LEGISLATIVE COUNCIL

Wednesday, 18 May 2022

The PRESIDENT (Hon. T.J. Stephens) took the chair at 11:01 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. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

The PRESIDENT: I note the absolute majority.

Bills

SOUTH AUSTRALIAN PUBLIC HEALTH (COVID-19) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 17 May 2022.)

Clause 3.

The CHAIR: We are currently on clause 3. The Hon. Ms Bonaros has moved an amendment. What I intend to do is call on the Hon. Ms Game to move her amendment to the amendment and then speak to that, and then we will open up to the committee to discuss the merits of the amendment to the amendment.

The Hon. S.L. GAME: I move:

Amendment No 1 [Game–2]—

Amendment to Amendment No 1 [Bonaros-2]—Clause 3, page 3, after line 2—

After the present contents of inserted section 90AB (now to be designated as subsection (1)) insert:

(2) The following principles and requirements will apply instead of section 14(6), (7) and (9):

(a) directions restricting the liberty of a person, or a class of person, should not be imposed unless those directions are reasonably necessary to ensure that the health of the public is not endangered or likely to be endangered;

(b) if the Department is aware that a person who is subject to directions restricting their liberty is a vulnerable person who may need assistance to understand or comply with the directions, all reasonably practicable steps must be taken to ensure that the person's next of kin, or a nominated person, is informed (unless the person to whom the directions relate instructs otherwise);

(c) if the Department is aware that a person who is subject to directions restricting their liberty is a person who may require mental health services, the Department must consider whether any action should be taken under the *Mental Health Act 2009* or other assistance or counselling provided to the person.

This amendment deals with section 90E—Modifications of Act, in the government's South Australian Public Health (COVID-19) Amendment Bill 2022, where it states that if a public health incident or public health emergency is declared the following provisions do not apply: section 14(6), (7) and (9) and section 90(3), (4) and (5) of the Public Health Act.

All sections here proposed for removal by the government relate to safeguarding legislation for public liberty rights and safeguarding legislation to ensure proper constraints on enforcing officers. I consulted with various legal sources and have been assured that the principles as written in my submitted amendments are practical and they are reasonable for COVID declarations.

Essentially, in paragraph (a) directions restricting the liberty of a person are only imposed if they are reasonably necessary to ensure that the health of the public is not endangered. I have been advised that really this should have been done anyway by the decision-maker, so I hope there would be no problem incorporating that into the legislation.

Paragraph (b) has been worded very carefully and so has paragraph (c) to make it reasonable and practical. It states that if the department is aware that a person who is subject to directions is a vulnerable person—so if they are aware—then all reasonably practicable steps are taken to ensure that their next of kin or a nominated person is informed. I think a good example would be a young person or an elderly person. I cannot see why, if the department was aware on speaking to them that they were vulnerable, they would not take a reasonable practical step to inform next of kin.

Paragraph (c) again says that if the department is aware that the person who is having their liberty restricted might require mental health services, then they should consider whether counselling is provided or whether that individual is managed under the Mental Health Act 2009.

The CHAIR: Given that it is an amendment to the Hon. Ms Bonaros's amendment, I would look to the Hon. Ms Bonaros to see if she has a comment first before I go to the committee.

The Hon. C. BONAROS: I thank the honourable member for her explanation in relation to these clauses. I have already signalled to the honourable member that when it comes to paragraphs (b) and (c) it is my view that I think these are things that, as a matter of course, we probably already are doing. I think there has been discussion in this place and discussion in committees and so forth around assisting those vulnerable persons in our community when it comes to ensuring that they are conforming with any directions that have been issued to them, and the same goes when it comes to mental health and anyone who may be covered by the Mental Health Act, so I think they are very sensible proposals in terms of paragraphs (b) and (c).

The concerns I have expressed to the honourable member relate specifically to paragraph (a). When we drafted this—I mentioned this yesterday—there was some concern that section 14(6), (7) and (9) were inconsistent with the notion of isolating somebody for the purposes of having a COVID-positive status or being a close contact.

There are still concerns on my part in terms of the breadth of paragraph (a) in this amendment. What I am proposing to do—and again I acknowledge the work the Hon. Ms Game has done in terms of addressing this issue, one I think we might hear about from the government in terms of what is or is not being done at the moment—and what makes absolute sense to me, is that where you are restricting the liberties of a vulnerable person who needs assistance, then this warrants support. Certainly, where you are dealing with individuals who are covered by the Mental Health Act, this also warrants support.

Again, for the record, from the advice we have had in previous debates that this has been a consideration, I have no doubt that these things are being done. This seeks to enshrine this into the bill. I am not sure how I am going to do this but, given the concerns we have and based on the advice we have received in terms of paragraph (a), I seek your guidance, Chair, as to how to strike out paragraph (a) of the amendment to my amendment and support paragraphs (b) and (c).

The Hon. K.J. MAHER: I am not going to suggest a way forward but will just read out something for the benefit of the chamber while procedural guidance is being sought. The government appreciates the intent of the amendment from the Hon. Sarah Game in this regard; however, the advice we have received from SA Health public health officials is that significant work is already

taking place in this regard, and I can give undertakings to the council in this regard and inform them of the work taking place.

I am advised by SA Health that people with mental health conditions, disability or who have other vulnerabilities who test positive to COVID-19 are supported to monitor any changes in their health condition and are provided prompt and accessible health advice and services, including in both residential disability settings and within private dwellings at home. People with mental health concerns are referred to community mental health services provided by local health networks, and there is also a direct mental health liaison in the COVID community team.

There is also a mental health COVID phone line that is operated under contract with the state government through Uniting Communities that provides support as well as referral to other mental health services. Self-care kits tailored to adults, children and babies—containing an oximeter, thermometer, Panadol, Hydralyte and written COVID-19 care information—are made available through the SA COVID community hub, also known as the SA Health high-risk CRCT (COVID response clinical team), including access to virtual monitoring kits.

All individuals who are diagnosed with COVID-19 receive a text message from SA Health COVID-19 operations. The CDCB (Communicable Disease Control Branch) or usual care providers can escalate to the SA Health high-risk CRCT team to support people with a disability, mental health condition or other vulnerability who are COVID-19 positive and ensure they receive help, advice and services by:

- firstly, escalating care requests and GP referrals where a local GP is not engaging in care within adequate time frames. This may be through the National Coronavirus Helpline;
- secondly, daily symptom checks through telephone calls;
- thirdly, providing COVID-19 virtual monitoring equipment for patient use; and
- fourthly, providing emotional support to onsite carers and staff managing COVID-19 patients and also facilitating onsite medication administration through community providers where required.

Where a person with a disability, mental health condition or other vulnerability presents at a local health service, such as an emergency department, their status is a relevant factor in their individual care assessment. This assists staff to determine the individual's needs and appropriate health services. Where there are concerns regarding decision-making in relation to a COVID-positive patient, health staff follow standard health protocols in line with clinical practice and legislative requirements to ensure that, where appropriate, other health practitioners, such as general practitioners or the person's next of kin, are notified. Where an individual tests positive, is unwell and seeks medical advice, or presents at a hospital, they may be referred for virtual monitoring or Hospital in the Home face-to-face in-home services provided by the local health network.

Depending on clinical need, the CRCT may call to the house or facility daily and the staff and/or patient are asked a series of questions related to the signs and symptoms of COVID-19, or whether there is anything abnormal in the client's or the patient's presentation—e.g. whether they are withdrawn, have a decrease or increase in appetite, or are exhibiting behaviours of concern which are not a usual pattern of behaviour.

If a client or patient is clinically unwell, the nurse asks the staff to contact the client's GP or one of the SA Health high-risk GPs in the GP assessment team and help facilitate a telehealth appointment. At this time, the GP may refer the client for in-home virtual monitoring or refer them to a COVID Care Centre for a face-to-face medical assessment or for oral or intravenous COVID treatment. The final referral pathway for acutely unwell clients is to refer to the SA Ambulance Service for assessment and transfer to hospital, based on severity of symptoms.

The CHAIR: Again, continue with your negotiations. I would just ask the council for its patience. We are dealing with what is obviously a very important bit of legislation. It is a bit of a moveable feast, so if we can all just be patient we will work our way through it in the most cooperative, reasonable way.

The Hon. S.G. WADE: I note the Hon. Sarah Game has moved amendment No. 1 in [Game-2]. I was just seeking your clarification: if particular members in the chamber were inclined to support some but not all of the paragraphs, if there was a proposal to amend the Game amendment with another amendment, could that issue be determined and then the rest of the clause considered as a whole?

The CHAIR: That is exactly how we intend to proceed. The Hon. Ms Bonaros is going to move an amendment to the amendment and speak to that, then we will have questions or conversation about that, and then we will put that. We will then put the Hon. Ms Game's amendment and then we will put the Hon. Ms Bonaros's original amendment, as amended or not.

The Hon. R.A. SIMMS: Just to clarify, I am still getting my head around the process. What the Hon. Ms Bonaros is moving is a combination of her amendment, incorporating the Hon. Ms Game's amendment; is that correct?

The CHAIR: The Hon. Ms Bonaros is going to move an amendment that effectively takes out her paragraph (a) and we will have a discussion around that as is necessary. I will put that question to see if that is acceptable. After I have done that, we will go to Ms Game and put her amendment—if it is amended or not—and then we will go back to Ms Bonaros to vote on her original amendment, as amended or not amended.

The Hon. C. BONAROS: I am sure that is as clear as mud to everybody, as it is to me. For the reasons I have outlined, I move:

That the Hon. Ms Game's amendment to my amendment be amended by striking out paragraph (a).

I think I have already said this when I have spoken: in principle, these amendments that the Hon. Ms Game has moved are ones that we raised when we considered this bill. The advice we had was that subsections (6), (7) and (9) are inconsistent with those provisions that we are putting in the bill.

I acknowledge the work that Ms Game has done in trying to find a resolution to probably the same concerns that were put to her as were put to us. This is the outcome of the work that Ms Game has done in recognising that subsections (6), (7) and (9), as they stand in the Public Health Act, are problematic in terms of close contacts and COVID-positive cases, because by the very nature of what we are dealing with we are restricting people's liberties.

Having said that, the advice that we have had is that we still have some concerns around the breadth of paragraph (a), notwithstanding that it has been altered from its original form, but I certainly do not have any concerns, notwithstanding what the government has said, because I acknowledge that we are doing this in any event in inserting those provisions into the bill when it comes to the remainder of that provision.

I think we have all at times stood up in this place and said, 'Well, if we're doing something then there's no problem with inserting it in the bill.' I acknowledge, though, that—probably from the response the government has given us—there may be some concern on the part of the government side that perhaps enshrining this in legislation makes it more difficult than dealing with it at a policy level. Notwithstanding that argument, I still think paragraphs (b) and (c) are worthy of support, but we do continue to have concerns around paragraph (a), and it is for that reason that I am seeking to strike that one out and maintain paragraphs (b) and (c).

The Hon. S.G. WADE: I want to reiterate that the Liberal Party supports the specific principles in section 14 as already in the Public Health Act. Let's remember what the government is trying to achieve here. They are telling us that the pandemic has progressed to the stage where we no longer need a major emergency. We no longer need the special arrangements that a major emergency requires. We are stepping away from the State Coordinator. We are going to rely on the public health officials, using the Public Health Act, supported by cabinet.

Yet, the government wants to move the powers of the Emergency Management Act into the Public Health Act, remove the specific principles that were put in section 14. Let's take this section in particular. The implication I had from the Hon. Connie Bonaros's comments was that she understood that if the original subsection (6) had been in place it would not be possible to restrict the liberty of a person. Let me read subsection (6) of the current act.

The Hon. C. Bonaros: I did not say that. I said it was problematic in that it was inconsistent. That is the advice that we have received in this place.

The Hon. S.G. WADE: Yes, okay—

The CHAIR: Order!

The Hon. S.G. WADE: Thanks for clarifying that. The advice that the Hon. Connie Bonaros received is that it would be inconsistent with isolation powers to have subsection (6). Subsection (6) has been in the South Australian Public Health Act since its inception. It was actually part of the government bill. It was not an opposition amendment. There were significant opposition amendments at that time, but subsection (6) is a government clause, a Labor government clause. What it says is:

> Any requirement restricting the liberty of a person should not be imposed unless it is the only effective way remaining to ensure that the health of the public is not endangered or likely to be endangered.

Sure, you can restrict the liberty of a person, you can isolate them, you can make them subject to very constrictive directions, but you cannot do so unless it is the only effective means to achieve the public health outcome.

We as a Liberal Party support the bill, support the act that the Labor Party put before this parliament in 2011, including subsections (6), (7), (8) and (9). Admittedly, subsections (7), (8) and (9) were the result of opposition amendments, but they were supported by Labor. Here we have a Labor government telling us we are going to come out of a major emergency, making a public health emergency look remarkably like a major emergency and constraining the freedoms of the individuals.

The principles of the Public Health Act are incredibly important. It is to the great credit of this house that amendments being moved, with a number of members putting them forward, have reasserted those principles for part 11A, and I commend the house for taking that stand. But speaking, if I may, on behalf of the Liberal Party, we are disappointed that we are stepping back from the protection of fundamental liberties.

The Hon. R.A. SIMMS: I want to indicate to the chamber the Greens' position in relation to this. We are supportive of the original amendments, as moved by the Hon. Connie Bonaros, but not the inclusion of the Hon. Sarah Game's amendments.

Just to be clear on why that is, I think what the Hon. Connie Bonaros is seeking to achieve here, and certainly what we have reinforced in our discussions with the government, is an inclusion of these very important principles from the Public Health Act, but also recognising that there is a balance that needs to be struck here with the unique scenario that we face in terms of this pandemic and the reality that there will need to be some restrictions placed on people's liberties in terms of people being quarantined at home and other requirements that they may need to comply with.

Certainly, the advice that we received was that the inclusion of those other principles, as has been advocated by the Hon. Ms Game, would be problematic and could potentially undermine that, and that is not something that we want to do. It is on that basis that we are supportive of the original amendment, but not the hybrid model that we are now discussing.

I do want to highlight some of the good additions, though, that have been made, should the original amendment pass. In doing so, I make reference to the amendment advanced by the Hon. Ms Game and, might I say, I think her desire to ensure that the needs of vulnerable people are being met and addressed is a commendable one and obviously something that we share in the Greens. I am persuaded, however, by the undertakings that the government have given in terms of saying this is something that they are already doing.

I also want to draw the chamber's attention to the inclusion of the sections from the Public Health Act that are being advocated by the Hon. Ms Bonaros that we are supportive of, and that is the principles set out in section 14, and I refer members to subsection (5). Some of the principles are:

> (a) to have [one's] privacy respected and to have the benefit of patient confidentiality; and
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> (b) to be afforded appropriate care and treatment, and to have [one's] dignity respected, without...discrimination...

(c) ...to be given a reasonable opportunity to participate in decision-making processes that relate to the person on an individual basis, and to be given reasons for any decisions made on [this] basis; and

(d) to be [able to] decide freely for [oneself] on an informed basis whether or not to undergo medical treatment...

(e) [that any] restrictions...[should be] proportionate to [the] risks [that are] presented...

(g) that [people's] needs [should be met in terms of access to]

(i) …food, clothing, shelter and medical care; and

(ii) a telephone or other appropriate method by which the person may communicate with others…

They also need to ensure that safe and hygienic standards are met and that they are treated in a way that is respectful to people's cultural and religious beliefs.

All of these things are going to be now included in this bill as a result of the amendment that has been advanced by the Hon. Corey—I apologise. Speaking of hybrids, I was about to merge Corey Bernardi with the Hon. Connie Bonaros. I am sorry about that, Ms Bonaros.

I think what is being advocated is a sensible solution here. It is a great improvement on what the government initially proposed. From the Greens' perspective, these are some really important safeguards for vulnerable people. They bring this into line with the Public Health Act while striking an important balance; that is, ensuring that some of the other restrictions that are imposed on individual liberties as we deal with the unique circumstances of this pandemic are still able to take effect in the act.

The Hon. C. BONAROS: I want to be very clear for the record and for the sake of the Hon. Mr Wade, and I would challenge anybody in this place now to disagree, that we have all had the benefit of the same advice when it comes to section 14 and the inclusion of subsections (6), (7) and (9) in this instance as it relates to COVID-19. We have made the point. Everybody is on the same page. We agree that the principles enshrined in section 14 of the Public Health Act are very good principles, and without those principles applying this would not be a good bill.

I am extremely pleased that the government has seen fit to accept the advice from the entire crossbench and indeed the opposition, who have argued the case as well, that there is a place for those principles when it comes to dealing with COVID-19 under the Public Health Act. The Hon. Mr Wade is correct: those are existing principles that have always existed under the Public Health Act. However, we have all received the same advice that when it comes to COVID-19, which we are now shifting into the Public Health Act, the provisions that we are putting into the Public Health Act, subsections (6), (7) and (9), are inconsistent. That is the advice we have all received.

As I have said, the Hon. Ms Game has taken a different approach when it comes to subsections (6), (7) and (9). The approach that she has taken, which I have acknowledged in terms of paragraphs (b) and (c), I still support. The concern remains, however, around paragraph (a) because of its breadth in terms of restricting the liberties of a person. As has just been highlighted by the Hon. Mr Simms, there are a number of provisions or specific principles outlined in section 14 that go to the heart of this amendment that the Hon. Ms Game is trying to pass in the chamber in any event.

