS DRIVING) AMENDMENT BILL

Second Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (17:03): I move:

That this bill be now read a second time.

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

Leave granted.

The Marshall Liberal government is committed to ensuring that South Australian roads are as safe as possible and that drivers who put other road users at risk are excluded from driving as soon as they are caught. This Bill allows police to step in at the roadside where drivers have engaged in clear-cut behaviour that puts the safety of road users at risk. For the first time anywhere in Australia, the Bill will allow for police to issue a notice of immediate loss of licence for a first offence of drug driving.

The Bill complements the recent amendments to the Criminal Law Consolidation Act 1935 which allows police to issue a notice of immediate loss of licence for the offences of extreme speed and causing death or harm through use of a motor vehicle.

Speed kills. Reckless and dangerous driving kills. Drug driving kills. Offenders should have, and will have, their authority to drive removed at the earliest possible opportunity. This Bill will see justice that is swift, certain and fair. Most importantly, these changes seek to protect the law-abiding community.

Driving is a privilege, not a right. If irresponsible and selfish drivers are putting other road users at risk, our community would expect action to be taken immediately. So the Bill will allow police to issue a notice of immediate loss of licence for the offences of reckless and dangerous driving, and drug driving. It removes the need for police to first issue an expiation notice for the offence of excessive speed before issuing a notice of immediate loss of licence.

The Bill extends the scope of aggravating circumstances that will now be applicable to the offences of both careless driving and excessive speed. They will align with those in the Criminal Law Consolidation Act 1935 including driving a stolen vehicle, driving on a restricted licence or without proper authorisation to begin with or having passengers in the vehicle.

Too many lives have been needlessly lost through this type of behaviour, and I want to take this opportunity to thank the family and friends of Nicholas Holbrook for allowing police to recently bring the story of his tragic death to bear on the public conscience.

The Bill also raises the financial penalty for excessive speed and allows for imprisonment for an aggravated or subsequent offence. It will also provide for the possibility of a longer imprisonment term for a subsequent offence of reckless and dangerous driving.

Importantly, the Bill will enable the Commissioner of Police to withdraw a notice of immediate loss of licence and reissue a fresh notice. This power will allow irregularities to be cured without losing sight of the original offending. Until now, a person to whom a notice of immediate loss of licence is given has had to apply to a court to lift or modify a roadside suspension or disqualification. In the past, this has occurred, for example, when an offender has given a false name and/or address, requiring an innocent party to seek the assistance of the court to clear their name. Under this Bill, such issues will be able to be cured administratively by police.

For those who persist in driving when prohibited from doing so, the Bill also increases the relevant penalties. Driving suspended or disqualified, when not a fines enforcement matter, will be increased to 12 months' imprisonment for a first offence, with a second or subsequent offence attracting up to three years' imprisonment.

As part of the refining process of the Bill, the Government made the following minor amendments in the other place:

- An obsolete reference to sub-section 45(6) of the Road Traffic Act was deleted from section 45B(10)(b).
- Courts can order that a person found guilty of refusing a blood test must pay reasonable pre-trial costs incurred by the prosecution, such as conveying the person to a hospital before they refuse.
- An amendment to ensure that drug drivers whose licences are suspended are treated the same as those who are disqualified; that is, to ensure that they return to driving with a probationary licence and having passed a dependency assessment, if required.

The Road Traffic (Drug Driving and Careless or Dangerous Driving) Amendment Bill 2021 is another significant step as part of a suite of measures already implemented by the Marshall Liberal government since 2018 to increase road safety for the community. The Bill significantly strengthens the legislative response both to the initial stage for breaches of our road rules and also to the penalty regimes that follow.

I look forward to all members joining me in sending a message to selfish drivers that their reprehensible behaviour will not be tolerated.

I commend the Bill to the house and I seek leave to have the explanation of clauses inserted in Hansard without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Road Traffic Act 1961

4—Amendment of section 45—Careless driving

This clause amends section 45 of the principal Act to expand the list of aggravating circumstances that apply.

5—Amendment of section 45A—Excessive speed

This clause amends section 45A of the principal Act to make provision for aggravated offences and sets out the aggravating circumstances that apply.

6—Amendment of section 45B—Power of police to impose licence disqualification or suspension

This clause amends section 45B of the principal Act to provide that the notice of licence disqualification or suspension may be issued if the police officer reasonably believes that the person has committed an offence against section 45A of the principal Act.

This clause deletes subsection (6).

The clause also makes provision for the withdrawal of a notice in certain, specified circumstances.

7—Amendment of section 45D—Power of police to impose licence disqualification or suspension for section 45C etc offences

This clause amends section 45D of the principal Act to alter the commencement of the relevant period for the purposes of the provision.

8—Amendment of section 46—Reckless and dangerous driving

This clause substitutes the penalty provision to provide for first and subsequent offences.

9—Amendment of section 47D—Payment of costs incidental to apprehension etc

This clause amends section 47D of the principal Act to expand the list of costs that the court may order.

10—Amendment of section 47IAA—Power of police to impose immediate licence disqualification or suspension

This clause amends section 47IAA of the principal Act to include offences against sections 46 and 47BA(1) or (1a) in the list of offences to which section 47IAA applies.

The clause substitutes subsection (2) to make special provision for the issuing of a notice of immediate licence disqualification or suspension in the case of an offence against section 47BA(1) or (1a).

The clause amends subsection (12) to make special provision (in relation to the commencement of the relevant period) for a notice of immediate licence disqualification or suspension in respect of an offence against section 47BA(1) or (1a). It also amends subsection (12) to make special provision (in relation to the end of the relevant period) for a notice that relates to an offence against section 47BA(1) or (1a).