There are already very sensible provisions in there about ensuring that someone has a roof over their head, that they have adequate food to eat, that they have access to medication, that they are not left alone. I am not repeating what is actually in there, but these are the basic living requirements of an individual. We are saying you cannot restrict someone's movements or have them isolate without giving them the basics they need. These are the proportionality principles that we have all been advocating for and that now will form part of this bill.

I am going to be clear again for the record: the advice that we have received in terms of subsections (6), (7) and (9)—and anybody who looked at this bill and went and sought advice would have had the same advice because our amendments effectively all mirrored each other's amendments—is that subsections (6), (7) and (9) are not compatible with COVID-19 insofar as it is going to come under the provisions of the Public Health Act. That is what we are dealing with.

There is no argument that subsections (6), (7) and (9) do not have a place in the Public Health Act, but we are inserting new provisions that deal specifically with COVID-19 cases into the Public Health Act, and the legal advice we have is that subsections (6), (7) and (9) are not compatible. That is the advice we have all had.

To suggest that we are ignoring principles that have applied under the Public Health Act and have served this community very well for a very long time is an absolute furphy. It is just not correct because we are not dealing with the remainder of the Public Health Act: we are dealing with COVID-19 cases that are being inserted into the Public Health Act, and they require a slightly different level of attention than the other provisions that exist under the Public Health Act.

The Hon. S.L. GAME: I want to thank the Hon. Robert Simms for his comments. I am a little bit confused. He has read out a whole list of entitlements that he supports for vulnerable people in these situations. While I respect that, I find it very confusing that he is adamant that he is not going to support paragraph (b): if the department is aware that a vulnerable person may need assistance, all reasonably practicable steps should be taken to ensure that the person's next of kin or a nominated person is informed.

That seems to contradict his stance and the views he advocates for people in those situations. He is also not going to support paragraph (c): if the department is aware that a person who is having their liberty restricted may require mental health services, we should actually consider whether they should be dealt with under the Mental Health Act 2009 or whether counselling should be provided to that person. It makes absolutely no sense to me.

I also want to make clear that I think we are hiding a lot behind this word 'problematic' and I do have a question for the Attorney with regard to that. I would like to understand in which way it is problematic that, if the department is aware that there is a vulnerable person, all reasonably practicable steps are taken to notify a next of kin, and in which way is it problematic that if the department is aware that someone may be vulnerable and need assistance or counselling provided or consideration under the Mental Health Act why the Attorney feels that is not achievable?

The CHAIR: The Hon. Ms Centofanti, can we hear the answer to that question before I come to you. Attorney, do you want to answer that question now?

The Hon. K.J. MAHER: I thank the Hon. Ms Game for her contribution. As I read out, that is what is usually done and what is strived to be done with informing vulnerable persons. My advice is if it is put in legislation and for whatever reason there are huge surges of cases and it is not done at one particular time it could affect the veracity of the directions in general.

The Hon. N.J. CENTOFANTI: I just had a question to the Attorney. If the government is not supporting the Hon. Ms Game's amendment, which it has indicated it is likely not to, is the government suggesting that we can lock people up who are COVID-positive if it is not at least reasonably necessary to ensure that the health of the public is not endangered or likely to be endangered, because that is what the Hon. Ms Game's amendment says, specifically under (2)(a):

> directions restricting the liberty of a person, or a class of person, should not be imposed unless those directions are reasonably necessary to ensure that the health of the public is not endangered or likely to be endangered;

The Hon. K.J. MAHER: My advice is that, in the example of isolation, to allow isolation to be applied on a broad basis, to have the potential individual challenge would make that very problematic.

The Hon. S.G. WADE: On that point, Attorney, does this suggest an individual challenge? This talks about a direction overall and, if it is a general direction, what course of action would an individual have?

The Hon. K.J. MAHER: I thank the honourable member for his question. Based on the advice, it is to do with an individual case. For example, a broad direction in terms of the length of time to quarantine would necessarily capture individuals whose very specific circumstances might mean they would be infectious for less than that broad time, but a broad direction for quarantine is needed to capture everyone, even though there might be individuals whose time might be less than

that, for example, under the quarantine. That is the advice I have as to why it being that broad is necessary.

The Hon. S.G. WADE: That is exactly why I imagine the Hon. Sarah Game has included the words 'to ensure that the health of the public is not endangered'. It is not about the individual health of that person. In the context of a public health response, individual freedoms will be constrained, but I believe the Hon. Sarah Game's amendment is well constructed in that regard.

I would like to go back to the conversation I am having with the Hon. Connie Bonaros. To the extent that my comments about subsection (6) were, in effect, reflecting an earlier vote of this house to exclude (6), (7) and (9), they may have been disorderly. Let me get back to the focus, which is paragraph (a) of the Hon. Sarah Game's amendment.

The Hon. Connie Bonaros' point, as I understand it, was that members of the house had been given advice that it is inconsistent with isolation to have (6), (7) and (9) in place. It is in that context, I understand, that the Hon. Ms Bonaros was suggesting that that was why the Hon. Ms Game provided amendments that accommodate that.

As I understand it, the advice the Hon. Sarah Game has received is that none of these modifications of the principles would be inconsistent with the application of the isolation; otherwise, I presume she would not have moved them. Therefore, putting aside my comments about subsection (6), which I appreciate the Hon. Ms Bonaros believes should be excluded—and the house agrees with her—

The Hon. C. Bonaros: It is (a).

The Hon. S.G. WADE: No, I meant (6) by the previous vote. By the previous vote the house made it clear that they do not support the Liberal Party position to leave subsection (6) applying. The Hon. Ms Game is suggesting a modification of (6), if I could put it that way, which she believes, on advice, is consistent with the isolation proposed under this act.

I take it that this is consistent with the provisions, and certainly from the Liberal Party's viewpoint we are not going to say that we are going to accept the restrictions on the liberties of a person, even if it is not reasonably necessary. We believe that is a basic expectation on public officers. If this house is going to strike out clauses like that, we are no longer defending the people's rights that we are elected to protect.

The Hon. C. BONAROS: Perhaps I could just respond to the comments of the Hon. Mr Wade. We have all acknowledged what we have tried to do here. We have advice that we have inconsistencies. The Hon. Ms Game has tried to address those inconsistencies. She has had advice that says this addresses the inconsistencies.

There is every possibility that it may be consistent, but the issue we have is that we do not know whether indeed it is going to be found to be consistent or inconsistent unless it is challenged and a court provides us with an interpretation that actually provides some grounds for whether it is consistent or inconsistent.

We have said we are still concerned because there is still uncertainty. We can all go and get our own separate advice provided outside this place. We are all entitled to do that, and we all do that. I have done that, the Hon. Ms Game has done that, and we all have the benefit of advice that we receive in here. We have all acknowledged the original advice that we have all received in here. That is the same. Everybody has received the same advice.

The Hon. Ms Game has drafted an amendment which, on the face of it, could be consistent—potentially could be—but we do not know. That is the bottom line. We do not know because it has not been challenged and it has not been subjected to an interpretation by a court, and it could very well be found to be inconsistent.

I suppose from a drafting perspective, we aim to draft a provision in line with the advice that we have received and, on the face of it, it could very well be that it is not inconsistent. But once it is challenged, if it is challenged, if we get to that point, we could find a very different response. We do not know at this stage how a court would interpret paragraph (a). I have already outlined the reasons why I am concerned about paragraph (a). I have done that throughout this debate.

The bottom line is, in response to the points the Hon. Mr Wade just made, despite the best efforts of trying to get something drafted which accommodates section 14(6), we simply do not know whether or not it is consistent or inconsistent, and only the courts who interpret this would provide an answer to that.

I have said for my part that I am not willing to put something into the bill that could be found to be inconsistent. I do not know the answer to that, other than the advice that I have sought from this place and from outside this place, but that is not a risk I am willing to take. Certainly, I do not see the same problems applying when it comes to the subsequent two provisions. That is SA-Best's position.

The Hon. R.A. SIMMS: Very briefly, just to deal specifically with the issue the Hon. Sarah Game has raised regarding the Mental Health Act in her proposed amendment, I guess the other concern the Greens have is that some of the provisions of the Mental Health Act are not necessarily appropriate for dealing with the scenario that Ms Game refers to.

The Mental Health Act refers to people being required to take medication or potentially being detained and so on, and so there is a slight contradiction there in terms of what Ms Game is, I think, seeking to achieve. That is where we think the provisions that exist already in the Public Health Act with respect to section 14 that the Hon. Ms Bonaros is seeking to include and which we are supportive of is a much better pathway.

I understand the arguments. I certainly understand the politics of this from the opposition's perspective, but we have all been provided with the same advice in terms of the difficult balancing act that we are trying to undertake here. The reality is that any approach we take here will require some implication or some impact on civil liberties because of the unique nature of COVID-19. I think the amendment the Hon. Ms Bonaros has put forward initially strikes the right balance.

The Hon. S.L. GAME: I just want to respond to the Hon. Robert Simms. Actually, I have a question. Could he clarify for me why he is not supporting paragraph (b) 'if the Department is aware that a person who is subject to directions restricting their liberty is a vulnerable person who may need assistance to understand or comply with the directions'? Why is he not supporting, if the department is aware, that all reasonably practicable steps are taken to ensure that the person's next of kin or a nominated person is informed?

The Hon. K.J. MAHER: It might be helpful, with the benefit of advice from Health, to provide an answer to that. It is very similar to an answer I previously gave and it is something that we strive to do but, in circumstances where there are thousands and thousands of cases and it is physically impossible to do it in every case at a particular time, we are concerned that the validity of directions could be in jeopardy. We completely understand the reason for and desirability of doing this, but we are concerned that legislating it this way could harm the validity of directions.

The Hon. S.L. GAME: I would like to thank the Attorney-General for the effort he went to in providing us with a list of steps that are being undertaken and that are desired to be undertaken; I appreciate that and find it quite respectful. However, I am still not really sure because you are using the example of thousands of cases, but it does state here, clearly, that (1) the department is to be aware and (2) that you are taking reasonably practicable steps. Whilst I do appreciate the effort you have gone to in addressing some of my concerns, I still do not find the answer really deals with why you are not supportive of paragraph (b).

The Hon. R.A. SIMMS: Without getting too bogged down here, there is a fundamental difference between the approach the Greens party takes to this matter and the approach the One Nation party takes to this matter. One Nation has been pretty clear that it has real concerns around the emergency declaration around the Public Health Act and the whole response to the pandemic. It has been on the public record on that, and there have been some interesting statements made regarding that in the media.

The Greens have a very different position. We come at this from the starting point of wanting to respect people's liberties, of course, but also wanting to ensure we have an appropriate framework in place to deal with this public health issue, recognising that there has been a significant public health emergency we have needed to deal with over the last few years. So we come at it from a

fundamentally different philosophy. I do not want this to degenerate into just a Rob and Sarah Game game—

The CHAIR: The Hon. and the Hon.

The Hon. R.A. SIMMS: —but I want to make it clear that there are some distinctions in terms of our fundamental philosophies here.

The Hon. S.G. WADE: I appreciate that we are talking about an amendment of Ms Bonaros in relation to (a), but I would like to ask the Attorney a question that compares and contrasts. In my view, 2(a) may well lead to a direction being deemed to be invalid because it is contrary to the act, but my understanding of (b) and (c) is that they do not go to the validity of direction. They go to a duty on public officers.

The duty on public officers in (b) is that if they are aware a person is vulnerable they need to take all reasonable steps. In relation to (c), if they are aware that a person has mental health issues they need to consider the Mental Health Act. I cannot see how either of those bring into question a direction, and I cannot see why either of those should not be in this bill.

The Hon. K.J. MAHER: My advice is that the ability for these to be challenged could throw into doubt the validity of directions. That is the combination of the advice we have received.

The Hon. S.G. WADE: The Attorney has substantially highlighted how SA Health currently works to protect the rights and interests of people with mental health issues, and I commend SA Health for the work they do in that area. If we think that public health officers in SA Health are not willing to have a duty put on them to consider whether action should be taken under the Mental Health Act, consider whether a person with mental health issues might need assistance, consider whether a person with mental health issues might benefit from counselling, then I think we are setting a very low bar. In fact, we are asking—we are almost suggesting—that SA Health officers might want to lower their standards, because I know they would consider the Mental Health Act, they would consider assistance and they would accept counselling.

I believe the Hon. Sarah Game's amendment is expecting health officials to respect the health needs of the person in front of them, considering that the normal Public Health Act requirement reflected in section 93 is that you cannot take action under the Emergency Management Act or the Public Health Act if there is no cause or reasonable cause to take action under the Mental Health Act. So the normal expectation of the Public Health Act that this government endorsed in 2011 was that if a person's needs, including the public health needs, could be appropriately addressed under the Mental Health Act, then go through the Mental Health Act approach.

To me, that honours people's health issues, including their mental health issues. This approach, I believe, is actually discriminatory. It is basically saying that, even if you have mental health issues, we are not even going to expect that our officials will consider a Mental Health Act response or a mental health response. I think it is very disappointing that this modified version of the principles in the Public Health Act cannot be supported by this house.

The CHAIR: If there are no further contributions to this clause, I would like to put the Hon. Ms Bonaros's amendment to the amendment, but I would like the Hon. Ms Bonaros to be here. The question is that the amendment moved by the Hon. Ms Bonaros to leave out paragraph (a) from the amendment moved by the Hon. Ms Game to Ms Bonaros's amendment be agreed to.

The Hon. K.J. MAHER: Sorry, I think there is some confusion about the way in which it was put, sir.

The Hon. R.A. SIMMS: And the mover was out of the room.

The Hon. C. BONAROS: I apologise.

The CHAIR: This is the amendment of the Hon. Ms Bonaros to the amendment of the Hon. Ms Game to the amendment of the Hon. Ms Bonaros. As I clearly stated, it is that the amendment moved by the Hon. Ms Bonaros to leave out paragraph (a) from the amendment of the Hon. Ms Game to the amendment of the Hon. Ms Bonaros be agreed to. So this is about leaving out paragraph (a).

Members interjecting:

The CHAIR: Order!

The Hon. K.J. MAHER: If you are for the proposal, is it a yes?

The CHAIR: If you are prepared to take out paragraph (a) from the Hon. Ms Game's amendment, you will vote yes.

The Hon. S.G. WADE: And then we will have a subsequent opportunity to consider whether we want the balance of the Hon. Sarah Game's amendment?

The CHAIR: The next question I will put, after we have this amendment, is that the amendment moved by the Hon. Ms Game to the amendment by the Hon. Ms Bonaros—as amended if it is agreed to—be put. The question is that the amendment moved by the Hon. Ms Bonaros to leave out paragraph (a) from the amendment moved by the Hon. Ms Game to the Hon. Ms Bonaros's amendment be agreed to.

The committee divided on the amendment to the amendment:

Ayes.....12
Noes 7
Majority 5

AYES

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

NOES

Centofanti, N.J.	Curran, L.A.	Game, S.L. (teller)
Girolamo, H.M.	Hood, D.G.E.	Lensink, J.M.A.
Wade, S.G.		

PAIRS

Pnevmatikos, I.	Lee, J.S.

Amendment to the amendment thus carried.

The committee divided on the Hon. S.L. Game's amendment, as amended, to the Hon. C. Bonaros's amendment:

Ayes.....9
Noes 10
Majority 1

AYES

Bonaros, C.	Centofanti, N.J.	Curran, L.A.
Game, S.L. (teller)	Girolamo, H.M.	Hood, D.G.E.
Lensink, J.M.A.	Pangallo, F.	Wade, S.G.

NOES

Bourke, E.S.	Franks, T.A.	Hanson, J.E.
Hunter, I.K. (teller)	Maher, K.J.	Martin, R.B.
Ngo, T.T.	Scriven, C.M.	Simms, R.A.

NOES

Wortley, R.P.

PAIRS

Lee, J.S. Pnevmatikos, I.

The Hon. S.L. Game's amendment to the amendment thus negatived; the Hon. C. Bonaros's amendment carried.

The CHAIR: The next amendment that we have is amendment No. 2 [Game-1]. Our advice is that the Hon. Ms Game may be unlikely to move this; is that correct?

The Hon. S.L. GAME: I have decided that I will no longer move amendment No. 2 [Game-1] due to the fact that I feel those concerns have been addressed by other amendments proposed.

The CHAIR: We now have two amendments at clause 3. They are not necessarily competing amendments. The first one we will be considering is amendment No. 3 [Game-1] followed by amendment No. 2 [Bonaros-2].

The Hon. S.L. GAME: I will not be moving amendment No. 3 [Game-1] due to those concerns already being addressed by other amendments made.

The Hon. C. BONAROS: I move:

Amendment No 2 [Bonaros–2]—

Page 3, after line 29 [clause 3, inserted section 90B]—After subsection (3) insert:

(4) The Minister must, before the end of the 7th day after a direction is issued under this section, cause a document or documents setting out the relevant health advice for the direction to be published on a website determined by the Minister.