The clause also makes provision for the withdrawal of a notice in certain, specified circumstances.

11—Amendment of section 47IAB—Application to Court to have disqualification or suspension lifted

This clause amends section 47IAB of the principal Act to facilitate the making of an application to the Magistrates Court to have a disqualification or suspension lifted in relation to a notice of disqualification or suspension issued under section 45B(1)(b).

12—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause inserts subsection (4a1), which disapplies subsection (4) in the case of an expiable offence against section 79B if the prescribed offence that the vehicle appears to have been involved in is an offence against section 45A of the principal Act.

Schedule 1—Related amendments

Part 1—Amendment of Motor Vehicles Act 1959

1—Amendment of section 74—Duty to hold licence or learner's permit

This clause amends section 4 of the principal Act to insert a reference to section 91(5a).

2—Amendment of section 79B—Alcohol and drug dependency assessments and issue of licences

This clause makes an amendment that is consequential on the amendments to section 81D that provide for the cancellation as well as the disqualification of a licence or permit.

3—Amendment of section 81AB—Probationary licences

This clause makes an amendment that is consequential on the amendments to section 81D that provide for the cancellation as well as the disqualification of a licence or permit.

4—Amendment of section 81D—Disqualification for certain drug driving offences

This clause amends section 81D of the principal Act to provide for the cancellation or disqualification of a licence or permit on expiation of an offence to which the section applies.

5—Amendment of section 91—Effect of suspension and disqualification

This clause amends section 91 of the principal Act to provide that a person must not drive a motor vehicle on a road while the person's licence or learner's permit is suspended or while the person is disqualified from holding or obtaining a licence or learner's permits. The provision sets different penalties depending on whether the person's licence or learner's permit is suspended under section 38 of the *Fines Enforcement and Debt Recovery Act 2017*.

6—Amendment of section 139BD—Service and commencement of notices of disqualification

This clause makes an amendment consequent on the proposed amendments to section 81D(2).

The Hon. C. BONAROS (17:04): I rise to indicate SA-Best's strong support for the Road Traffic (Drug Driving and Careless or Dangerous Driving) Amendment Bill. As members may recall, I introduced my own private member's bill, the Road Traffic (Drug Screening) Amendment Bill, in September 2020, but I am extremely pleased to see the more comprehensive bill before us today that has come up from the House of Assembly.

I would like to thank the Minister for Police, Emergency Services and Correctional Services, Hon. Vincent Tarzia, and his office for working with us in a spirit of collaboration and cooperation to achieve the objectives of this bill. If I do not mention Oli, I might fall in the unfavourable books, so I will mention Oli, because he has been great on this bill, as he was on the previous proposal that we worked on.

The process we have undertaken throughout the year has facilitated more extensive consultation with stakeholders, including SAPOL, the Law Society of South Australia and drug and alcohol services. As I have said many times, I make no apologies for our commitment to ensuring South Australian roads are as safe as possible and drivers who do not adhere to our safety standards

are prevented from driving as soon as they are detected. Protecting law-abiding citizens on our roads should be one of our highest priorities, and therefore we should be doing everything we can to make that happen.

I have read the response from the Law Society, and I followed up its specific concerns with the ministers. I do note that that came from their criminal division also, which obviously has its own views on these issues. I am confident that this bill gives SAPOL the new significant powers that they warmly welcome, but it is also proportionate and fair.

I will not go into too much detail about our appalling road toll statistics or the incidence of drivers testing positive to drugs being on a seemingly unstoppable upward trajectory, but I was alarmed to learn from SAPOL recently that one in seven of all drivers detected—and remember they do not test all our RBT drivers for drugs—are testing positive for drugs.

I will not share the tragic stories of the preventable deaths on our roads or the fatalities involving innocent law-abiding drivers impacted by very selfish and irresponsible actions of others, but I would like to pay my respects to their families. I am sorry for their loss and injuries caused to their family members by these reckless individuals. We not only have a viral pandemic to deal with in SA, we also have a prevalence of drug use on our roads that is unprecedented, and we have to do something. The overwhelming majority of South Australians—I would say most South Australians—do not want to share the roads with people who have consumed drugs prior to taking the wheel of a motor vehicle.

For the first time anywhere in Australia, this bill gives frontline police officers the power to impose an immediate licence disqualification or suspension for a first offence of drug driving where it is reasonably suspected a person has committed the offence. I am especially pleased to see this provision, as SA-Best has strongly advocated for immediately removing these offenders from our roads. We have done so off the back of some very convincing data and FOI results that we have received from SAPOL, which clearly demonstrate—and I have said this before in this place, but I am one of those people who needed convincing—if you provide a positive test on the roadside, then overwhelmingly, over 95 per cent of the time, you will also provide the same result from the forensic analysis that is subsequently undertaken.

Forensic SA analyses are exceptionally low in terms of false positives for roadside tests. Offenders still have to have an oral fluid analysis in the laboratory to rely upon, but, as we know and SAPOL and Louise have told us, people charged with drug driving are often able to remain on our roads long after a positive roadside test has been returned. I think the worst example we heard from the police was someone who was able to continue having their matter adjourned for some 12 months before finally having the courts deal with their matter. They effectively are playing the court system to keep driving for months.

SAPOL will now be able to get drug-affected drivers off our roads at the time of offending and not just for 24 hours. That is the position that we have had up until now. It has been an extremely contentious position in terms of the way we have dealt with it in this place previously, but the evidence is in, and there is clearly a case to be made for the fact that drug driving should be treated in exactly the same way as drink driving. If the driver's oral test in the lab returns a negative finding, then we have erred on the side of caution in a minuscule number of cases.