(5) In this clause—

relevant health advice for a direction means advice provided by the Chief Public Health Officer or by other officers of the Department to any Ministers of the Crown in respect of the issuing of the direction.

This amendment seeks to ensure that we are provided with the relevant health advice for the reasons outlined in my second reading contribution and in some of the other contributions. In a nutshell, what we are saying is that the minister, before the end of the seventh day after a direction is issued, has to cause a document or documents setting out the relevant health advice for the direction to be published on a website determined by the minister. In this clause, 'relevant health advice' for a direction is defined as advice provided by the Chief Public Health Officer or by other officers of the department to any ministers of the Crown in respect of the issuing of the direction.

I am going to make a couple of points in relation to this amendment. Firstly, there is an amendment we are going to consider that is going to be moved by the Hon. Robert Simms that I think, as a matter of course, will have available to it this information anyway. It also, just for the record, deals with the issue of disallowances, which the Hon. Ms Game and I also had amendments to. We are going to have a functioning committee, an oversight committee, that is going to be able to request these things of the government, but in any event I think it is still prudent to have a provision in the bill that requires the government to provide the health advice that it receives when a direction is made.

There will be a bit of a process. In my mind, I can see that we are going to have a direction. We are going to then receive the health advice that directions are based on. There is going to be an oversight committee, hopefully, which actually scrutinises that process. But then the important part—and I cannot stress enough how important this is—is that we are going to have the ability to disallow directions or legislative instruments that do not pass the pub test. So the health advice will go a long way towards informing members of this parliament, and indeed the committee, whether or not we think a direction is appropriate or not.

When I spoke at the second reading stage, I outlined in detail that we are moving from a state of emergency to the executive making directions around close contacts. The executive is now going to be making directions—potentially, not necessarily—around close contacts and COVID-positive cases.

There may be a time when a direction is made that is queried and we will want to know what the foundation is for that direction. This will provide us with an understanding of the health advice that underpins that direction. The committee in its function will also have access to that same health advice and will be able to scrutinise it in its oversight role. Then this parliament, or on the recommendation of the committee or any member of this parliament, based on the advice that they have been receiving, will be able to come back here and move a disallowance motion if we deem that a direction has overstepped the mark.

Directions made by the executive are very different to directions made by the State Coordinator. The State Coordinator was operating under a different set of powers, the Emergency Management Act. It is a depoliticised process, if you like. We do not have control over those directions. I know that there are directions that people are not necessarily happy with that the State Coordinator has made to date, but they have been based on the best available advice made to him by the Chief Public Health Officer and others.

It is a very different kettle of fish when the executive is making those decisions, albeit only in relation to close contacts and COVID-positive cases, so it is absolutely necessary that this parliament has the ability to disallow those regulations. Health advice feeds into that process of informing us of the basis for the direction in the first place. We also have had concerns raised—and I am sure everyone is aware of the advice—of the lack of terminology or definition that has been provided already in the bill, particularly as it relates to close contacts. That has been a moving feast.

We have seen the definition of a close contact change consistently over the course of the pandemic. As we move to a new sense of normal—living with COVID—the executive will be able to effectively determine what a close contact is. We do not want that to be an undefined term without any advice underpinning it, so the health advice is critical. It is critical that this parliament has access to that. More importantly, it is critical that the public, the community of South Australia, understands the health advice on which these directions are made.

If any of those directions are deemed not to be appropriate, then we will have another mechanism through another amendment, which is going to be moved to this bill, which mirrors an amendment of the Hon. Ms Game, the Hon. Rob Simms and I—I am not sure if anyone else had it—which effectively allows us to disallow those regulations. But we need information provided to us as a parliament to be able to do those things.

To date, a lot of the information that has underpinned the directions we have considered have been based on health advice. We have been getting updates in the media from the Chief Public Health Officer about that health advice, but I think it is only appropriate that where we transition from a pandemic to the Public Health Act and the executive being responsible for that, then this parliament has the ability to access that advice and make informed decisions based on that advice about directions, but also that the wider community of South Australia has access to that advice and understands and appreciates why it is that a new direction is being made and what the advice is that has been given to the government and the executive in making that direction.

The Hon. K.J. MAHER: Very quickly, we support that and it does make sense if there are further amendments later to be considered about allowing an ability to disallow directions made that we will be supporting that later. It makes sense that people in the chamber can have a full view of whether or not to do that, so we will be supporting that and the amendment later.

The Hon. R.A. SIMMS: I rise on behalf of the Greens to support the amendment. This was a really critical amendment for us, that is, ensuring that there is appropriate oversight of the parliament and understanding of the health directives and the basis of those. So making this information available to the parliament so that it can also inform the work of the committee that I anticipate will be established later, I think, is a really important step and one that strengthens the bill.

The Hon. S.G. WADE: In relation to this amendment, I am interested as to why it limits help to health advice. The honourable member quite rightly makes the point that under the new process the decisions will go through the political process, which means the government will only act on the advice of Executive Council, and Executive Council in its processes gets advice from all over government. My experience of directions in the last 18 months is that health advice is not the only relevant advice. This might go to whether we need to strengthen the committee proposal under the subsequent amendment of the Hon. Robert Simms.

To my mind it would be good to have both the reasons and the advice, because the health advice might be one thing, the direction might nuance that through the Executive Council process before it is promulgated. I think there would be value in its being broader. I wonder whether a more appropriate place for more detail is in the proposed schedule a1 from the Hon. Robert Simms.

The Hon. C. BONAROS: I acknowledge the point that the Hon. Mr Wade has just made. When I had these discussions with stakeholders and we talked about where this bill would land, there were some minimum things we wanted to see in this bill. This was one of the issues that was raised with me as being absolutely critical, because so much of what we have done has been based on the health advice. From the public's perspective, they want some reassurance that there is indeed health advice underpinning these decisions, but certainly the advice I took when I drafted this related specifically to the request for health advice.

I do not have the benefit that the Hon. Stephen Wade, as former minister in this area, has of knowing what other considerations they have had. But I will say this: a number of us here served on the COVID-19 Response Committee, and we found it extraordinarily difficult to get the advice on which directions were being made. That is an important point that should be placed on the record. So when I had those discussions, one of my frustrations as a member of that committee—and for the Hon. Tammy Franks as chair of that committee—was that we were not being provided with that advice through the select committee process.

I do not envisage the same sorts of issues occurring with a statutory committee that is formed, which is what we will have and which will have much broader powers than our committee had in the past. That is the importance of having that committee enshrined in the bill: it gives it the breadth of power it needs to be able to request information from the government, the executive and whoever else it may be, in terms of its considerations and its role as a scrutiny and oversight committee.

If there are other bits of evidence that are being relied on, then they are things that will be pursued through the committee. I limited this to the health advice because that is the advice I had at the time when I met with stakeholders about what do we need in here and what is critical to make this bill functioning so that people understand when a rule, a direction, is made about why you have to isolate. I am not sure of an example that I can give under the new provisions of what the executive may say needs to be done in relation to, for instance, a close contact, but that will have health advice underpinning it somewhere.

I think all directions have predominantly been based on the health advice. That is certainly where a lot of the focus has been, but I also acknowledge that there is other advice that is going to be provided that may also inform those. I think that the committee process that is going to be established is going to effectively have that oversight, but again, for the record, it was stressed to me very strongly that the health advice is critical. People need to understand what that health advice is and why they are being directed to do something.

Amendment carried.

The CHAIR: Hon. Ms Bonaros, the next amendment we have is amendment No.4 [Bonaros-1], clause 3, page 3 after line 38 [clause 3, inserted section 90C].

The Hon. C. BONAROS: I will not be proceeding with that amendment.

The Hon. S.G. WADE: This might be a question better asked at a later stage, but is the timely consideration of exemptions something the committee could look at?

The Hon. C. BONAROS: Thank you to the Hon. Mr Wade. I think we have established that in some cases there have been delays in the consideration of exemptions. This was really to make

a point that they should be considered expeditiously. The government and indeed the opposition have made the point that, when we have a huge outbreak, there are time constraints. The point that I was trying to make is that five months is not reasonable for allowing someone to wait for a response to an exemption, but this is a process again that will fall under the ambit of the COVID oversight committee, which would be able to look at the length of time that it is taking to respond to applications for exemptions and the timeliness or otherwise of those applications.

Can I say just for the record also that I have raised this issue with the minister personally within this debate and outside of this debate, and I have undertakings from the government in terms of the way that we deal with those and that they should be done so expeditiously.

The Hon. J.M.A. LENSINK: I move:

Amendment No 2 [Lensink–1]—

Page 4, line 6 [clause 3, inserted section 90C(3), penalty provision, (a)]—Delete '$75,000' and substitute:

$50,000

In terms of enforcement, the fines and imprisonment are the same as currently apply for the Emergency Management Act. The Liberal Party proposes that the level of penalties be reduced for the following reasons: firstly, the levels of penalty in South Australia are relatively high compared with other Australian jurisdictions; secondly, the penalties actually imposed throughout the pandemic have been well below the maximum; thirdly, heavy-handed enforcement, real or perceived, undermines public support for public health measures.

We propose that the penalty provisions in the bill should not include imprisonment and that the maximum fine be reduced by about one-third to $50,000 for a body corporate and $15,000 for a natural person. It is not proposed to adjust the $5,000 expiation fee for body corporate or $1,000 for a natural person. I spoke to this in my second reading, and I think our position on this is well known. I just alert honourable members that we will be seeking a division on this particular provision.

The Hon. K.J. MAHER: We have canvassed this before, the honourable member is right. We will be opposing this amendment. The penalties proposed in this bill are the penalties that the government has seen fit to have in place under the Emergency Management Act for the last two years. We think they are reasonable, so will be opposing the amendment.

The Hon. S.G. WADE: To address the Attorney-General's logic, we have been under the Emergency Management Act for the last two and a bit years. The government is proposing to come out from the Emergency Management Act. Because we are leaving the Emergency Management Act, to say we should take with us the penalties that were under it makes no sense to me.

I thank the Attorney for providing responses to opposition questions in relation to fines and imprisonment. Consistent with my past practice, if the Chair is agreeable I propose to read them onto the record. I think it is appropriate that all members have access to the information, not just those who asked for it, and also so that it is available for future reference.

The CHAIR: We have reasonably free-ranging discussion on this bill, and we have needed to, so please.

The Hon. S.G. WADE: It does go to some of the questions asked by the Hon. Tammy Franks yesterday, as well. I will put the questions and show the answers. The first question was:

Since March 2020 how many expiation notices have been issued per month under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 in South Australia? Since March 2020 how many people have been cautioned per month under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia?

The answer given is:

There were 2,348 expiation notices across the 25 months from March 2020 to March 2022, an average of 94 per month. In the most recent month of data of March 2022 there were 29 expiations. There were 4,782 caution-only notices across the 25 months from March 2020 to March 2022, an average of 191 per month. In the most recent month of data of March 2022 there were 81 caution-only notices.

The next question was:

Since March 2020 how many expiation notices have been paid per month under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia? Since March 2020 how many expiation notices issued under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia remain unpaid?

The answer given is:

This is dynamic data and as a result the status of an expiation notice may change. From 27 March 2020 to 31 March 2022 a total of 2,348 notices were issued, of which 307 were expiated (paid in full). This number excludes cautions which do not have an attached fee. 1,205 are with the Fines Enforcement Recovery Unit, 451 are under a payment agreement, 188 have been withdrawn, and 162 are withdrawn for prosecution.

The next question was:

Since March 2020 how many arrests have been made per month under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia?

The answer given is:

Since March 2020 there have been a total of 279 arrests made under the Emergency Management Act 2004 (SA). There were only two arrests made in April 2022 and no arrests made in May 2022.

The next question was:

Since March 2020 how many people have been reported per month under the Emergency Management Act 2004 (SA) in respect of the human disease named COVID-19 within South Australia?

The answer given is:

SAPOL is unable to ascertain this information in the time frames provided. We will be happy to facilitate this request with further time provided if so required.

The next question was:

Since March 2020 how many charges have been laid per month under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia?

The answer given is:

Since March 2020 a total of 729 charges have been laid for offences under the Emergency Management Act 2004.

The next question was:

Since March 2020 how many prosecutions have been initiated per month for offences under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia?

The answer given is:

Since March 2020, on average 27 prosecutions have been initiated per month for offences under the Emergency Management Act 2004 (729 charges divided by 27 months).

The next question was:

Since March 2020 how many prosecutions have been finalised per month for offences under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia?

The answer given is:

527 prosecutions have been finalised since March 2020 for offences under the Emergency Management Act 2004. The data for each month is unable to be broken down into a month-by-month basis.

The next question was:

Since March 2020, of the prosecutions finalised for offences under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia, how many penalties were handed down by the Court?

The answer given is:

Of the 527 prosecutions that have been finalised, 179 resulted in a penalty being handed down by the court. 86 of these involved a sentencing for some period of imprisonment. Anecdotally SAPOL advise that most terms of imprisonment were time served on remand.

The next question was:

For each class of offence, how many fines were imposed, what was the range of fines imposed (maximum and minimum) and the average fine imposed?

The answer given is:

28 fines were imposed. SAPOL are unable to ascertain the range of fine and the average fine at this time.

The next question was:

For each class of offence, how many terms of imprisonment were imposed, what was the range of terms of imprisonment imposed (maximum and minimum) and the average term of imprisonment?

The answer given is:

There were 86 terms of imprisonment imposed. We are unable to provide data ascertaining the total range of imprisonment imposed or the average term of imprisonment imposed. Anecdotally SAPOL advise that most terms of imprisonment were time served on remand.

The next question was:

Since March 2020, of the prosecutions finalised for offences under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia, how many have been dealt with without conviction?

The answer given is:

Of prosecutions finalised, 7 prosecutions have been dealt with without conviction.

The next question was:

Since March 2020, of the prosecutions finalised for offences under the Emergency Management Act 2004 (SA) in respect of the outbreak of the human disease named COVID-19 within South Australia, how many have had a conviction recorded?

The answer given is:

Of prosecutions finalised, 179 convictions were recorded.

I thank the government for those answers.

The Hon. K.J. MAHER: Just to finalise our views, as a government, on the fines: we think the fines are appropriate. We do not agree with lowering the fines. One of the cases that garnered the most public attention was the individual at Loverboy nightclub, the nightclub which said that breach cost them $60,000. The individual was fined $600 even though the maximum penalty was $20,000. The Liberal amendments propose that that come down to $15,000. We think that sends the wrong signal. Of course, courts impose fines based on a range, up to the maximum. What the Liberal opposition's amendments do is send a signal to the court that in that case you should be fined even less. We do not agree with that.

For the benefit of the chamber, these are exceptionally important issues we are dealing with: a global pandemic, issues to do with people's liberty. We do not in any way want to curtail this debate. We think it is important that everyone can speak as fully as they can, but we are keen to get this legislation finalised. With that in mind, with making sure everyone can speak as freely and for as long as they want, it will be our intention, should it be needed, to conclude this after private members' business today. Although there is a distinct preference for coming back in the morning, I just foreshadow it may be the intention that we come back after dinner tonight to make sure we finish this very important bill in a way that does not curtail anyone's ability to speak as much as they need to.

The Hon. R.A. SIMMS: I want to put on the record that the Greens understand the concerns that the opposition have expressed regarding penalties. It is an issue that we have been concerned about. In discussions with the government, we understand that in practice these are not being applied—or, indeed, certainly not at the high end. The penalties that have been put in place here are consistent with the Public Health Act. It is true that in South Australia we have higher penalties than some other jurisdictions.

I also want to make the point that this is a bit of a red herring, because, certainly in discussions that we have had with stakeholders, the key issues that they have raised with us have

not been in relation to the penalties. They have been in relation to the lack of parliamentary oversight, accountability and transparency in the original bill that the government put forward, but through collaboration with the crossbench we in the Greens have been able to address those concerns, so in that context we are less concerned about this issue with the penalties.

I also want to draw members' attention to the amendment that I will be moving later on today regarding the committee. In that, it makes it very clear that a relevant COVID-19 direction that imposes taxes, fees, fines, imprisonments or other penalties can be looked at by the committee. If new directions are put in place by the government and those have implications for penalties, that is something that this new oversight committee can look at and certainly make recommendations for disallowance. With that in mind, we will not be supporting the opposition's position on this.

The Hon. C. BONAROS: With respect to the opposition, I think they have totally missed the mark in terms of the importance of the issues that we have been considering in this debate. There is a letter from the Law Society addressed to the Hon. Ashton Hurn MP. It sets out the Law Society's key considerations in this bill. The topics are lack of safeguards to protect individual freedoms, definition of close contact and scope of directions, transitional provisions, oversight and disallowance of directions.

The advice we followed through with with those same stakeholders is: what are your key concerns around this bill? The response has been safeguards, safeguards, safeguards, accountability, transparency, ensuring oversight by the parliament. I asked the question directly: are we concerned about penalties? It did not even rate a mention in the discussions that I have had with stakeholders.

The reasons it has not rated a mention are these: (a) the Public Health Act already has a range of penalties in there that are significantly higher than what we are considering in this bill and they are there for very good reason; (b) the courts have already set a precedent in terms of the sorts of penalties that are being imposed on individuals, and they are nowhere near the range that we have contemplated under these changes; and (c) we are going to have the function of the oversight committee; I have talked again about the importance of that in terms of the role that it will play.