I can tell you that the public support we have had for this, because of the menace that these drivers create on our roads and the risks that they present, has been overwhelming. I can also tell you that I have now had many discussions with SAPOL, and this is an issue that they support. In fact, it is one that they brought to my attention at a meeting I had with them last year prior to the introduction of that bill because basically what they are saying is, 'We need a closer causal link between the actual driving and the subsequent disqualification.'

There are always going to be idiots who despite our best endeavours get behind the wheel of a car, even if we do impose those disqualifications, and will continue to cause a menace on our roads. There will be idiots who are so off their faces on drugs that they will not even appreciate the risks they are presenting to the rest of the community.

I do not dismiss that element of this. In fact, I will go one step further and say that it is my firm view also that, whilst we deal with the penalties and the severity of the penalties that ought to be

dished out to these people, we have an absolute responsibility to also be addressing the services that we are providing in terms of drug rehabilitation, and they are woefully inadequate in this jurisdiction, and something that again I have been urging the government to address.

These issues go hand in hand. You have people offending, we know that. We know people are killing innocent people on the roads, and we know that people are getting behind the wheel of a vehicle off their faces and they continue to take part in the same behaviour, but that is also very closely linked to the lack of appropriate resources and services available for rehabilitation services in this jurisdiction. So I think that is an important point that needs to be made.

In terms of those same idiots who keep doing the same thing, wilfully, I am pleased to see that the bill also expands the circumstances which make an offence of excessive speed and careless driving an aggravated offence, including where a vehicle is being stolen or being pursued, there is more than one passenger in the car, and where the driver is on their Ps, Ls or, indeed, where they are unlicensed.

Aggravated offences, of course, attract a heavier penalty, and we think that is entirely appropriate for the deterrent effect these provisions are intended to have. Repeat offenders will be further penalised with the new fines and terms of imprisonment. There are a number of administrative provisions that ensure police can withdraw an instant loss of licence if a driver has given false details, which SA-Best agrees are necessary to protect innocent victims.

I think during my last discussion with SAPOL on this issue at the government briefing, we discussed the role that the courts have to play in this, and I think it is fair to say that the courts are looking to this parliament for some guidance, because if we are complaining that people are not receiving hefty enough penalties that clearly means that the penalties that we are dishing out are not hefty enough.

I am very hopeful that this bill sends a clear message not only to those individuals who take part in this sort of reckless and dangerous behaviour but also to our judiciary and our courts who then administer those penalties. We have implemented a new penalty regime in this bill for very good reason, and I am certainly hopeful that the culture, if you like, or the practice of dishing out those penalties will adapt as a result of these increased penalties.

Last week, I think we covered a story of someone who drove a motor bike going about 200 ks. They were on methamphetamine. That particular instance is very similar to one that happened a few months ago and there may have been a police pursuit in this one as well but I cannot recall correctly. I was a bit miffed by the fact that that individual, who was clearly breaching their responsibilities on the road but was also under the influence of drugs, was able to get police bail as a result, after their offending.

It is also my firm view that in addition to the courts changing the way that they impose these penalties, it will also change or adapt the way that we view the issuing of bail to those individuals as well. If there is one sure-fire way of getting that individual off the road it is not to grant them bail when the police arrest them and lay charges against them. Those things sometimes act as circuit-breakers and if we want to keep people on our roads safe then I think we should be using every tool in the kit to do that, so I am hoping that there will be a flow-on effect throughout SAPOL and the way that they deal with these individuals when they apprehend them, finally, after causing that sort of behaviour on our roads.

With those words, I am again grateful to the Minister for Police, Emergency Services and Correctional Services for spending the time that he has with us and appreciating the issues that we have outlined, and to his office for their hard work in getting us to this point. For the record, and this is really for the benefit of all members, I will lastly indicate, as I did to the police when I met with them, that nothing in this bill should come as an indication that it cannot coexist with a separate proposal that is on this *Notice Paper* and was brought to this place by the Hon. Tammy Franks in relation to driving and medicinal cannabis use.

That bill proposes to treat medicinal cannabis as you would any other prescription medication for the purposes of driving. In my view, that is a very sensible bill. We know that medicinal cannabis is a heavily prescribed medication that comes in different forms, and provided that you have the

appropriate medical clearances to drive with medicinal cannabis, there is absolutely nothing that prevents these two schemes from coexisting.

In one instance you are talking about someone who is on the road under the influence of illicit substances and in the other instance you are talking about someone who is driving with a legal prescribed drug in their system. It would not be treated any differently from any other legal prescribed drug. In fact, if the medicinal cannabis in question were to have an effect on your driving abilities then I think it is fair to say you simply would not get the exemption from the treating medical doctors to drive while under the influence of that drug.

I have certainly had those discussions with SAPOL. I will not speak for SAPOL but my take on those discussions is that if that scheme were to be brought into place it would be treated in precisely the same way that we treat all medical prescribed drugs, and that absolutely those two schemes are able to coexist. With those words, I indicate our overwhelming support for this piece of legislation.

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

ADVANCE CARE DIRECTIVES (REVIEW) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 November 2021.)

The Hon. S.G. WADE (Minister for Health and Wellbeing) (17:19): I would like to thank all honourable members for their contributions. There was one issue, raised by the Leader of the Opposition, that I would seek to address as part of my summing-up remarks.

Recommendation 17 of the Lacey review recommended that section 45 of the Advance Care Directives Act be amended to require the Office of the Public Advocate to discontinue a matter where a reasonable suspicion of elder abuse exists and refer the matter to the South Australian Civil and Administrative Tribunal for determination.

Following consultation and feedback it was noted that the requirement for the Office of the Public Advocate to refer all matters to the SACAT where there may be a suspicion of abuse has the potential to miss opportunities for the Office of the Public Advocate dispute resolution service to uphold advance care directive arrangements by providing support and education to substitute decision-makers and other family members.

As a result of the feedback received it was decided that the Office of the Public Advocate should continue to have the option to refer certain matters to SACAT where abuse of a person is alleged, as is currently specified in the act. I note with respect to this matter that the honourable Leader of the Opposition has sought clarification as to how the Office of the Public Advocate currently determines whether or not an alleged abuse is a misunderstanding or is reasonably suspected.

The Office of the Public Advocate dispute resolution service practice guidelines set out the procedure for, and guide the practice of, the Office of the Public Advocate's dispute resolution service to fulfil the role conferred upon the Office of the Public Advocate by the Advance Care Directives Act 2013 and the amendments made to the Consent to Medical Treatment and Palliative Care Act 1995.

The practice guidelines outline the application process, the pre-mediation process, the principles and ethical considerations of mediation to guide dispute resolution services' mediators working with the model, and referral to SACAT. All parties to the dispute complete an application form and are screened by a nationally accredited mediator via an initial screening process to determine any risk and power imbalances, including abuse. This screening process is undertaken by trained mediators and is detailed and comprehensive and captures any actual family violence or abuse.

During this process the mediator will speak with all interested parties, including the person who made the application, any family and friends involved, the substitute decision-makers appointed under the advance care directive and representatives of the aged-care facility, accommodation providers or hospitals where the person is residing in a hospital.

The screening process for any risk, including abuse, is an ongoing assessment through the dispute resolution matter. If actual abuse is identified, the Office of the Public Advocate will immediately refer the matter to the SACAT for determination. All clients or persons at the centre of the dispute are contacted, and a visit or telephone contact is arranged to discuss the application to the dispute resolution service and hear any concerns or issues they may have, including any family violence, abuse or coercive control. Where possible, the client or person at the centre of the dispute is included in the dispute resolution process.

During this assessment and screening process and during any other interactions, if actual abuse is identified, as I said earlier, the Office of the Public Advocate will immediately refer the matter to the SACAT for determination.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 9 passed.

New clause 9A.

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

Amendment No 1 [HealthWell–1]—

Page 5, after line 26—Insert:

9A—Insertion of section 36A

After section 36 insert:

36A—Certain provisions of advance care directive of no effect where suicide attempt or self harm

(1) Despite any other provision of this Act, the following provisions apply in circumstances where a person who has given an advance care directive attempts suicide, or otherwise intentionally causes harm to themselves:

(a) a provision of the advance care directive comprising a refusal of particular health care (whether express or implied) will, to the extent that the health care arises out of, or is directly related to, the attempted suicide or self-harm, be taken to be of no effect;

Note—

Consequently, such a provision of an advance care directive does not constitute a binding provision of the advance care directive, and a health practitioner need not comply with the provision.

(b) section 36 will be taken not to apply to, or in relation to, a health practitioner providing health care to the person where the health care is directly related to the attempted suicide or self-harm,

however, nothing in this subsection limits a provision of the *Consent to Medical Treatment and Palliative Care Act 1995* or any other Act or law requiring consent to be obtained before such health care is provided to the person.

(2) Nothing in subsection (1) affects the remaining provisions of an advance care directive (including, to avoid doubt, the refusal of health care other than that directly related to the attempted suicide or self-harm).

(3) Without limiting any other provision of this or any other Act, a health practitioner or other person incurs no civil or criminal liability for a refusal or failure to comply with a provision of an advance care directive referred to in subsection (1).

The amendment seeks to insert new section 36A into the principal act clarifying the effect of an advance care directive in the case of attempted suicide or other self-harm. The government is treating this matter as a conscience issue. To highlight that fact, the clause was not made a clause in the tabled government bill. I am moving it as an amendment to the government bill. I am moving it as a private member, not as a minister. In relation to the amendment, I speak for myself alone.

In the advance care directives review on which this bill is founded, Professor Wendy Lacey recommended that advance care directives be circumscribed in the context of self-harm and suicide. Recommendation 29 of the review stated:

> The Act must be amended to ensure that it is explicit, in the operative provisions of the Act, that an ACD cannot be used as the basis for refusing life-saving treatment following an attempt to suicide or cause self-harm. The remainder of an otherwise valid ACD must be preserved.

Professor Lacey's recommendation reflected the original intent of the act. An advance care directive preventing the delivery of life-saving medical treatment following an attempted suicide is not in line with the original intent of the act. Given that the act was deliberately drafted to prevent such an occurrence, coupled with the fact that in Professor Lacey's view the act would have almost certainly not been passed if this were the case, she concluded that the act should be amended to clearly reflect that fact.

In relation to the second reading explanation, which was delivered on 17 October 2012, that speech did reiterate that the use of an ACD to facilitate an act of suicide or self-harm was intended to be prohibited. I quote from the second reading explanation:

> The Bill provides that the following would be void and of no effect if contained in an Advance Care Directive:
>
> - unlawful instructions or instructions which would require an unlawful act to be performed such as voluntary euthanasia or aiding a suicide
> - refusals of mandatory treatment such as compulsory mental health treatment under the Mental Health Act 2009
> - actions which would result in a breach of a professional code or standard, for example a Code or Standard issued by the Medical or Nursing and Midwifery Boards of Australia. It does not mean a hospital code or standard.