I think we also need to acknowledge the reason there are penalties in the Public Health Act. We have seen maybe one or two cases of this in South Australia. In the main, all South Australians have absolutely done the right thing when it comes to complying with directions and rules around COVID-19, but the Public Health Act does have a broad range of penalties that apply under it for very good reason, because there is always every chance that somebody—an idiot—is going to go out and wilfully do something, recklessly and indifferently ignore the rules, flout the rules and do something terrible that could cause chaos in terms of the impact that it has on the broader community.

You will struggle to find a bill that we have passed in this place that does not have a range of penalties that includes the sorts of penalties that we are considering here, because we are always considering, in all the bills that we pass, that there may be a time when someone does do something that is completely and utterly stupid and reckless, that ignores the protection of the rest of the community. That is why we set penalties at the higher end, but the precedent to date has shown that there has not been a case in South Australia where the courts have deemed something so terrible that we are going to impose penalties at the higher end of the scale.

I am going to come back to the main point, the point that has been driven into us on the crossbench in terms of getting this bill through: safeguards. That is what is being sought, that is what we have sought to deliver. We want to ensure that parliament has oversight. We want to ensure that there is a disallowance mechanism for any new directions. We want to ensure that there are appeal rights and that there is a committee that has an oversight function.

They are the things that stakeholders that have looked at this have been concentrating on. Nobody has raised the issue of penalties because they pale into insignificance compared to the critical aspects of this bill, which we have managed, so far, to have incorporated into the bill.

The Hon. J.M.A. LENSINK: I wish to make a few remarks in response to some of the comments being made about this particular provision. I will not go through the three points that I made when I introduced this amendment, but I think it is worth pointing out that this bill and the

government's rhetoric very much is about moving out of the pandemic and the fulfilment of an election pledge.

I think, to a degree, if members choose not to support these amendments, they are letting the government have their cake and eat it, too, because on the one hand the government is saying, 'We are easing the restrictions. Isn't that great? Aren't we great? Look at what we are doing,' but at the same time they are not prepared to give South Australians credit for, in the majority of cases, being very compliant during the pandemic. All credit for that goes to all South Australian for how they have conducted themselves throughout this pandemic.

We have seen few numbers. I thank the Hon. Stephen Wade and I thank the minister's office for providing those details. South Australians have been very compliant and if we are moving into this new phase, then I think South Australians can quite rightly ask this parliament why some of these heavy-handed penalties remain, and I think they certainly have been of that view.

In relation to stakeholders, yes, I respect the views of all sorts of stakeholders that express opinions, but they are not the sole arbiters of the judgements that we as individual lawmakers should use in this place. We have our own judgement, we have our own supporters who will contact us about this. With all due respect, it is not just about what the Law Society or SACOSS or any of those great organisations have to say because sometimes they do get these things wrong.

We are all, as individual lawmakers, sent here to this place to make our own judgements and we believe, as a party, very strongly, that these provisions ought to be reduced in line with the government's rhetoric that we are moving out of a pandemic, we are moving into the next phase. Well, let's test that theory.

The Hon. C. BONAROS: I have a question for the mover: does the mover acknowledge that the penalties that are actually being proposed are indeed in line with and significantly less than a lot of the other penalties that already apply under the Public Health Act?

The Hon. J.M.A. LENSINK: These particular ones that we chose we reduced by approximately a third of what was under the previous provisions.

The Hon. C. BONAROS: Sorry, they were provisions that applied under the emergency directions. We are now moving into the Public Health Act. Do we acknowledge that the Public Health Act has a range of penalties that apply to other offences in that act that are significantly higher than these provisions, including penalties of up to a million dollars for some offending?

The Hon. S.G. WADE: If I may comment on behalf of the honourable shadow minister, my understanding is the Public Health Act does have general duties which have both a serious risk and a material risk penalty. But let's go back to the principles that the honourable member quite rightly ensured applied to the COVID response. One of those was the proportionate principle: that the fines and penalties available need to be proportionate. We believe that this amendment reflects that. It reflects the fact that, in terms of the Australian jurisdictions and their response to COVID, in my understanding, there are three or four jurisdictions that have no imprisonment provision at all.

My understanding is that New South Wales, one of the largest jurisdictions, has a maximum imprisonment of six months. My understanding is that the next lowest imprisonment rate compared with South Australia is a year, in Western Australia. South Australia is the stand-out. For some reason, even though we are moving out of a major emergency and moving into a public health emergency, the South Australian government's position is that not only do we need imprisonment but we need imprisonment penalties at twice the rate of other jurisdictions.

The committee divided on the amendment:

Ayes.....7
Noes 12
Majority 5

AYES

Centofanti, N.J.	Curran, L.A.	Game, S.L.
Girolamo, H.M.	Hood, D.G.E.	Lensink, J.M.A. (teller)

AYES

Wade, S.G.

NOES

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

PAIRS

Lee, J.S.	Pnevmatikos, I.

Amendment thus negatived.

The Hon. J.M.A. LENSINK: I move:

Amendment No 3 [Lensink–1]—

Page 4, lines 7 and 8 [clause 3, inserted section 90C(3), penalty provision, (b)]—Delete '$20,000 or imprisonment for 2 years' and substitute '$15,000'

Sometimes it is worth fighting the good fight knowing you are going to lose, so I move this amendment standing in my name for similar reasons.

The Hon. K.J. MAHER: The government will be opposing for similar reasons we opposed last time.

Amendment negatived.

Members interjecting:

The CHAIR: Order!

The Hon. J.M.A. LENSINK: I move:

Amendment No 4 [Lensink–1]—

Page 4, line 33 to page 5, line 3 [clause 3, inserted section 90D(1) and (2)]—Delete the heading to section 90D and subsections (1) and (2) and substitute:

90D—Expiry

(1) This Part (and all directions under this Part that have not expired in accordance with a notice under subsection (2)) will expire on 24 September 2022.

(2) The Governor may, by notice in the Gazette, fix a day or days before 24 September 2022 on which a direction under section 90B, or specified provisions of such a direction, will expire.

The government proposes that the expiry of the directions be effected by gazettals by the minister. The government claims that this reflects the precedent of the Attorney-General being able to expire elements of the COVID-19 Emergency Response Act 2020. The Liberal Party does not consider that this is a robust precedent. The COVID response act provisions were primarily related to non-health aspects of the COVID response. Public health directions have always been promulgated and expired by the State Coordinator.

Consistent with the revised governance arrangements to make new directions, the Liberal Party proposes that the bill be amended to provide for cabinet to recommend to the Governor when directions should expire. If the direction has not otherwise expired by 24 September, the amendment would mean that the direction would then expire.

The Hon. K.J. MAHER: I rise to indicate the government will not be supporting this amendment that, as the honourable member has outlined, replaces the six-month operation of the bill with an earlier date. The government has concerns about this proposed four-month time frame.

The six-month operation is based on advice from the Chief Public Health Officer that it is important to maintain coverage over the winter months in South Australia when we expect higher rates of respiratory infections, including COVID. In terms of high-risk settings and requirements for masks and COVID vaccinations, winter and spring is a time of greatest concern, I am advised, in these settings. It also accounts for the busy winter period, meaning health professionals can focus their efforts on managing the impacts during this time instead of preparing for legislative extensions.

The Hon. R.A. SIMMS: I rise to indicate that the Greens will not be supporting this amendment, and I will not be moving my subsequent amendment in a similar vein dealing with a shorter time frame. The reason for that is when we first looked at this bill, we did lodge an amendment to bring forward the end date for this legislative framework but once we were able to negotiate this oversight committee, which would provide parliamentary scrutiny and would provide the opportunity for disallowance, then we were much more comfortable with giving the government six months because there will be safeguards in place.

On that basis, and the fact that gives time to get us through what is shaping up to be a significant flu period, we will not be supporting the opposition's amendment nor will we be proceeding with our amendment to bring the cessation date forward.

The Hon. K.J. MAHER: Just to say for clarity, I am advised that the Chief Public Health Officer has informed the Liberal opposition of the preference for six months over four months.

The Hon. R.P. Wortley interjecting:

The CHAIR: Order! We have not been missing you at all in here.

The Hon. C. BONAROS: I rise to indicate that SA-Best will not be supporting the amendment and we will not be moving our amendment on the basis of very similar reasons to those outlined by the Hon. Robert Simms. This was the amendment that we first drafted because of the concerns we had around the provisions in the bill with the lack of safeguards, the lack of an oversight committee, the lack of the ability to disallow regulations and the lack of any appeal rights. Those issues are being addressed.

As we can see through this debate, they are being inserted into the bill. Those safeguards that we have been seeking—and we were not sure whether or not we were going to see them—are now being inserted into the bill. The last thing we wanted was to pass a bill without any safeguards for a period longer than three months, so given that those safeguards (and I am really pleased that those safeguards are finding their way into this bill) are now finding their way into the bill, then it is reasonable that we have a six-month time frame. Again, that was really a measure to ensure that we do not have a bill without any safeguards that gave that extraordinary power in operation for such a long period, but we have and are addressing those issues through this debate.

Amendment negatived.

Progress reported; committee to sit again.

[Sitting suspended from 13:01 to 14:15]

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. C. BONAROS (14:17): I bring up the third report of the committee, 2022.

Report received.

The Hon. C. BONAROS: I bring up the fourth report of the committee, 2022.

Report received and read.

The Hon. C. BONAROS: I bring up the report of the committee, 2018.

Report received and ordered to be published.

The Hon. C. BONAROS: I bring up the report of the committee, 2019.

Report received and ordered to be published.

The Hon. C. BONAROS: I bring up the report of the committee, 2020.

Report received and ordered to be published.

Ministerial Statement

FRONTIER SOFTWARE CYBERSECURITY INCIDENT

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:20): I table a copy of a ministerial statement relating to the Frontier cybersecurity incident made in another place by the Treasurer.

Question Time

PUBLIC SECTOR WAGES

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:20): My question is to the Minister for Industrial Relations and Public Sector. Does the minister support federal Labor's plan to increase public sector wages, and the call from federal Labor leader Anthony Albanese for a 5.1 per cent pay rise to match the current rate of inflation?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:20): I thank the honourable member for her question. It is not South Australian Labor's jurisdictional place to talk about federal wage cases, but I think all of us—probably on both sides of the chamber—would like to see the lowest paid in Australia being able to make ends meet as best they can.

WORTLEY, HON. R.P.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): My question is to the Leader of the Government regarding the retirement of the Hon. Russell Wortley. I seek leave to make a brief explanation before asking that question.

The Hon. R.P. Wortley: I'm still here, though.

The Hon. N.J. CENTOFANTI: Exactly, precisely.

Leave granted.

The Hon. N.J. CENTOFANTI: In February this year, it was reported that the Hon. Russell Wortley committed to donating the equivalent of three months' redundancy payment, win or lose the election at No. 5. He said he would give the funds to the Royal Life Saving Society. Could the leader please confirm if the Hon. Russell Wortley has made the promised donation to the Royal Life Saving Society?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:22): I thank the honourable member for her question. I have found over the many, many years—I think some 20 years—I have known the Hon. Russell Wortley that he is a very honourable person. In my experience he does what he says he is going to do.

This is a very interesting topic. It wasn't the Liberal opposition leader, it wasn't the shadow treasurer or anyone else agitating this story, it was in fact the Whip in the lower house, David Pisoni, trying to agitate with this story. This is the same member, the member for Unley, David Pisoni, who is clinging to his seat by his fingernails with an 8.8 per cent swing against him.

Members interjecting:

The PRESIDENT: A point of order has been called. What is your point of order?

The Hon. N.J. CENTOFANTI: Point of order: I didn't ask the leader for his commentary on the member for Unley. I asked him a simple question. Can he please answer it?

The PRESIDENT: There is no point of order. The question has been asked. It is within the minister's prerogative to answer it in a way he sees fit, but of course there needs to be some relevance to the answer.

The Hon. K.J. MAHER: The story that appeared in the media, to which the Leader of the Opposition is referring, had as a spokesperson from the Liberal Party, oddly and strangely, the Whip of the Liberal party. We have seen this a number of times. We have seen infighting in the Liberal Party all trying to outdo each other. We have seen it with the shadow health minister and the Leader of the Opposition.

What we are seeing just this week from the Liberal party room is media outlets actually being provided with the paper that went to the Liberal party room, before they had a chance to consider it, from the Liberal health spokesperson. This is the sort of rabble and shambles this party has already found themselves in, and it is highlighted by the fact that we are seeing not a Leader of the Opposition, not a shadow treasurer, not a spokesperson for accountability, but the Whip in the lower house fighting his colleagues for relevancy and putting forward this story. It is just extraordinary. I don't remember this in my lifetime.

The Hon. N.J. CENTOFANTI: Point of order.

The PRESIDENT: Do you have a supplementary question?

The Hon. N.J. CENTOFANTI: I have a question that hasn't been answered.

The PRESIDENT: What is your supplementary question?

WORTLEY, HON. R.P.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:24): Could the leader please confirm if the Hon. Russell Wortley has made the promised donation to the Royal Life Saving Society?

The PRESIDENT: You have mentioned the Hon. Russell Wortley, so—

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:24): Yes, I mentioned the Hon. Russell Wortley and I will repeat what I said in the first part of my question. I can go through the whole lot again, actually, sir. I have known the Hon. Russell Wortley for some 20-something years, and I have always found the Hon. Russell Wortley to be honourable and to do what he says he is going to do. That's how I have known the Hon. Russell Wortley, and when he says he is going to do something he will usually do something.

But it's quite extraordinary that this story is coming out. The story about the Hon. Russell Wortley—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —has been put in the media—

An honourable member: By who?

The Hon. K.J. MAHER: By the member for Unley, David Pisoni. Extraordinary that it wasn't a spokesperson for any portfolio area, it was the Whip who is trying to suck oxygen from his colleagues—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —to try to have a little bit of relevance after suffering an 8.8 per cent swing against him in the seat of Unley. It is an extraordinary thing that we are seeing such infighting, such a scramble for that little bit of media oxygen in the Liberal Party. Long may that continue.

WORTLEY, HON. R.P.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:25): Supplementary.

The PRESIDENT: Further supplementary question arising from the original answer.

The Hon. N.J. CENTOFANTI: Absolutely. When can the Royal Life Saving Society expect to receive the promised donation?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:25): I have known the Hon. Russell Wortley—

The PRESIDENT: Attorney-General!

The Hon. K.J. MAHER: —for something like 20 years and I have always found him to be a very honourable person. The story about Russell Wortley: I think it was the member for Unley who had that in the media—

Members interjecting:

The PRESIDENT: Attorney!

The Hon. K.J. MAHER: So and so, they're a shambles, the end, ta.

The PRESIDENT: Attorney!

WORTLEY, HON. R.P.

The Hon. J.M.A. LENSINK (14:26): Further supplementary: why is the Leader of the Government so afraid to answer the substance of this question? Yes or no.

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:26): Why is he so—it's not a yes or no question.

The PRESIDENT: You can answer it, if you wish. No.

WORTLEY, HON. R.P.

The Hon. J.M.A. LENSINK (14:26): Further supplementary: does the Leader of the Government actually think this topic is a joke, and do his members? Is this the position of the Labor Party?

The PRESIDENT: I'm not sure he said it was a joke at any point.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lee will be heard in silence.

WORTLEY, HON. R.P.

The Hon. J.S. LEE (14:26): My questions are to the Leader of the Government about the Hon. Russell Wortley.

The Hon. K.J. Maher: I have known him for 20—

The PRESIDENT: Order!

The Hon. J.S. LEE: The questions are: when the Hon. Russell Wortley announced his retirement, was he pushed by the Labor Party to retire against his will? Does the leader believe that the Hon. Russell Wortley misled the parliament and the people of South Australia by his untruthful announcement of retirement from politics—

The Hon. I.K. HUNTER: Point of order: the term 'untruthful' is unparliamentary and I invite the honourable member to withdraw.

The PRESIDENT: I think that's reasonable.

The Hon. I.K. HUNTER: And factually incorrect.

The PRESIDENT: No. I will rule on the untruthful thing. If you could just rephrase that, the Hon. Ms Lee.

The Hon. J.S. LEE: I will just rephrase that question. Does the leader believe the Hon. Russell Wortley misled the parliament and the people of South Australia by his announcement of the retirement—

The Hon. I.K. HUNTER: Point of order: the charge of misleading the parliament is a grave one indeed and the honourable member has no evidence to the fact. She should withdraw that charge.

The PRESIDENT: No. I'm not accepting that.

Members interjecting:

The PRESIDENT: Order! Continue to ask your question, please, and we will get an answer and then we will move on.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. J.S. LEE: The third question is: can the leader please confirm—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lee, can you sit down for a sec, please. The Hon. Mr Hunter and the Hon. Ms Lensink, enough! The Hon. Ms Lee, please ask your question so we can get an answer so we can move on.

The Hon. J.S. LEE: Can the leader please confirm that the cost of the Hon. Russell Wortley's retirement dinner hosted by the Governor will be repaid?

The PRESIDENT: Attorney-General, answer how you will.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:28): As I think someone has mentioned here before during this question time, most of us know the Hon. Russell Wortley as a very honourable person and when he says something, in my experience that's what he does. So I'm sure that at any time he has made a statement that's what he has intended at the time.

The PRESIDENT: The Hon. Mr Martin, and this will be the Hon. Mr Martin's maiden question.

CLARE VALLEY GOURMET WEEK

The Hon. R.B. MARTIN (14:29): My question is to the Minister for Primary Industries and Regional Development. Will the minister inform the chamber about the significance of the Clare Valley SCA Gourmet Week 2022 to our state?

Members interjecting:

The PRESIDENT: Order! I call the Minister for Primary Industries and Regional Development.

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:29): I thank the member for this question and note his extremely high interest in quality South Australian food and wine, in fact one might say his passion for South Australian food and wine, his ongoing interest. I am sure I look forward to further questions about excellent South Australian food and wine.

The Hon. K.J. Maher: Ridgie questions, we call them.

The Hon. C.M. SCRIVEN: Reggie, I think you mean. Not Ridgie, Reggie.

Members interjecting:

The PRESIDENT: Please don't besmirch the character of a previous member, Attorney-General.

The Hon. C.M. SCRIVEN: Last Friday evening, I had the pleasure of attending and speaking at the opening of the Clare Valley SCA Gourmet Week. South Australia, of course, is loved for its eating and drinking experiences and for its produce and its producers, known around the world for their quality. Our food and wine help tell our story, our story as a state and in this case our story as a region, in regard to the Clare Valley.

Our food and wine drives visitation and creates jobs and exports, and it brings communities together. Audiences have embraced the Clare Valley SCA Gourmet Week since it began as a weekend celebration in 1985, and last year the weekend celebration expanded to a 10-day festival, and its program continues to highlight this beautiful region and its magnificent produce. A longer event boosts the benefits to the region. More than 1,300 interstate visitors are expected here over this week, with 6,300 visitors set to come from across South Australia. Certainly, I attended two events on Friday night in the Clare Valley and they were both very well attended.

We know that events and festivals entice visitors, and we know that when they are centred around food and wine they boost business for local producers. It was wonderful to see, I think it is called, Burton Lane next to Seed bistro, actually transformed into a hub of fine food and wine, and it really did show how strong the region's offering is.

I heard firsthand from producers and winemakers about the strong relationships that have been built with the event's organisers backing their vision, and this means better outcomes for regional businesses. Indeed, latest figures show that visitors spent $172 million in the Clare Valley last year. Events like this will keep driving that figure forward and building the region's tourism and primary industry sectors.

The Malinauskas state government is proud to continue to support important events. When we were in opposition, we committed an extra $20 million towards marketing our great state and $40 million towards new events and growing existing events in South Australia. Of course, it is no understatement to say that tourism has been an industry that has very much struggled during the pandemic, so we are more determined than ever to help grow this economy back to the $8.1 billion that it was before COVID and we want to grow it even further.

I would like to once again congratulate everyone who has shaped this event and give a particular mention to the Clare Valley Wine and Grape Association, whose hard work has truly paid off yet again. It was a pleasure to meet with Anna Baum, Ali Paulett, Hilary Mitchell, Penny Lion and Wayne Butcher, representing the Clare Valley Wine and Grape Association. I met them together with my federal colleague Senator Don Farrell.

The Clare Valley SCA Gourmet Week is now celebrating its 38th year. This event runs from 13 to 22 May and can now officially be touted as Australia's longest running wine and food festival. Indeed, there is still time, perhaps this weekend I might even suggest, for honourable members to make their way to the Clare Valley and enjoy this wonderful experience, with so many events held at wineries and restaurants across the region.

TREATY

The Hon. T.A. FRANKS (14:33): I seek leave to make a brief explanation before addressing a question to the Minister for Aboriginal Affairs on the topic of Treaty.

Leave granted.

The Hon. T.A. FRANKS: In the previous government, in April 2017, a Treaty consultation paper was distributed under the auspices of the then Treaty commissioner and on behalf of the then minister and government about Treaty. It asked the questions: do you want a treaty, should there be a single treaty for all Aboriginal South Australians or multiple treaties with different groups, and what are your ideas about what could happen next?

My question to the minister is: will this Malinauskas government be reinvigorating that particular debate and will there be potential for a single treaty as well as multiple treaties as we progress towards Treaty in this state?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:34): I thank the honourable member for her question. It is a very good question. Certainly, after the statewide consultation to which the honourable member referred the approach that was initially taken by the former government was embarking on negotiations with individual Aboriginal nations as a starting process. I know the government at the time turned its mind to the possibility and the desirability, and perhaps even with a legislative framework around it, of an overarching set of principles or an overarching treaty with Aboriginal South Australians, as well as individual agreements that talked about the responsibilities of government to individual nations.

Certainly, that is much more consistent with the approach that has since been taken in Victoria that have started on the treaty process. In response to the honourable member's questions, of course, what we do from here on in will be informed by what we have done in the past, but it will also be informed by what's happened interstate and by some of the thinking that was around even at the time before about the possibilities, whether it is legislative framework or an overarching agreement as well as individual treaties with individual nations.

TREATY

The Hon. T.A. FRANKS (14:35): Supplementary: does that mean that a single treaty and multiple treaties could occur concurrently under the Malinauskas government treaty proposals?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:35): In answer to that: broadly, yes, you could have individual nation agreements as well as an overarching principle or agreement.

PLANT PROTEINS PROJECT

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:36): I seek leave to make a brief explanation before asking the Minister for Primary Industries and Regional Development a question on plant protein.

Leave granted.

The Hon. N.J. CENTOFANTI: On 1 March 2022, it was announced that South Australia was set to be home to the largest pulse protein ingredient manufacturing capability in Australia thanks to a $113 million funding package from the Morrison government and a $65 million contribution from the former Marshall Liberal government. The Australian Plant Proteins project is worth a total of $378 million. My question to the minister is: will the minister give her assurances that a Malinauskas Labor government will honour the $65 million commitment made by the former Liberal government to ensure South Australia becomes a powerhouse in plant protein manufacturing?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:36): I thank the honourable member for her question. The extent, I am advised, of PIRSA's involvement in the plant-based protein program is that SARDI has developed a program of research to support the South Australian grains industry to meet its 2030 vision to position South Australia as a global leader in plant-based food research.

I am advised that the plant-based protein program is underpinned by two key projects: foundational research for a new pulse protein industry, and the plant-based food incubator. The main aims of these two projects are to develop new high-protein ingredients from pulses and grains, understand opportunities for genetic improvement and agronomic management of high-protein pulse crops in South Australia, and provide research and development and infrastructure to support the development of plant-based foods. That is the involvement of PIRSA through SARDI in this very exciting program.

PLANT PROTEINS PROJECT

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:37): Supplementary: can the minister give her assurances that the Labor government will honour the $65 million commitment to the Australian Plant Proteins project?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:38): I am happy to refer that question to the relevant minister in the other place.

ABORIGINAL AND TORRES STRAIT ISLANDER ANZAC DAY DAWN SERVICE

The Hon. J.E. HANSON (14:38): My question is to the Minister for Aboriginal Affairs. Will the minister inform the chamber about this year's Aboriginal and Torres Strait Islander ANZAC Day dawn service?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:38): I thank the honourable member for his question and his ongoing interest in this area. This year, the ANZAC Day dawn service at the War Memorial on North Terrace before the ANZAC Day service at the Aboriginal and Torres Strait Islander memorial had the theme of Aboriginal and Torres Strait Islander Services, focusing on remembering the often unacknowledged sacrifice of Aboriginal men and women who defended their country.

The RSL in South Australia hosted the commemoration on North Terrace with the assistance of Aboriginal Veterans SA, and some moving stories were shared about the many Aboriginal men and women who had served their country. Many Aboriginal and Torres Strait Islander people were involved in this year's dawn service, including Aboriginal Army Chaplain Ivan Grant from New South Wales, veteran Uncle Frank Lampard, Flight Lieutenant Steve Warrior, an Aboriginal man currently serving in the Air Force, and the Welcome to Country was very well performed by Jack Buckskin on ANZAC Day on North Terrace. A moving performance was given by Tony Minniecon of Vonda Last's song, *For Love of Country*.

It was particularly significant to see the entire catafalque party standing guard at the service, being all Aboriginal and Torres Strait Islander service members. For the last few years, many have also gathered after the dawn service on North Terrace at the Aboriginal and Torres Strait Islander War Memorial at the Torrens Parade Ground to specifically acknowledge and remember the contribution of so many Aboriginal servicemen and women.

It is difficult to know exact numbers of those Aboriginal people who served due to historic policies at times gone by dissuading or outright refusing to allow Aboriginal people to enlist, leading to many Aboriginal people being silent on their heritage in order to serve. It is estimated that over a thousand Aboriginal people enlisted during the First World War and well over three times that number during the Second World War. Aboriginal people have served in Korea, Vietnam and Afghanistan as well as in peacekeeping missions. I saw it reported that Aboriginal people have served in every conflict Australia has been involved in since Federation.

The memorial at the Torrens Parade Ground acknowledges the service of Aboriginal and Torres Strait Islander peoples in all these wars and, as I said, many peacekeeping missions. The Aboriginal and Torres Strait Islander War Memorial was established in 2006 by the Aboriginal and Torres Strait Islander War Memorial Committee as prior to that there was no major memorial recognising such service of Aboriginal people. The chair of the committee, Marj Tripp, led an effort over seven years to erect the memorial, which was finally unveiled in 2013.

The trailblazing committee was made up of both Aboriginal and non-Aboriginal veterans and friends, including Marj Tripp AO, Frank Lampard OAM, Frank Clarke, Gil Green, Les Kropinyeri and Uncle Lewis O'Brien. Other committee members included Professor Lowitja O'Donoghue as the Vice Patron, Rosslyn Cox, Janine Haynes, Bill Hignett, Jennifer Laythe, Alison Martens, Michael Mummery, Ian Smith, Jock Statton and Mark Waters.

Further to the work of this committee, there was also an Aboriginal and Torres Strait Islander War Memorial appeal made up of a group of prominent South Australians who raised funds for this memorial. The appeal was co-chaired by Sir Eric Neale and Bill Denny. The memorial itself was designed and created by Lee-Ann Tjunypa Buckskin, Tony Rosella, Michelle Nikou, Tim Thomson and Robert Hannaford and is situated at a significant place for the Kaurna people beside the Torrens.

I hope this focus on acknowledging the service of Aboriginal and Torres Strait Islander people, especially in light of many of the injustices faced at the time and ongoing today, continues in ANZAC services to come.

POKER MACHINES

The Hon. C. BONAROS (14:42): I seek leave to make a brief explanation before asking the Attorney, representing the Minister for Consumer and Business Affairs in the other place, but also in his own capacity, a question about poker machines.

Leave granted.

The Hon. C. BONAROS: A report undertaken by South Australia's Liquor and Gambling Commissioner, Mr Dini Soulio, late last year but only tabled in parliament last sitting week makes for some disturbing reading. It revealed that a massive spike in poker machine losses saw the government reap a $120 million revenue windfall in 2020-21, with total gaming taxes collected last financial year topping a record $320.4 million. More disturbingly, the report found the $769.8 million lost through these devices in 2020-21—one year—was a 50 per cent increase, or more than $250 million, on the previous financial year and the highest reported loss since 2006-07.

The report noted that as of October 2021, South Australia's poker machine dens have the capacity to operate 13,721 gaming machines, 640 more than the legislated target. The report also revealed a statutory goal legislated in 2013 to reduce the number of poker machines that can be operated in South Australia to 13,081 is unlikely to be achieved. My questions to the Attorney are:

1. What is the newly installed Labor government going to do to stop the scourge of poker machine gambling in this state?

2. How do you intend to address the 640 poker machines operated in this state that are above the legislated number?

3. When can we expect to see a response from the government to the revelations exposed in the report by the commissioner?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:44): I thank the member for her question and her longstanding consistent interest and advocacy in this area. As she did correctly point out, it is the responsibility of my colleague in another place, the Minister for Consumer and Business Affairs, in terms of the issue to do with poker machines. It would probably be brave and unwise for me to wander into someone else's portfolio area, so I will refer those to the minister in another place and bring back a response.

GENDER-SPECIFIC LANGUAGE

The Hon. D.G.E. HOOD (14:45): I seek leave to make a brief explanation before asking a question of the Attorney-General regarding gender-specific language.

Leave granted.

The Hon. D.G.E. HOOD: It was recently revealed that the official Australian Labor Party's national platform has removed the words 'mothers', 'breastfeeding' and 'pregnant women' from its platform. Its revised policy now utilises non gender-specific words such as 'people' and 'individuals' in their place in the context of pregnancy-related matters.

Women's rights advocates have since criticised the ALP's move to eradicate female-specific language, with one such advocate questioning whether the party, and I quote directly, 'acknowledges and respects the existence of women, their unique experience of pregnancy and motherhood, and the fact of biological sex'. My questions to the Attorney are:

1. Does the Attorney-General support the ALP's actions to remove the words 'mothers', 'breastfeeding' and 'pregnant women' from its national policy platform in favour of non gender-specific words?

2. How does the Attorney-General justify the ALP's actions in response to women's rights advocates?

3. Will the Attorney-General commit to retaining the use of the words 'mothers', 'breastfeeding' and 'pregnant women' in South Australian legislation?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:46): I thank the honourable member for his question. Certainly, as a matter of course, I am in favour of language that's always as inclusive as possible. I am not responsible to this chamber, or in fact anywhere else, for what federal Labor has in their policy, but I am certain that if the honourable member has a concern he could take it up with the federal Labor Party.

GENDER-SPECIFIC LANGUAGE

The Hon. D.G.E. HOOD (14:46): Supplementary: will the Attorney commit to maintaining the use of those words—'mothers', 'breastfeeding' and 'pregnant women'—in South Australian legislation that he presents to this place?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:46): It's a hypothetical question about legislation that may or may not be presented in the future.

SHEEP BLOWFLY ERADICATION

The Hon. R.P. WORTLEY (14:47): My question is to the Minister for Primary Industries and Regional Development. Will the minister update the council on the state government's efforts to eradicate sheep blowflies from Kangaroo Island?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:47): I thank the member for his question and the ongoing interest of this chamber in Kangaroo Island. The Malinauskas Labor government is committed to supporting the agriculture and sheep industry on Kangaroo Island and will ensure it is protected, and that's why I am delighted to update the council on this exciting initiative in regard to sheep blowfly.

The South Australian Research and Development Institute (SARDI) will be leading a $3.45 million pilot program aimed at producing sterile flies used for the eradication of sheep blowfly on Kangaroo Island. Sheep blowfly can cause flystrike, which is a disease that affects the health of sheep, particularly the wool, and causes significant economic loss. In fact, I am advised that nationally sheep blowfly causes roughly $284 million a year in economic damage to Australian livestock producers, and that's why it's critical for the state government to support this pilot program.

Set up for the facility to develop a sterile insect technique for sheep blowfly will commence shortly and this will be the first facility, I am advised, in Australia that focuses exclusively on blowflies. By 2024, up to 50 million flies a week are scheduled to be released by the Department of Primary Industries and Regions on Kangaroo Island. In the first instance, we will see the production of a few hundred thousand flies a week but that will eventually move to producing millions a week once the set-up is absolutely complete on Kangaroo Island.

Once this operation is underway, a reduction in sheep blowflies on Kangaroo Island should be recorded and this will reduce the need for traditional control methods such as mulesing and jetting. This will improve the welfare of Kangaroo Island's sheep flock and reduce the risks of control chemicals of flystrike by farmers, and this we know is of course beneficial for the island's precious ecology.

The flies will be released by plane and be able to cover the 4,500 square kilometres of Kangaroo Island. Small-scale experimental releases will take place in spring of this year, with the goal of completely eradicating the pest by 2026. The 18-month trial period will be used to establish the rearing facility and the start of experimental releases. It is expected that the area-wide implementation will be undertaken over 2023 to 2026.

The sterilisation of flies has been proven to be a very successful approach to pest management around the world. We very much hope that this process will be the same in relation to sheep blowflies, that they will be sterilised through exposure to radiation, using an irradiator designed specifically for sterilising insects. Once this process has been completed they will be released into the wild to mate, resulting in non-viable eggs, which result in reduced pest populations in the following generation.

If the Kangaroo Island project proves successful, a long-term goal can include for this method for sheep blowfly on the mainland. The Malinauskas Labor government will continue to ensure that we do everything that is required to ensure we protect the pristine environment of Kangaroo Island from pest species.

SHEEP BLOWFLY ERADICATION

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:50): Supplementary: can the minister tell the chamber when this excellent program was previously announced?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:50): The program is about to commence.

SHEEP BLOWFLY ERADICATION

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:51): Supplementary: when was the program announced?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:51): If it's been announced, I am sure that will be easily available via Google.

Members interjecting:

The PRESIDENT: Everybody stay calm.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Simms, when you are ready.

HOMELESSNESS

The Hon. R.A. SIMMS (14:51): I seek leave to make a brief explanation before addressing a question without notice to the minister representing the Minister for Human Services.

Leave granted.