Again, section 12 of the act specifically excludes unlawful acts. Professor Lacey's recommendation reflected a regulation under the act which was originally proposed by the Chief Psychiatrist. Regulation 12A was promulgated in the advance care directives regulations 2019. This was done as a temporary measure to clarify the requirements on health practitioners in providing life-saving treatment following an attempt to suicide or cause self-harm until such time as the government could bring the appropriate form of legislation to the parliament for debate.

In fact, I gave an undertaking to the Hon. Mark Parnell that I would do that, bring appropriate legislation to parliament, and my understanding is that on that basis he did not proceed with his intent to disallow the regulation. He has since retired, but this is, if you like, the parliamentary debate that was foreshadowed in 2019. Professor Lacey in her review report concluded:

> Despite the above, it is evident from the 3 cases referred to that ACDs [advance care directives] have been applied to prevent the delivery of life-saving medical treatment following an attempted suicide. Given that the Act was deliberately drafted to prevent such an occurrence, coupled with the fact that the Act would have almost certainly not been passed if this were the case, the Act should be amended to clearly reflect this. By failing to recognise the original intent of the legislation, as well as the intention of Parliament when passing the Act, the Act would have a completely unintended operation and effect without such an amendment.

As part of the review of the act, Professor Lacey recommended the act be amended to make it clear that an advance care directive cannot be used as the basis for refusing life-saving treatment following an attempt to suicide or cause self-harm.

The draft bill that was put out for public consultation included a section which was drafted to reflect recommendation 29 of the review by Professor Wendy Lacey. The purpose of the relevant clause in the original draft bill was therefore to clarify what should happen when a person with advance care directive comprising refusal of health care attempts suicide or self-harm. My understanding is that the amendment moved in my name is the same amendment that was put to the consultation process just referred to.

Broad stakeholder consultation was sought on the clause. Feedback received identified a divide in opinion between those who support the amendment to ensure there is clarity for health practitioners in providing life-saving treatment following an attempt to suicide or cause self-harm and those who believe that any such amendment would fundamentally undermine the principles of the act and weaken the principle of self-autonomy on which the act is based.

The issue is: does an advance care directive bind a health practitioner to not administer potentially life-saving treatment following an attempt of suicide or causing self-harm? The amendment I move makes it clear that following an attempt of suicide or causing self-harm an ACD is not binding on a health practitioner in requiring a health practitioner to not administer potentially lifesaving treatment, to the extent that that treatment arises out of or is directly related to the attempted suicide or self-harm.

The Chief Psychiatrist argues that the amendment is appropriate and proportionate to the requirement that paramedics and other emergency department medical staff not be bound by a pre-existing refusal of treatment in cases of attempted suicide or self-harm. If I could quote a letter from the Chief Psychiatrist to Ms Lynne Cowan in the context of the consultation:

> As noted in the Discussion Paper, suicidality is characterised by ambivalence and changeability. Absent the proposed amendment, the binding nature of an ACD refusal of treatment is inconsistent with the often acute nature of a suicide attempt and any underlying mental illness. The proposed section 12A is appropriate and necessary, given the preventability of suicide and self-harm behaviours with appropriate treatment and therapy.
>
> Importantly, the wording of section 12A is proportionate to its intended purpose. The amendment would limit the binding nature of an ACD treatment direction only to the extent that lifesaving treatment relating to the suicide or self-harm attempt can be applied; other aspects of the ACD would continue to apply. The removal of the binding nature of a refusal of treatment does not mean that the particular circumstances of a person who has attempted suicide (such as a long history of degenerative illness) cannot be considered when determining whether to withdraw treatment. The amendment simply ensures that an existing ACD that contains a refusal of treatment originally intended for another purpose (such as a condition with a poor prognosis) is not used after a suicide attempt when the nature of the attempt is acute.

I am advised that clinicians already have the responsibility to not act on an ACD when they consider it was not intended for the circumstances they face. I would like to stress that the amendment seeks to limit the binding nature of an ACD treatment direction only to the extent that life-saving treatment relating to suicide or self-harm can be applied. Other aspects of the ACD will continue to apply.

Any amendments to address cases of attempted suicide and self-harm need to ensure that the remainder of an otherwise valid ACD can remain valid and effective including the appointments of substitute decision-makers. This includes the appointment of SDMs, any other permitted directives in an ACD, the interaction of valid ACDs with the consent act, and the hierarchy of persons responsible across the LHNs.

The proposed new section 36A respects clinical discretion. It does not force health practitioners to disregard the binding refusals in an advance care directive in the case of attempted suicide or self-harm, but it does provide health practitioners the opportunity and the responsibility to make a decision on a case-by-case basis in line with relevant professional standards and good clinical practice and all the circumstances of the case, when determining whether to comply with the advance care directive to withdraw treatment.

The removal of the binding nature or refusal of treatment does not mean that particular circumstances of the person who has attempted suicide cannot be considered. Passing this amendment would ensure that health practitioners are able to make the appropriate clinical judgement for the provision of life-saving treatment in the context of attempted suicide or self-harm, protecting them against civil or criminal liability for refusing to comply with an advance care directive provision in the circumstances envisaged.

Some responses on the draft bill suggested that Professor Lacey's recommendation from 2019 is no longer fit for purpose given the significant change in public policy since the passing of voluntary assisted dying legislation in South Australia. It is argued that the passing of the voluntary assisted dying legislation by this parliament fundamentally changes the public policy context of the bill and that, for the sake of consistency, suicide should be facilitated by this bill.