The Hon. R.A. SIMMS: Last week, the University of South Australia, and I believe Housing Australia, released a report, *Beyond the Housing Crisis: A Home for All*, regarding South Australia's housing crisis. The report found that rental availability and affordability are at an all-time low across the country, with more than 6,000 people experiencing homelessness each night in South Australia and more than 30,000 people now on the state's housing wait list.

This is a dramatic increase from last year, when it was reported that 16,000 people were waiting for a home. I note that the Labor Party, when in opposition at that time, were very critical of the then Liberal state government's handling of the matter. Those numbers have doubled in a year. With vacancy rates low, finding suitable rental properties is very difficult. To quote Professor Beer from the University of South Australia:

> Rental availability is at its worst in South Australia where vacancy rates hit 0.2 per cent in March 2022.

Having a roof over your head is a basic human right, but here in South Australia our system is not coping. Survey data from the report shows that South Australians feel impacted by the housing crisis and do not think the government is doing enough. My question to the minister is:

1, What is the Malinauskas government doing to address the housing crisis, particularly for people who are unable to find basic rental properties?

2. Will the government commit to building more housing?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:53): I thank the honourable member for his very important question. I would expect that everyone in this chamber should be aware of the housing crisis that South Australia is facing, and elsewhere around the country as well. Certainly, in many regional areas in particular, in which I have a particular interest, I have been speaking with many people about the issues around housing and the increase in homelessness.

It is important to note that that homelessness is not simply confined to people who are sleeping rough on the streets, but many people who perhaps have a roof over their head tonight but it might not be available tomorrow—it might be a different one tomorrow. There are those terrible social impacts on individuals and on families, but there are also the impacts on the economy. We are finding, particularly in regional areas, that a lack of housing is preventing people taking up jobs in regional areas, which of course then becomes a vicious cycle.

Certainly, in terms of further detail I refer to my colleague in the other place the Minister for Human Services, but of course there were a number of announcements prior to the election in terms of what the Malinauskas Labor government will be doing in terms of housing, and I'm happy to bring back further information and detail to this place.

REGIONAL PUBLIC HOUSING

The Hon. R.A. SIMMS (14:54): Supplementary question: given the inadequacy of the government's housing plan, will the minister be advocating for more investment in housing for the regions?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:54): I am assuming that the member is referring to the inadequacy of the former government's plans, which I think everyone would agree were—

The Hon. R.A. SIMMS: Point of order: I was actually referring to the Malinauskas government's inadequate plan to build 400 public homes—totally insufficient.

The PRESIDENT: It's not a point of order; it's not how we deal with it. Minister, you answer your question and then, if you have a further supplementary, the Hon. Mr Simms will do that.

The Hon. C.M. SCRIVEN: I think, even if that wasn't the intent of this member's question, the feedback I have had about the former government was certainly that their plans were entirely inadequate and their plans for regional areas were—most people weren't even aware of any.

Of course, it's always important to be advocating for an appropriate level of housing and that includes social housing and all other levels of housing. It's important from, as I mentioned, a social point of view, from a rights point of view, as the member correctly pointed out, and also from an economic point of view.

COMMISSIONER FOR ABORIGINAL ENGAGEMENT

The Hon. J.M.A. LENSINK (14:55): My question is to the Minister for Aboriginal Affairs regarding the Commissioner for Aboriginal Engagement. Is Dr Roger Thomas continuing in the role of Commissioner for Aboriginal Engagement, as I understand his term of appointment is due for renewal?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:56): I thank the honourable member for her question. That's something the government will be considering.

COMMISSIONER FOR ABORIGINAL ENGAGEMENT

The Hon. J.M.A. LENSINK (14:56): Supplementary question: has the—

The PRESIDENT: A supplementary question arising from the answer, and this is again going to be not challenging me, Ms Lensink.

The Hon. J.M.A. LENSINK: Yes, sorry, Mr President, indeed arising from the answer. Has the minister met with Dr Thomas, and can he enlighten us on the topic of those discussions?

The PRESIDENT: You can choose to answer it or not.

The Hon. I.K. HUNTER: Point of order, Mr President: I think that question is entirely incompatible with the original answer. It would be a very long bow.

The PRESIDENT: I will decide—

Members interjecting:

The PRESIDENT: Order! Do you want to answer the question? No. Okay, now it's your turn, the Hon. Mr Hunter, to ask a question.

GRAHAM F. SMITH PEACE FOUNDATION

The Hon. I.K. HUNTER (14:57): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about the work of the Graham F. Smith Peace Foundation and the return of the Kaurna Reconciliation Sculptures to their rightful place at the entrance of the Adelaide Festival Centre?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:57): I can, and I thank the honourable member for his question. I know he has been a big supporter of that particular peace foundation. I was fortunate to speak at, earlier this year before the election, the return of the Kaurna sculptures to the entrance of the Adelaide Festival Centre, but in addition to that I was also fortunate, only on 5 May, to attend the Graham F. Smith Peace Foundation annual general meeting and Peace Dinner in North Adelaide. I would like to thank the member for Adelaide, Lucy Hood MP, who also attended that event.

The peace foundation in 2019 celebrated 30 years of awarding artists who change and challenge the world through their art. Leonie Ebert established this foundation as a legacy to the lifelong work of her late husband, activist and educator, Graham F. Smith. On the most recent occasion I was invited on behalf of the Graham F. Smith Peace Foundation to officially present the COVID-delayed 2020 Annual Peace Award to Malcolm McKinnon, producer and director for Reckless Eye Productions for the documentary *Beyond Sorry*.

The theme for this particular evening was 'Reconciliation—through truth telling', which indeed was a perfect theme for the night and the winner of the award. The particular film in question, Reckless Eye Productions' *Beyond Sorry*, set out to produce a film about Aboriginal and settler descendants coming together to confront legacies of violence from Australia's pastoral frontier and how these stories are more than just a historical construct. These stories that Mr McKinnon has told create great awareness of how the memories of colonial violence still resonate powerfully today, especially within the lives of many Aboriginal people still today. The film was influenced by the words of Charlie Perkins, 'We know we cannot live in the past, but the past lives in us.'

I was honoured to be able to present Mr McKinnon with the COVID-delayed 2020 peace prize award for the important documentary. I would also like to take this opportunity to thank Léonie Ebert, founder of the Graham F. Smith Peace Foundation, and Naomi Ebert Smith, chair of the foundation, for hosting such an incredible night to show the power of the arts and social change.

As I mentioned at the start, earlier this year I was fortunate to attend Kaurna Reconciliation Sculptures reinterring. I think there were a number of members of this chamber; I remember seeing the Hon. Tung Ngo and the Hon. Emily Bourke at the Festival Centre for the reinterment of the Kaurna sculptures earlier this year. They were originally commissioned by the peace foundation in 2002 and returned to their home at the entrance of the Adelaide Festival Centre after five years absence due to the redevelopment of the Festival Centre.

I had the good fortune earlier this year to speak at that occasion, along with the then Premier and member for Dunstan, Steven Marshall. These sculptures were gifted to the Kaurna people in recognition of their traditional ownership and custodianship of the Adelaide Plains. It is good to see them back as a focal point, recognising this ownership and communicating some of the Kaurna story in the heart of the arts here in South Australia in the CBD at the Festival Centre.

FRONTIER SOFTWARE CYBERSECURITY INCIDENT

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

Members interjecting:

The PRESIDENT: Order! Respect.

The Hon. F. PANGALLO: It's actually on the run, this one, so you may have to put the timer on.

The PRESIDENT: Don't let them put you off. The Hon. Mr Pangallo, please continue.

The Hon. F. PANGALLO: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about Frontier cybersecurity.

Leave granted.

The Hon. F. PANGALLO: Today, the Treasurer has tabled a ministerial statement in relation to the Frontier cybersecurity incident in November 2021, where a criminal organisation was said to have gained significant personal information of almost 80,000 state government employees, and a review was ordered by the previous Treasurer, the Hon. Rob Lucas, which was conducted by PwC.

The Treasurer today has outlined some of the findings of that review, and it appears that on top of the 80,000 government employees that had information illegally accessed there were a further 13,000 individuals whose details were accessed. In his statement, the Treasurer says:

> Frontier advised the government that it had inappropriately stored government payroll data on its own servers, contrary to its contract with the state government.

And:

> The estimated cost of this PwC review was $420,000…

The Treasurer advises that the cost to the South Australian government managing this process may exceed three-quarters of a million dollars by June 2022. The questions to the Treasurer are:

1. What does the issuing of a breach notice actually mean in the context of these findings to Frontier cybersecurity?

2. Who will be responsible for the costs of the review, which are now estimated to be close to three-quarters of a million dollars? Will it be taxpayers or Frontier security?

3. Will Frontier's security contract be extended or renewed?

4. Have there been other cybersecurity attacks since this one on other government agencies?

5. What were the demands that were made at the time of the attack to Frontier security by the criminal organisation that was involved?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:04): I thank the honourable member for what was a brief explanation and quite a number of questions, and I will refer those on to the Treasurer in another place and bring back a reply for him.

ELECTION COMMITMENTS

The Hon. H.M. GIROLAMO (15:04): I seek leave to make a brief explanation before asking the Leader of the Government a question about the government's pre-election promises.

Leave granted.

The Hon. H.M. GIROLAMO: The government's pre-election promises exceeded $3 billion in costing, with multiple claims that it could be paid without increasing amounts paid by taxpayers. With the recent increase in interest rates and the extravagant commitments, can the leader please explain to the house how they will ensure that taxes will not increase in South Australia?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:05): I thank the honourable member for her question. I think I can say that there is going to be a big difference between this government and the last one. The last government just didn't keep their promises; they had a habit of breaking promise after promise after promise. Very early on you looked at the government and there was an absolute commitment for a right-hand turn from North Terrace for a tram—dropped like a hot potato, an absolute rolled gold broken promise. Then you looked at one of the absolute signature policies designed to try to hold seats in the Adelaide Hills. I think it was our former colleague the Hon. David Ridgway's GlobeLink project that sought to take transport around the back to the Murray Bridge area. They dropped GlobeLink like a hot potato, a rolled gold promise—

The Hon. H.M. GIROLAMO: Point of order, sir.

The PRESIDENT: I will listen to the point of order.

The Hon. H.M. GIROLAMO: The question was specifically about the Labor Party, who are now in government.

Members interjecting:

The PRESIDENT: Order! There is no point of order. The minister is answering the question. I am sure he is going to bring it back to the substance of the question. You asked the question and it is his prerogative to answer it, with some relevance.

The Hon. K.J. MAHER: Thank you, sir. I am pleased that the honourable member allowed me the opportunity to talk about all the broken promises on her side over the last four years. In relation to the question she asked, she is exceptionally fortunate because it is only a couple of weeks and the budget will reveal all.

ELECTION COMMITMENTS

The Hon. T.A. FRANKS (15:07): A supplementary question: does the Labor leader's promise to keep the Labor Party's promises include those promises made to political parties?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:07): We are a government that will do what we have said we will do and keep our promises.

FORESTRY INDUSTRY

The Hon. T.T. NGO (15:07): My question is to the Minister for Primary Industries and Regional Development. Will the minister update the council on the state government's commitment to forest industries in South Australia?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:07): I thank the member for his ongoing interest in forest industries and in the South-East in particular. It gives me great pleasure to be able to update the council today on our government's plan for forest industries in South Australia. In fact, it is an exciting time for forest industries in South Australia, and that is the message I have been very pleased to have been receiving—very loud and clear—from industry. They were excited about the significant investment this government has committed to this critically important industry.

We know that over the last four years forestry hardly caught the attention of the previous government. I think someone said they could count on one hand the amount of times the previous Premier visited the South-East during his time as Premier, despite the region crying out for significant investment. In the lead-up to the recent state election we saw no direct policies announced by the former government relating to forestry.

The opposition does not even have a specific forestry portfolio in its opposition shadow ministry. If they did have a shadow minister for forest industries perhaps some of the interjections from across the chamber might have a little more relevance—

Members interjecting:

The PRESIDENT: Objections are out of order, as are interjections.

The Hon. C.M. SCRIVEN: —but they don't think it's important enough to even have a shadow minister for forestry or forest industries.

Members interjecting:

The Hon. K.J. Maher: You sold the trains while you still had a transport minister.

The PRESIDENT: The Leader of the Government!

Members interjecting:

The PRESIDENT: Order! Minister, please continue.

The Hon. C.M. SCRIVEN: As members of the council should be aware, but those opposite clearly frequently forget, the state's forest and wood products industry is an important economic contributor for the state, particularly in regional areas. According to the South Australian Forest Products Association, more than 18,000 people are directly or indirectly employed in the sector, with the industry contributing to a large amount of employment in the South-East region in particular. That's why in the lead-up to the state election Labor proposed significant policies that will assist the industry to grow.

We are in the process of delivering a new centre for excellence to create a long-term forestry research and development capability in Mount Gambier. I was very pleased to meet recently with key stakeholders about this commitment in Mount Gambier, and work is already underway to ensure delivery of this key promise. This is a project that will see $15 million over 10 years for a new centre of excellence to create a long-term forestry research and development capability in Mount Gambier, which will incorporate the National Institute for Forest Products Innovation and other forestry funding schemes.

It will provide long-term certainty for the industry, and this is something that the industry believes is key for continued growth. For those who have been involved in research programs around a product that takes 30-odd years to grow, they would be aware that that long-term certainty is absolutely crucial. This commitment will enable forestry researchers in South Australia to plan and recruit in a way that delivers long-term capability. This means additional research programs may be able to be delivered, and sustained improvements to the productivity of our forest and wood products industries will eventuate.

Another election commitment we are delivering on is providing $2 million to replace fire towers with new technologies. This commitment is to replace fire towers with new technologies such as camera technology to provide a landscape-level fire detection program. This investment will lead to improved speed and accuracy of fire detection, enabling early suppression to reduce the impacts of fire upon communities. This initiative will assist the industry in protecting key assets from fire outbreaks that have the potential to cause significant damage. Of course, there is then a flow-on effect to protecting local community assets as well.

Also on our agenda is our commitment to provide $2 million over three years to develop a forest products domestic manufacturing and infrastructure masterplan, which will include a focus on future skills needs. This is something that the industry has been asking for and I am delighted that we listened to their concerns and acted accordingly. I am very pleased that our Malinauskas Labor government is investing in the regions and providing certainty to this critical industry—an industry that was sadly ignored during the previous four years of government.

FORESTRY INDUSTRY

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:12): Supplementary: can the minister please inform the chamber on how many FTEs will be engaged by the centre for excellence, when the centre for excellence will be up and running, what the initial priorities for the centre for excellence will be, and what KPIs will be applied to measure the success or otherwise of the centre for excellence.

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:12): I am very glad to see that there is a newly discovered interest from those opposite in the forestry industry. In terms of the time frames and staff who will be involved, that is under contemplation at the moment. We are working closely with industry. As I mentioned, I met recently with key stakeholders in Mount Gambier and we are also in discussions with the University of South Australia about how this can best be delivered to utilise the existing services and capabilities that are there and ensure that we maximise the opportunities for forestry research going forward.

In terms of priorities, they will be developed in conjunction with industry. The honourable member may or may not be aware that for existing forest research capabilities there is a call for research and for research programs, and people then put in their proposals. That is chosen by an independent selection committee. I would expect it would be a similar type of process, but obviously

we are keen to be as flexible as possible to the needs of industry and to the future of this very important industry in the South-East of the state.

FORESTRY INDUSTRY

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:13): Supplementary: what KPIs will be applied to measure the success or otherwise?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:13): I'm a little surprised by that question, given the honourable member's background in a science-related field. Research is an area where we need to obviously apply to what the issues are and then investigate opportunities to address those issues. Sometimes, research will show that something does not work and therefore that's an important learning as well.

However, in a general sense, as I say, we have been in government for seven or eight weeks now and I have already met with key stakeholders. We are moving forward with the opportunities that are created by this superb announcement from the Malinauskas Labor government. We look forward to being able to continue to support the industry, and the feedback that we are receiving so far is that they are incredibly excited by this investment. They are incredibly excited by the commitment of this government to an industry which, sadly, was neglected in the previous four years.

FORESTRY INDUSTRY

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:14): Supplementary question: I think the member may have misunderstood me. I wasn't talking about the success or otherwise of the research projects themselves—obviously, research is extremely important in any industry—but the success or otherwise of the centre itself.

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:15): As I have already mentioned, all of the arrangements around the centre for excellence are currently in the early stages of development.

DUST DISEASES

The Hon. T.A. FRANKS (15:15): My question is to the Minister for Industrial Relations. Can he outline what he is going to be doing to address dust diseases, in particular with regard to silicosis and those stone benches that cause both disease and death in our state?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:15): I thank the honourable member for her question. It is indeed an important question. I will bring back a fuller answer, but I know that we have participated in South Australia in national guidelines in terms of dust disease, particularly as it relates to manufactured stone. Some of the conditions, in years gone by but even in recent years, that manufactured stone has been working under have led to a new round of dust diseases.

Of course, dust diseases cause lung damage that is permanent and irreversible and without a cure. So as we have had in years gone by asbestos-related lung diseases, we are seeing it with manufactured stone now. I will get a more complete answer, but I certainly have read since becoming minister the work that's been done nationally on national standards. It is certainly an important issue, and I will provide a fuller answer having a look at exactly where that is up to.

GAYLE'S LAW

The Hon. S.G. WADE (15:16): I seek leave to make a brief explanation before asking a question of the Minister for Aboriginal Affairs in relation to Gayle's Law.

Leave granted.

The Hon. S.G. WADE: At the last election, SA Labor released an Aboriginal affairs policy called Tarrkarri-Ana. Amongst other commitments, a commitment was made in the policy to provide $5.2 million over four years to implement Gayle's Law and maintain clinical health services on the APY lands. I ask the minister:

1. Has he engaged other community-controlled Aboriginal health services that are implementing Gayle's Law as to any resource issues they have in implementing Gayle's Law? In

particular, in the remote areas I would refer to the Oak Valley Health Service, the Pika Wiya Health Service, the Tullawon Health Service and the Umoona Health Service.

2. Can the minister assure the council that all Aboriginal-controlled health services will be able to access state government funding to implement Gayle's Law on a comparable and equitable basis?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:18): I thank the honourable member for his question. Of course, this resides as a responsibility for the Minister for Health in relation to remote Aboriginal health services, but I will say one thing: I can remember being, I think it was August last year, on the APY lands and meeting in Umuwa with the then opposition leader, the member for Croydon, Peter Malinauskas, the then shadow education minister, the member for Wright, Blair Boyer, and the then shadow health minister, the member for Kaurna, Chris Picton, where we had a meeting with Nganampa Health.

This was after Nganampa Health had written a number of times to the former Liberal government. I believe that correspondence had been addressed to the former Liberal government, both to the Attorney-General in relation to findings from coronial inquests and a number of times to the former health minister in relation to the implementation of Gayle's Law.

We saw a tragedy in the town of Fregon that we have spoken about in here before, when Gayle Woodford was tragically murdered. Gayle was, of course, a remote nurse. We had a lot of debate in this chamber and the other place, and I think very sensibly did the right thing and passed legislation in honour of Gayle Woodford that required more than just one nurse to see patients in many of these remote communities. It was absolutely the right thing to do.

What Nganampa Health had written to the former government over an extended period of time about was the fact that, in implementing what this parliament had passed, there would be costs associated with it. When you have more than one person required for a callout, there will be extra labour costs associated with enforcing that.

What the Nganampa Health service had written to the former government about, and I believe it went both to the Attorney-General and the former health minister, is that without extra funding Nganampa Health couldn’t stay open. It's not that they couldn't just implement the requirements of Gayle's Law, but they had written and put the former government on notice that the health service itself would close.

Do you know what the former government did, the former health minister? Nothing. They did nothing. The former health minister had been asked about this a number of times and: it's all a federal health issue with Yadu Health in Ceduna with their building. The former health minister said, 'No, it's Aboriginal health. It's completely a federal issue. Nothing to do with me.' We don't see it that way. We see the health care of Aboriginal people in South Australia as not just a complete and utter federal issue: we see we have some responsibility for that.

When Nganampa Health told the former leader of the opposition, the member for Croydon, Peter Malinauskas, that they would shut down the services to Aboriginal people in the APY lands if they couldn't get extra funding, the commonwealth did, I believe, a review where they sent people in for one day to look at everything across the APY lands to see what efficiencies could be done, if extra funding was needed.

That wasn't what we decided to do—wash our hands of it and do nothing, as the former government did—we actually made a commitment. We made a commitment that if we passed laws that required these requirements for an extra person when nurses do callouts, then I think we have some responsibility, having passed that relative legislation, unlike the former government, to do something about it.

Matters of Interest

ELECTION CAMPAIGN

The Hon. J.E. HANSON (15:22): If you have ever followed a team or, for that matter, anyone else in sport, or even just worked in a team environment at the office or on a job site, you would know

there are certain superstars who hold up the sky. Any good team needs its captains, but a champion team is always more than that. Ask anyone who watches a one-point win by their footy team or has to stay back on a Friday to get the job done and they will tell you that it is the folks who play with heart, it is the ones who carry the team that we really like. Today, I want to celebrate them. I want to celebrate what they achieved at the last election.

Now the election is done, I often have people ask me, 'Did you win your seat?' and my answer to them is, 'We did.' As those here would no doubt be aware, I was not running. As an upper house member, I am up for election next time around. So how can I possibly win then? This election, literally thousands of people voted Labor, many of them literally for the very first time. In suburbs and towns and hamlets right across South Australia, people voted for candidates like Rowan Voogt, Ryan Harrison and Matthew Marozzi. They voted for Paul Alexandrides, Connor Watson, Trent Ames and Rick Sarre. They voted for Cressida O'Hanlon, Amy Hueppauff, Cameron Hurst, Belinda Owens and Alex Dighton.

These people will not appear on the members list in the assembly, but every single one of them put in untold hours on campaigns that changed the votes of more than one in 20 people in their electorates. For those at home, one in 20 is 5 per cent, and the fact is that for many of these people it was more like 9 per cent or close to one in 10. One in 10 people you walk past on the street, one in 10 people who catch your train, one in 10 people you work with changed their vote. This is hard stuff.

There is no doubt in my mind that many people voted for Labor policies—they voted in health, in education and the environment—but they did not do that by accident, they did it because of those who put in the one percenters, the hard gets, the unpaid overtime, the sacrifice of their own time or time with their families or just away from work, and they did it in service for the team.

But even our candidates, those who were unsuccessful on election night, did not do it on their own. They had their own heroes, their own unknown warriors, who played with heart, the ones they really like. I do not have time to mention them all, unfortunately, but I will selfishly name just a few who I worked with: Bianca Merenda, Simion Bugingo, Ryan Schumacher, Tony Pham, Peter Field, Sandra Harrison, Toby and Lachlan Priest, Peter Lamps and (yes, selfishly) Hollis Hanson and so many more.

The qualities of these people are as varied as they are vital to any team. It is not about phones called or doors knocked or really even street corners made: it is about the feeling you get when you ask someone to do the hard tasks, like asking someone to help put up corflutes in pouring rain or driving wind or drive hundreds of kilometres from their home at some sort of ungodly hour and then later, after election night, when they did not win, ringing them and asking them to take the corflutes down.

These are volunteers who helped form the Labor government. Suffice to say these are some of the best people you will ever meet, let alone campaign with. I thank them all sincerely today. Their efforts put Labor back into government after just four years. They put an extra legislative councillor in here and, frankly, made the world a nicer place to be in.

What does all this mean? Simply put, members in previously so-called safe seats, like Morialta, Heysen and Unley, even Black, will have to recommit to their electorates and deliver. If they do not—well, then the community may choose someone who will, who carries the team, who plays with heart. The really good message is this: these volunteers will be helping out federally, too, testing those in Boothby, Sturt, Grey and Mayo. The question comes down to this: did I win? No, but the team did, and now I know that South Australia is going to win, too.

TRADE AND INVESTMENT

The Hon. H.M. GIROLAMO (15:26): Today, I rise to speak on the importance of South Australia's trade and investment opportunities and the achievement of the Marshall Liberal government. The Liberals understood the importance of the trade industry. It was one of our top priorities during our time in government and in the lead-up to the election.

As the shadow minister for trade and investment and having previously worked as a chartered accountant, I understand the importance this portfolio has on the South Australian

economy. I have committed myself to continue the hard work of the former Liberal government, accomplished by holding the current government to account, as it is our legacy that sees Labor picking up a booming economy and record trade levels.

The Australian Bureau of Statistics recently released the trade statistics for March 2022. These figures show that, for the first time, South Australian exports have hit a record $13.7 billion. The data also shows that South Australia's trade industry has generated nearly $487 billion for our great state. These statistics are very impressive and should be celebrated. I ask: why has the government not made announcements to recognise the hard work of our wine, grain and livestock exporters, who work hard to keep South Australia growing? Why? Because this success is attributable to the investment in the trade industry by the Liberal government.

In the last financial year, South Australia's trade industry, with assistance from grants and funding from the former Liberal government, created nearly 3,500 jobs and attracted over $703 million worth of investment in our state. During our time in government, the Liberals developed a specific trade office strategy that saw new trade offices opened in Tokyo, Seoul, Shanghai, Guangzhou, New Delhi, Singapore, New York, Houston, Dubai and San Francisco.

Our government, which understood the importance of international trade and export and how critical it is to the ongoing growth and overall success of South Australia, announced and budgeted for another new office in Paris. We are yet to understand if the Labor government will even keep the new offices operational. Importantly, will they progress with the opening of the Paris office?

As I have alluded to twice already, the Liberals understand the importance of the trade and export industry. When we were in government, South Australia saw merchandise exports reaching over $13 billion for the first time ever. We created new funding initiatives and grant programs to support 141 South Australian businesses to become exporters and to enter into new markets.

Our government also introduced the $5.4 million Wine Export Recovery and Expansion Program, which was created to help South Australian wineries by providing the tools and connections to target international markets. It has recently been reported that wine export figures have reduced in South Australia. Unfortunately, the Premier has only committed to 'turn his mind to' what can be done to improve this going forward. What this means for our wine industry and exporters is yet to be confirmed. There is no plan or commitment from the government to help reassure and support this critical industry.

Further to this, there were no trade policies in any of Labor's election commitments. What does this say about Labor's commitment to the industry as a whole? Are they expecting to ride on the coat-tails of Liberal successes?

In closing, I think it is critically important that we thank the hugely important exporters in our state. To the grains, livestock, horticulture, wine, seafood, forests and dairy sectors: you are major contributors to our state's economy and continuous growth. Thank you for what you do for our great state.

MURRAY-DARLING BASIN

The Hon. I.K. HUNTER (15:31): Today, I rise to speak about the Murray-Darling. It is a river that has been the lifeblood of our state since we settled here, of course. It is so important to everything that happens in South Australia in terms of our community, in terms of our economy and certainly in terms of our Indigenous history for many First Nations.

It is an integral part of what it is to be a South Australian to be involved in the Murray at some point in your life, whether it be an economic involvement, whether it be a tourism involvement or residential. It is fundamental to our state, and that is why it is so important to have, as best we can, a bipartisan approach when we have to go off to deal with other states who have, quite frankly, history of stealing water from the Murray, taking water without licence, overallocation of water to irrigators upstream and taking the view that South Australians' share of River Murray water just does not matter to them.

It is important that we, as a state, have a collective vision and a collective approach to bargaining at a national level. It does sadden me terribly to reflect on the last four years and the dropping away of that bipartisan approach in terms of the River Murray. I want to reflect a little bit

about that chiefly, but also on what the future might hold after Saturday and a potential change of government.

I can remember writing to Minister Barnaby Joyce regarding biased appointments to the Murray Darling Basin Authority. I can remember writing to and speaking to Deputy Prime Minister Barnaby Joyce about misallocations, unlicensed water taking, illegal flood plain harvesting, and quite frankly Minister Joyce's response was, 'Who cares? We are not going to do anything about it.' When I raised with Minister Joyce the 450 gigalitres of extra water that was negotiated under the agreement for South Australia, for the environment and the health of the river, he basically looked at me and said, 'Quite frankly, I do not see any way that that can be delivered under our government.'

That is a great shame for the state, but what was an even greater shame was that the state Liberal government—under the environment minister Mr David Speirs, now Leader of the Opposition—gave away, quite willingly, for next to nothing the only ace in the deck that South Australia held which was written into the agreement and then given away subsequently at a national water ministers meeting, which required the sale of water to only require willing sellers upstream. That was a key requirement that was built into the agreement. It was a key requirement that meant whatever the attitude of the New South Wales government, or the Victorian government for that matter, to further water coming down into South Australia, all that was required was willing sellers of water licence holders and that would be sufficient to find that 450 gigs.

However, the Hon. David Speirs, Leader of the Opposition in the other place, gave it away at his first meeting as water minister. He rolled over to being monstered by the other states and the Liberal National Party government in Canberra and just gave it up for a little bit of money that he was going to get anyway because that money was part of the state's unspent allocation on certain projects. I just found that entirely unbelievable.

We now as a state do not have any power because of that action that minister for the environment, David Speirs, took at the time. Nothing much has changed. When you have a federal government hijacked by the National Party, you will not get significant water change on the River Murray. The National Party holds the federal government to ransom, and when Malcolm Turnbull gave that portfolio to Barnaby Joyce he knew exactly what he was doing in that trade. It meant damning the agreement that was reached in 2012 over the share of allocations to not just state irrigators but also to the environmental water that was supposed to flow downstream.

New South Wales and Victoria acted hand in hand with the federal government to block South Australia's fair share of water. This was an environment minister who was pilloried by a royal commissioner for his actions. The royal commissioner could not believe that a minister of the state could give up South Australia's vital interests in such a way. It is a damning reflection on this Leader of the Opposition and will ever taint his leadership of the Liberal Party in this state; he gave up our rights to water in the River Murray.

STATE LABOR GOVERNMENT

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:36): I rise today to talk about the emerging character of the new Labor government, character quickly being overcome by arrogance. We saw it in their first week in parliament with the sniggering, sneering and sledging from the benches, the refusal to answer questions or dismissive responses. In the lead-up to the election, the now Premier said he was firmly focused on the future, but all I see now is a lot of the past resurfacing: the old Labor way of doing things—playing the blame game, less transparency, less accountability and jobs for the boys.

I thought it was telling that in the first week of question time there was little mention of Labor's positive vision for South Australia in either chamber. Instead, minister after minister rose to their feet to criticise the former government. With $3.1 billion worth of election commitments you would have thought the Premier, the Leader of the Government and their team would have had plenty to talk about.

We also saw the new government remove the 30-day deadline to answer questions with notice. This instantly reduces government accountability and raises an incredibly important question: what are they trying to hide? Then there is the retirement of the Hon. Russell Wortley, who accepted

an invitation from the Governor to attend a taxpayer-funded retirement dinner at Government House at the end of last term, only to run again for election and secure another eight-year term. This government clearly does not believe in being honest with the South Australian community; they clearly do not believe in being transparent with the South Australian community; and they clearly do not believe in being accountable to the people who showed them faith in electing them on 19 March—shame on them!

Over the past week it has also been revealed that long-term Labor staffers have been parachuted into high-paying public sector executive positions. I suspect that no merit-based process was involved. One appointment that raises eyebrows is the 10-person Premier's delivery unit, which will cost taxpayers $2 million a year. The Premier still has not explained why this exorbitant price tag is required for a job that he and his cabinet are already paid to do.

Speaking of delivery, one project the government seems hell bent on delivering, regardless of expert advice, is Southern Expressway's on/off ramps at Majors Road. Yes, this project was supported by the Liberals in the lead-up to the 2018 state election. However, once we came to government a feasibility study was conducted, which showed that the $120 million-plus project did not stack up. The conclusion of that study was:

> With no expressway interchange at Majors Road, travel patterns across the wider area may be less efficient than they might otherwise be. However, whilst an interchange may result in overall reductions in travel distance and time for a reasonably significant number of trips, these would not be sufficient to justify the cost of constructing it.

Put simply, the traffic gains are next to nothing and, without completing the north-south corridor first, on-off ramps at Majors Road would increase traffic on nearby roads such as Brighton Road and Adams Road. This does not even take into account that the current proposed design will rip a highway right through the middle of Glenthorne National Park, felling thousands of trees and shrubs, destroying precious habitat and open space, trashing mountain bike trails and marooning the brand-new Sam Willoughby International BMX Facility.

In chasing a quick headline in the lead-up to the state election, the Premier and the transport minister have arrogantly ignored the expert advice and want to push on with a project which will put a wrecking ball through a metropolitan national park which is home to koalas, echidnas, kangaroos and many species of rare woodland birds.

Metropolitan open space is currently at a premium, and to lose a large piece of it for a project that has been so soundly rejected by an independent feasibility study is madness. This project simply does not make sense whichever way you look at it and Labor's approach to it can be summarised in one word: arrogance.

Character is important in politics, character as individuals and character as collectives. This Labor government's character has clearly shown over the last few weeks that nothing has changed. There may be a few new faces, but it is clear to this chamber and to the South Australian public that the old Labor is back.

ROYAL LIFE SAVING SOUTH AUSTRALIA

The Hon. R.P. WORTLEY (15:41): Prior to the last election, I gave a commitment that I would donate the equivalent of the resettlement allowance paid to MPs who lose their preselection or their election. This is an entitlement paid to MPs who are not recipients of a parliamentary pension. The donation would be made to Royal Life Saving South Australia, regardless of whether I won or lost the position in the Legislative Council.

I chose the association because of the great work they do in teaching us how to swim, in particular our children. I have chosen to support multicultural swimming programs that aim to offer a variety of groups, including newly arrived refugees, asylum seekers, migrants and international students, the appropriate swimming skills to be safe in, on and around water. This will contribute to the prevention of the terrible drownings that we have been witnessing in the past years.

While I am sure nobody here today would question the importance of teaching young children how to swim and be safe around water, the previous Liberal government cancelled funding to the very body that exists to achieve those goals. They simply and inexplicably stopped funding Royal Life Saving South Australia. This is either a truly dangerous oversight or a shameful, calculated

economic decision. Why dangerous? Because young children learn to swim in swimming pools, almost at the exclusion of every other possible option, and the last thing we should be doing is cutting the funding to the organisation that gives our children the skills to swim.