As a supporter of the recent voluntary assisted dying legislation through this parliament, I am very concerned about that interpretation. Parliament has supported careful, structured requests for voluntary assisted dying. For me at least it was not supporting broad entitlement of assisted suicide without criteria and without safeguards. The fact that credible stakeholders would view the bill—this bill, the Advance Care Directives (Review) Amendment Bill 2021—without this amendment as a bill able to provide assisted suicide doubles my view that this amendment should be supported.

In conclusion, I do not want to assert that there is some binary moral clarity that justifies the amendment. I appreciate the issues are complex and not clear. Nonetheless, we are lawmakers and we need to give clinicians more clarity on this issue than they currently have.

The Hon. F. PANGALLO: I am just rising to say that SA-Best will be supporting the amendment.

The Hon. C. Bonaros: It is a conscience vote.

The Hon. F. PANGALLO: I will be supporting the amendment anyway. Sorry, I did not realise it was a conscience vote. Even though I was against voluntary assisted dying I think the minister has just made quite a compelling justification for that amendment and I will be supporting it.

The Hon. C.M. SCRIVEN: I would like to perhaps highlight a few points in this and thank the minister for bringing this amendment to the council. As he mentioned in his address, this provision is already in the regulations, so this is already in effect at the moment, and I think that is important, but by putting it into the legislation it will give even further certainty to doctors. There have been some comments that this amendment would in some way diminish autonomy, but, however, we need to recall that there already exists specific provisions to discourage suicide, suicide of course being something that is almost universally agreed in our community to be a negative and tragic event. In general, there is almost universal agreement that we should provide support to people who are contemplating suicide.

The Chief Psychiatrist, John Brayley, refers to 'the preventability of suicide and self-harm behaviours, with appropriate treatment and therapy'. In acknowledgment of that, we already have existing laws that are directed to the prevention of suicide. For example, in the Criminal Law Consolidation Act we find that:

> …a person who finds another committing or about to commit an act which he believes on reasonable grounds would, if committed or completed, result in suicide is justified in using reasonable force to prevent the commission or completion of the act.

That is in existing law. Similarly, current law also allows treatment without consent in some circumstances, such as in the Mental Health Act, which says, in various places, but in particular in section 21:

> A medical practitioner or authorised mental health professional may make an order that a person receive treatment as an inpatient in a treatment centre…

It goes on:

> because of the mental illness, the person requires treatment for the person's own protection from harm…the person has impaired decision-making capacity relating to appropriate treatment of the person's mental illness;

There are a number of other pieces of legislation also that put limits on that autonomy, in this case for the person's own protection, particularly in the case of attempted suicide.

Also in the Chief Psychiatrist's words, it is particularly relevant in commenting on the draft bill. He refers to the very limited circumstances to which this provision would apply to an advance care directive. I will quote from that:

> The amendment would limit the binding nature of an ACD treatment direction only to the extent that lifesaving treatment relating to the suicide or self-harm attempt can be applied. Other aspects of the advance care directive would continue to apply.

I think that is particularly relevant: other aspects of the ACD would continue to apply. This provision would only apply in relation to the self-harm or suicide attempt. Mr Brayley goes on:

> The removal of the binding nature of a refusal of treatment does not mean that the particular circumstances of a person who has attempted suicide cannot be considered when determining whether to withdraw treatment. The amendment simply ensures that an existing ACD, that contains a refusal of treatment originally intended for another purpose, such as a condition with a poor prognosis, is not used after a suicide attempt when the nature of the attempt is acute.

I think it is clear that there are existing provisions where we say there are exemptions to the ability to refuse treatment. This is very important in terms of preventing and discouraging suicide, and therefore I would encourage members to support the amendment.

The Hon. K.J. MAHER: I thank the minister for his contribution. This is a particularly difficult area, where ethics and morality come into play between how consent to medical treatment and advance care directives work, and there are not easy answers to this. I made some points in my second reading contribution, particularly about some of the contribution evidence that the Joint Select Committee on End of Life Choices heard, which looked at voluntary assisted dying but also looked at advance care directives and particularly at the interplay with the provisions of the consent to medical treatment legislation.

I was not sure if I heard it correctly, so it would be good if I could ask the minister for some clarification. I appreciate this is being put as an amendment, so it gives us all the opportunity to not have the bill rise or fall on the basis of what is a conscience matter. I think that is a sensible way and I thank the minister for that.

On the amendment, is it the intention and the effect that doctors or healthcare providers or paramedics—whatever the case may be—administering the care, I think the wording is, are not bound by the advance care directive, so can take it into account, in effect, or is it the intention that they have to completely disregard it and not take it into account at all? The reason I ask is for completeness. This is not a got you sort of question; I do not think that is appropriate for something like this.

The way I read section 36A, certain provisions of an advance care directive have no effect, and under section 36A(1), 'Despite any other provision, the following provisions apply in circumstances' where a person who has given the provision will to the extent that health care arises out of it be taken to have no effect. The way I read that, it is not that healthcare providers are not bound. They can choose to take it into account, they are just not bound. The way I understand this is they cannot take it into account at all. They are not allowed to take into account the advance care directive in these circumstances, if that makes sense.

The Hon. S.G. WADE: If I can restate it from my point of view, my understanding is the amendment as it is put would maintain clinical discretion. A clinician in all the circumstances could decide that he or she would act on the advance care directive as though it was binding on them but, as a matter of law, it would not be binding on them.

I think it is helpful of the deputy leader to mention paramedics, because it is probably helpful for us in this debate to differentiate the context with the voluntary assisted dying. The voluntary assisted dying will often be—and the Chief Psychiatrist will correct me as will in fact the Chair, who is very experienced in suicide prevention; please forgive me if I misstate these things—in the context of a home or a hospital or a hospice with a well-developed relationship between the clinicians, the family and the patient.

With the three cases that brought this issue alive in I think 2018 and 2019, my understanding is they were more in the context of an emergency response. So you have a paramedic who is at the scene with a challenging decision to make about an advance care directive. With all due respect, they do not have the long-term relationship with the person that a palliative care team might have. Likewise, a doctor in an emergency department is confronted with an acute life-threatening situation. They have reason to believe that it was suicide or self-harm. They have an advance care directive. They have to make a difficult decision about what their ethical duties are to the patient and, if you like, to their profession.

This amendment does not say that they do not have a duty to their patient, but it says that the law is not going to bind you to honour the advance care directive if you believe it is in the context of suicide or self-harm. That may well not be in the best interests of the patient because, as the Chief Psychiatrist has said and the honourable deputy leader has quoted, that may well be a passing state.

The Hon. K.J. MAHER: I think, minister, you have introduced this to this house. This is still to go to the other chamber, and it might be something, if we do pass this today, that might need clarification. With respect, that is not how I read it.

The Hon. S.G. WADE: Could you pause? I might seek advice from the advisers.

The Hon. K.J. MAHER: Yes. I might just say the heading at 36A states that the advance care directive is to have no effect, and under 36A(1)(a) it is taken to be of no effect. The way I read

that is the paramedic or the doctor cannot take into account the advance care directive. It is to actually have no effect, as if it did not exist, not that they are not bound by it, if that makes sense.

The Hon. S.G. WADE: As merely tongue in cheek, I might say this is the second time today we have talked about ambiguity of words, and is it a 'may' or is it a 'must'? I would refer the honourable member to the note at (1)(a):

> Consequently, such a provision of an advance care directive does not constitute a binding provision of the advance care directive, and a health practitioner need not comply with the provision.

My understanding of that is that it does not say that a health practitioner must not comply with the provision. It is a discretion. Just to clarify, that is consistent with the advice I am receiving from advisers.

The Hon. K.J. MAHER: That is helpful. If I remember correctly, we changed the Acts Interpretation Act to allow notes to become parts of how we—

The Hon. S.G. WADE: You are taking me back to shadow attorney-general days.

The Hon. K.J. MAHER: No, we did this in this term of parliament, I think. I appreciate that, and that is helpful. The part that I think troubles me and certainly was discussed at length during the end-of-life joint committee—I am checking that I am reading this right, minister—is that just below that note, at the bottom of subsection (b), the Consent to Medical Treatment and Palliative Care Act is not affected in any way by this amendment to the Advance Care Directives (Review) Amendment Bill.

I might explain a bit more. An example could be a perfectly healthy 30 year old could have had a self-harm attempt, ended up in hospital, have regained consciousness and there be some sort of medical procedure that would necessarily save their life but, being conscious, they elect not to. Even though where they are has emanated from that self-harm attempt, they are conscious and can elect not to have that procedure. I just want to double-check that is correct.

The Hon. S.G. WADE: My advice is that, if a person regained consciousness after a suicide or self-harm attempt, and the amendment might already have been activated. The medical staff may be operating on the basis that the advance care directive is not binding them. As soon as that person regains capacity—that may not be just consciousness; the clinician would need to decide in the context whether they have capacity—to be revived, this section would no longer have effect.

The Hon. C.M. SCRIVEN: I have a supplementary on that. Is it not also possible that, in that circumstance, it could be that the provisions of the Mental Health Act could come into operation, where the medical practitioner or mental health professional could consider the person has a mental illness based on their suicide attempt, and therefore could make the determination that the person should have that medical treatment even without consent?

The Hon. S.G. WADE: I am advised that the Mental Health Act would only apply in relation to mental health treatment. Any medical treatment would still operate under the Consent to Medical Treatment and Palliative Care Act.

The Hon. K.J. MAHER: I thank the minister and I understand the Hon. Clare Scriven's point. This is where it gets down to the intersection of ethics and morality. Does the very nature of a suicide attempt—can someone ever have mental capacity if they have attempted suicide?

I do not know that there is a clear-cut answer to that. Some of the evidence from the end-of-life choices select committee, where elderly patients who are in the last stages of advanced cancer—much of the evidence was that they had mental capacity even if they attempted and went through with a suicide attempt because of the physical pain and suffering they were in at the time, but it is a difficult question, I understand.

I thank the minister and it is the way I read it as well, that if someone attempted suicide, regained consciousness, was conscious but also had the requisite mental capacity to consent under the consent to medical treatment act. In that example, that otherwise healthy 30 year old—who would, but for their refusal to the treatment for the condition that arose from their self-harm attempt, go on to live a full life for the next 40 years or 50 years—could decide to refuse that medical treatment even though it arose from a self-harm attempt.

The Hon. S.G. WADE: I share the honourable member's view that that is the case.

The Hon. K.J. MAHER: That is where I have struggled with this and that is where I think I have landed, that I am not going to support the amendment that the advance care directive scheme is set up to put a patient in the same position as if they were able to make the decision for themselves. In that case, where a person, by virtue of the consent to medical treatment act, after a self-harm attempt, if they were conscious and had the mental capacity, could make that decision for themselves, we are then differing from what the advance care directive scheme would do and diverge from that ability to make that decision for themselves.

Again, I do not think it is clear-cut and the right answer. On balance, that is where I have landed. I think many of us have probably had correspondence from former health minister, Martyn Evans, that I think goes towards that. I have had the benefit of talking to people like Dr Roger Hunt about practitioners who have practised in this area, and on balance that is where I have fallen, that the intent of the scheme is rightly to put someone in the same place as if they were conscious or had that capacity (notwithstanding they have lost it) and in circumstances where they could have refused that treatment but for not having capacity. On balance, I have landed that the advance care directive should be respected in that fashion.

The Hon. C.M. SCRIVEN: Just following on from that contribution, I think we need to remember that the provisions will only relate to health care arising out of or directly related to the attempted suicide or self-harm, so the person will not be subjected to any other kind of health care other than that essentially required to save their life as a result of their suicide attempt, and therefore all other aspects of any advance care directive would remain in place. I refer again to Dr Brayley's comments in his correspondence:

> The amendment simply ensures that the existing [advance care directive], that contains refusal of treatment originally intended for another purpose, such as a condition with a poor prognosis, [for example, a terminal illness—that is my example, not Dr Brayley's] is not used after a suicide attempt when the nature of the attempt is acute.

I think in the circumstances that have been put forward, in the event that that medical treatment purely in relation to the suicide attempt took place, the person would then potentially regain consciousness, hopefully, and then any other medical treatment that is not a result of that suicide attempt could be accepted or rejected as the case may be. They would actually not be affected by this because this is only medical treatment in terms of the suicide attempt or self-harm attempt.

The Hon. C. BONAROS: Can I just indicate for the record—and I think the honourable Leader of the Opposition has articulated this well—that this is an extraordinarily complicated issue. I have always maintained the position that when it comes to conscience votes I will be guided by the expert evidence that we receive before us in this place, and I have said that time and time again, and that is how I have voted.

I can see the merit in the Leader of the Opposition's position in terms of this. I suppose my concern is that we are talking about suicide prevention strategies and plans that we have just implemented on one hand, we are talking about ACDs on the other hand, and we are talking about VAD, and they all seem to have become conflated in this one issue. It is extraordinarily difficult then to find the middle ground.

That said, I have also read the correspondence of the former minister who has made a very strong case for this amendment to not be supported, but I am going to defer to the position that I have always taken on these issues. We now have the advice before us—I have at least the advice, and the Hon. Clare Scriven has referred to the advice that has been provided to us by Dr Brayley on this issue—and I am taking that as the expert advice. We also have the outcome of the Lacey review and the recommendation that was made in that, which is consistent with the current regulatory regime, and this is simply moving that into the legislation.

So if I am to vote according to the way that I have always voted on this and take a purely clinical view of what we are dealing with, then I am really struggling to come to any other conclusion than to actually support the amendment that the minister has put today, because I think the advice that has been provided to us by the experts is that this is a necessary provision insofar as it relates to suicide attempts and ACDs and how those two things coexist.

I think it is a particularly unfortunate set of circumstances for any paramedic or doctor who finds themselves in the position where they have this conflicting situation before them where somebody has made an attempt on their life but in the same respect they have an ACD which says, 'Don't resuscitate me,' or whatever the case may be, 'Don't perform those life-saving treatments.' I note, as the Hon. Clare Scriven did, the commentary or the advice by Dr Brayley in that regard in terms of that only applying in relation to the suicide attempt itself but not in relation to any of the underlying health issues that the individual may also have.

The Hon. Kyam Maher used the example of the 30 year old who regains consciousness and says, 'I don't want that medical treatment,' but I am also very mindful of the 30 year old who is in that position and has not regained consciousness, for whatever reason. I am not sure—Dr Brayley can probably explain this better than I can—but there may be instances where that 30 year old has not regained consciousness and that is a pure suicide attempt. In that case, without this amendment, effectively doctors would be making a decision to not administer potentially life-saving treatment. I think that goes against the grain of what we are trying to achieve. I hope that makes sense, but it is for those reasons that I am inclined to support the amendment that has been put by the minister.

New clause inserted.

Remaining clause (10), schedule and title passed.

Bill reported with amendment.

Third Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (18:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SPIT HOOD PROHIBITION) BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

SENTENCING (HATE CRIMES) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer) (18:08): I move:

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

Can I indicate to you, Mr President, and to the others that we are not always guided by, but we are awaiting, what might be happening in another place. If another place adjourns the house to the next optional week of sitting, my proposition will be that we will do the same. If another place adjourns the house until May, then I will be proposing to this house that we adjourn until May as well. At this stage, I have just been advised that the debate is continuing in the House of Assembly. For those reasons I am moving that the sitting of the council be suspended until the ringing of the bells.

Motion carried.

Sitting suspended from 18:09 until 18:28.

The Hon. R.I. LUCAS: As I said to some members: we are coming back. I move:

That the remaining Orders of the Day be made Orders of the Day for the next day of sitting.

Motion carried.

The Hon. R.I. LUCAS: I move:

That the council at its rising do adjourn until Tuesday 30 November 2021.

Motion carried.

At 18:29 the council adjourned until Tuesday 30 November 2021 at 14:15.

Answers to Questions

RENTAL AFFORDABILITY

In reply to **the Hon. R.A. SIMMS** (13 October 2021).

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

There are a number of endorsed protections within the COVID-19 Emergency Response Act 2020 (South Australia) aimed at helping landlords and tenants whose incomes have been affected.

In the first instance, tenants impacted by COVID-19 are encouraged to work with their landlord.

PUBLIC HOUSING

In reply to **the Hon. J.E. HANSON** (13 October 2021).

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

Where appliances cannot be installed, they are either returned to the manufacturer or installed in other authority properties.

SAHA is currently replacing ceilings in public houses built under previous consecutive Labor governments at a total $2.45 million. Thankfully, the poor asset management of public houses under Labor is being turned around under the Marshall Liberal government, with record maintenance funding being spent on bringing houses up to standard.