Children in their infancy do not and could not reasonably be expected to learn to swim among the waves, tides and rips of the ocean and other water bodies such as rivers. I do not know of many people who did not learn to swim in a swimming pool with someone watching over them every second of the day. That is where I, and I would assume virtually everyone else here today, learned to swim.

Last year, there were a frightening and distressing 294 drowning deaths across Australia, from the coast to the rivers and swimming pools. The number was up 20 per cent on the previous year. The 25 drowning deaths of infants aged up to four years was up a staggering 109 per cent. That is an additional 13 preschool children who drowned. Who in their right mind then would want to take away funding for a body that works to make children safer in the water and help reduce these terrible drownings?

The services provided by Royal Life Saving South Australia are invaluable. They include education, training, health promotion, home pool inspections to guarantee safety or give advice on ways to improve it, patrol services for inland waterways and Inclusive Swim, a program that helps people of all abilities learn to swim at a level at which they are comfortable. Royal Life Saving South Australia also supports Hills Swim School, a program based at Blackwood in which youngsters from surrounding Hills areas with limited access to pools and the beach are taught swimming and water safety skills.

While Royal Life Saving SA is expected to pass the tin around to raise funds for this tireless work, the previous Liberal government took the very strange step to close the Strathmont Centre pool. This is the facility set within an expanding inner north area, where many children, including those with disabilities, have for a long time learned to swim. So many children with disabilities received their vital therapeutic treatment that was also the only respite they received, which was obvious by the enthusiasm in the pool and the smiles on their faces.

I have held discussions with the CEO of Royal Life Saving SA, Jayne Minear, and I look forward to handing over my donation at the swimming class attended by our children from the multicultural community.

GONIS, MR B.

The Hon. F. PANGALLO (15:45): With a heavy heart, I would like to pay tribute and acknowledge the enormous community work of the late Bill Gonis OAM, President of the Greek Orthodox Community of South Australia, a respected public servant and a pioneer administrator in South Australia's taxi industry. It came as a shock to all of us who knew and loved Bill when he passed away two weeks ago from complications following heart surgery. He was just days shy of 63, with a lot more to give.

There were glowing and deserved tributes to Bill at his funeral last Thursday. As you would expect from a person who touched so many, the Greek Orthodox community's cathedral in Franklin Street was packed to the rafters. Among those attending the celebration of Bill's life were the Premier, the Hon. Peter Malinauskas, who spoke about Bill's engaging personality and sense of giving; the Hon. Tom Koutsantonis; the Hon. Andrea Michaels; my colleague the Hon. Connie Bonaros; the Hon. Jing Lee, who had much to do with Bill in her capacity as the multicultural representative in the previous Marshall Liberal government; the member for Morphett, Stephen Patterson; the Mayor of West Torrens, Michael Coxon; the member for Adelaide, Steve Georganas, the Chair of South Australia's Multicultural and Ethnic Affairs Commission, Adriana Christopoulos; and prominent Adelaide developer Theo Maras. Such was the mark of respect for Bill.

Leading the tributes were his daughter, Betty, and son, Peter, who spoke of their father's love for family, so much so that they all resided in the same street in Plympton, his selfless work in the community not just to the Greek community but also his dedication to making life brighter for residents at the Julia Farr Centre every Christmas, where he would visit with presents and that welcoming smile of his.

If there was a needy cause in our community or wider that needed a helping hand, you could be assured the first to raise theirs was Bill Gonis. He would work tirelessly to ensure it was a success, like the fundraising efforts for victims of bushfires here and his homeland in Greece. Nothing was too difficult for Bill. He made things happen with his easygoing and engaging approach. He was a champion of philhellenism.

For the past eight years, as president of the Greek Orthodox community of South Australia, he led that organisation in exemplary style and steered it through some occasional turbulent waters with his commonsense, collaborative style that endeared him to so many. Bill worked hard to try to mend the bridge of differences between his organisation and that of the Greek archdiocese of Australia.

Speaking on behalf of my fellow board members of the Gold Foundation, a charity not-for-profit set up to help families and children with neurodivergent disorders like Asperger's syndrome, we are all so indebted to Bill and the Greek Orthodox community of South Australia for providing a splendid centre—a home—for us at the Camden Community Centre in the City of West Torrens. Its work is enriching so many young lives and providing them with hope and opportunities. The GOCSA revived the once struggling centre and its facilities are now also open to a range of community activities and for the disability sector. That is the kind of visionary Bill and his team were.

After his family migrated from Greece, Bill began his working life in South Australia as a cabbie. You probably could not ask for a better informed, cheery and talkative person to have pick you up than Bill Gonis. He went on to become a leading administrator in the industry as well as being one of the driving forces in the establishment of Adelaide Independent Taxis.

Bill's advocacy also led to the introduction of a fleet of cabs for disabled persons. Bill's skills and knowledge were so highly regarded that he represented the Australian taxi industry and the Taxi Council of South Australia at an international level and were recognised with his Order of Australia award. Bill kept telling me, over the past year, of his intention to retire this year and spend more time with his family. I would often rib him and say, 'Bill, you're just not the retiring type.'

South Australia is a better place thanks to the often unsung but invaluable and generous contributions made to so many by Bill Gonis. His efforts will always be remembered far and wide. I know that those in this chamber who knew and met Bill would join me in passing on the Legislative Council's sincerest condolences to Bill's family—his wife, Christine, children Betty and Peter, and the grandchildren he adored so much—as well as extending our sympathy to the Greek Orthodox community of South Australia.

Motions

QUESTIONS ON NOTICE

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:51): I move:

That, during the present session, once a notice of question has been given and placed on the *Notice Paper* pursuant to standing order 98b, an answer to the question shall be delivered to the Clerk, pursuant to standing order 98c, not more than 30 days after the date on which it had been first printed on the *Notice Paper*.

It has become apparent early in this parliamentary term that the Premier, Peter Malinauskas, the Leader of the Government in this house, their ministers and the Labor government want to keep South Australians in the dark. In their true form, Labor is once again showing their contempt for democracy by not continuing with the Liberal government's changes to parliamentary sessional orders.

When we came to government in May 2018, we—that is, the then Liberal government—committed to being transparent and accountable to the South Australian people and implemented changes to the sessional orders, ensuring that questions with notice receive answers within 30 days—within one month. We did this because it was the right thing to do, because it was the honest thing to do and because it was what the people of South Australia deserved.

Mr President, let me step you through the history of questions on notice in this chamber from 2014 to 2022. Between 2014 and 2018, when Labor was in government and the Leader of the Government in this place was a minister in the Weatherill government—and indeed also Leader of

the Government during that time—there were 138 questions taken on notice. Of those 138 questions only 52 were answered.

I am sure all of us can do the maths to work out that 86—or roughly two-thirds—of those 138 questions were not answered, delivering an answer rate of just 37.7 per cent. Essentially, for every two out of three questions that the Labor government promised they would bring back an answer for, they did not. The stats do not lie.

Let me move to between 2018 and 2022. Between 2018 and 2022, when the Liberals were governing this chamber, when the Liberals ensured we were transparent and accountable by changing the sessional orders, there were 173 questions taken on notice. Of those 173 questions taken on notice all of them were answered—I repeat: all of them were answered. We had an answer rate of 100 per cent. Not only were they answered but the answers were given in a timely fashion, because we believe in being transparent.

This current government clearly does not believe in being honest with the South Australian community, they clearly do not believe in being transparent with the South Australian community and they clearly do not believe in being accountable to the people who showed them faith in electing them on 19 March—and shame on them.

We have already seen in this chamber, two weeks ago, that they are not prepared to answer our questions and, what is more, using every excuse under the sun to not answer our questions. Is this what they think the people of South Australia deserve? Well, I hope not. The Labor government promised that they would hold their government to a higher standard, but those promises, like most of the promises we see from the Labor Party, are empty.

I stand here today to say: enough is enough. I did not want to move this motion. I went to the Leader of the Government and I asked him to move this motion himself, but he, his Premier and his government refused. So again, I stand here today moving this motion to ensure that the Malinauskas government is held to account and that questions on notice are answered within what I think is a very reasonable time frame of 30 days.

I am sure the public of South Australia also think it is reasonable to have questions answered within a 30-day time frame. We could do it when we were in government; I am not sure why they cannot. It is a sad state of affairs when the opposition and the crossbench have to force the government to be open, accountable and transparent to the people of South Australia.

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

ADELAIDE DOLPHIN SANCTUARY

The Hon. T.A. FRANKS (15:56): I move:

That the Environment, Resources and Development Committee inquire into and report on further legislative and policy measures to better protect the dolphins in the Adelaide Dolphin Sanctuary and the Port River, with particular consideration to be given to:

1. Limiting dredging;
2. Banning heavy gauge fishing practices and the use of large hooks, live bait and trawling;
3. Larger fines for industry discharge into the Port River;
4. Further speed restrictions on the Port River;
5. Increasing marine safety officers and park rangers;
6. Installation of shellfish reefs;
7. Regular and increased water quality monitoring; and
8. The impact of the die-off of mangroves and saltmarsh at St Kilda on the Port River dolphins.

Today, I rise to speak on an issue that I have spoken of in this place before, but I do so with a call to action. The bottlenose Port River dolphins are a much-loved feature of the Port. Although the Adelaide Dolphin Sanctuary was created in 2005, as we well know the Port River dolphins are still dying. The pod once numbered 30 to 50 dolphins; sadly, those numbers continue to dwindle. There may now be as few as between 10 and 12 dolphins remaining.

One of the dolphins, Mimo (also known as Squeak), who I have spoken of before in this particular chamber, has now died. This is a shameful state of affairs and it is time to rectify and explore what is going on. We need to conduct a review to ensure that we have a dolphin sanctuary, which we established through an act of this parliament, that actually does as that parliament intended: that it keeps this unique population of dolphins safe and that it gives them sanctuary.

I note that the original piece of legislation did not contain a review provision. I also note that at the time, back in 2004, the then environment minister, John Hill, spoke at the sanctuary and its purpose to 'provide for the long-term preservation of this significant marine environment'. From the outset, it was recognised that the Port River required management because of the 'complex, interrelated activities in the Port district'.

Indeed, living so close to industry does present unique challenges for this dolphin pod, but we must act to address these challenges and we must explore just what is going on that is harming these dolphins. The different needs of those who use the area of course must be balanced, and what we need is potentially a rebalancing to specifically also meet the needs of the dolphins.

From the outset, there has been widespread engagement and support for the sanctuary from both industry and community. I believe nobody wants to see harm come to these dolphins. Back when the dolphin sanctuary was established, people were shooting and deliberately harming the dolphins; however, I do not believe we have that culture left in this region anymore. Most of the community, almost without exception, I believe, supports the sanctuary.

The Greens pledged to protect the Port River dolphins in our most recent election campaign, and we do hope to see a plan that keeps these dolphins safe. We have explored issues such as the racing and other events taking place in the area that puts the dolphins at risk. We are also concerned about the red tape that the Australian Marine Wildlife and Rescue Organisation faces so that they can perform rescues more quickly within the area of the sanctuary.

We also have grave concerns about the use of harmful fishing techniques and equipment such as gang hooks and trawling. We have welcomed the speed limits that have been put in place for some areas of the sanctuary, but there are still areas of the sanctuary for which there is no speed limit.

One such area, the North Arm, hosts racing events regularly. Boats will race through this area at speeds in excess of 160 km/h, speeds that would fatally injure any dolphin in their path. These races take place within the dolphin sanctuary and that is an area that is meant to be a refuge. The Greens are certainly keen to make sure that if racing and other events are taking place they are not putting dolphins in danger.

If a dolphin is injured or unwell, the Australian Marine Wildlife Research and Rescue Organisation currently has to get permission from the minister before they are able to treat that dolphin within the sanctuary. This is both time consuming and an unnecessary delay and can mean the difference between life and death for these dolphins.

If an animal is struck by a boat, entangled or needs medical attention, rescuers need to be able to act, and it is quite extraordinary that they find it more difficult to act in a timely way within the sanctuary than outside the sanctuary. This, to me, seems quite preposterous. They should not be left waiting while the bureaucrats arrive on site and reach a decision, all while a dolphin suffers.

I have spoken to those involved in these rescues, and their frustration as they wait weeks, literally weeks and longer, for the bureaucrats to come up with responses is deeply concerning. The Greens' plan would reduce that red tape and would allow help to be given to the dolphins when and where they need it in a much more timely way, although I note that we are not here discussing a Greens' plan necessarily; we are discussing an inquiry into what can be done.

Dolphins have also shown signs of being caught up in fishing equipment, and heavy gauge fishing lines can get caught around a dolphin's mouth. This causes cuts and injuries, which can become infected. Sometimes it wraps in such a way that it actually means that the dolphin can no longer eat, and then they starve to death slowly, which is what happened to dolphin Star.

Fortunately, Star was freed from these nets, but she was later injured by gang hooks, which is thought to be what has killed her. The use of heavy gauge fishing lines, gang hooks and live bait

leads to injuries, and we certainly question their use within this sanctuary. The trawling that is currently undertaken in the sanctuary, including in the Angas and Barker inlets, the Port River and the inner port, also raises questions.

Our Port River dolphins are suffering. They are suffering from mysterious illnesses and they are suffering from government inaction. We need to come together and act before this dwindling population of dolphins dies out. The changes that the Greens have pushed for I believe would mitigate some of the harms that have been caused. What I have done today is I have brought a call to action for this parliament to find a way forward to strengthen the current sanctuary that we have, which back in the mid-2000s we all supported, and ensure that it is indeed providing the sanctuary that that parliament created.

The call to action today is for this parliament to undertake a review through the processes of a committee. My motion would be that the Environment, Resources and Development Committee inquire into and further report on legislative and policy measures that may be taken, looking particularly at the issues of dredging, banning heavy gauge fishing practices and the use of large hooks, live bait and trawling, whether or not fines for industry discharge are required to be raised, further speed restrictions that may apply, increasing marine safety officers and park rangers, the installation of shellfish rigs, regular and increased water quality monitoring and, of course, looking at the impact of the die-off of the mangroves there and the saltmarsh in neighbouring St Kilda on these dolphins.

I have called in this motion for the ERD Committee to look at that. That is a committee of this parliament that has members of this council and also of the other place, so it is a joint house committee of Labor, Liberal and Greens. I would hope that that might be the appropriate body to take a look at this, and I have certainly raised it in my first meeting of that committee.

Should that not be something this council would see their way to supporting, I would urge members to then consider a select committee of this council, the upper house, to do that work, but I would be hopeful that the ERD will be the appropriate place to, in a cross-party collaborative way, ensure that the Dolphin Sanctuary is indeed providing sanctuary and protection for the much-loved Port River dolphins. With that, I commend the motion.

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

Bills

TOBACCO AND E-CIGARETTE PRODUCTS (IMPORTING AND PACKING OF TOBACCO PRODUCTS) AMENDMENT BILL

Introduction and First Reading

The Hon. C. BONAROS (16:05): Obtained leave and introduced a bill for an act to amend the Tobacco and E-Cigarette Products Act 1997. Read a first time.

Second Reading

The Hon. C. BONAROS (16:06): I move:

That this bill be now read a second time.

I am pleased, on behalf of SA-Best, to introduce the Tobacco and E-Cigarette Products (Importing and Packing of Tobaccos) Amendment Bill, a replica of the bill that was introduced last year to address the severely inadequate penalties for the importation and packing of tobacco products here in South Australia that are illegal.

As I noted previously in this place, while legal tobacco consumption in Australia is decreasing, illicit tobacco consumption is an absolute booming trade. In its 2019 report on illicit tobacco in Australia, KPMG reported a massive 47.6 per cent increase in illicit tobacco consumption from the previous year. It amounted to 20 per cent of the combined tobacco market. That is 3.1 million kilograms, representing $3.41 billion of missed federal excise duty.

It is not even the financial implications that should concern us. There are, of course, very serious unknown health ramifications of the consumption of unregulated products, which have, in

many cases, likely been manufactured in standards that do not meet Australian standards, in overseas unregulated markets at very low cost and with little regulation, if any at all.

Just over half of the total illicit tobacco consumption in Australia in 2019 was contraband tobacco, legitimately manufactured by the owner of the trademark but smuggled into Australia to avoid excise duty. Almost 45 per cent was unbranded tobacco, often sold as finely cut loose-leaf tobacco, commonly known as chop-chop, and it is absolutely anyone's guess what the chemical make-up of these are.

The Australian tobacco market is one of the world's most regulated markets and for very good reason. There has been a huge campaign in Australia to decrease smoking rates, to warn the public of the health impacts of smoking, and it has been successful to a large degree. However, the lower penalties currently prescribed in the South Australian Tobacco and E-Cigarette Products Act 1997 and the high price of cigarettes makes it very appealing for those who have not been able to kick the habit, particularly when the cost of a packet of illicit cigarettes is around half of what a packet of cigarettes would otherwise cost you.

The penalties for the importing and packaging of illegal tobacco are absolutely laughable, completely inadequate and offer absolutely zero deterrence. There is an expiation fee of $500 and a maximum penalty of $10,000. This bill is proposing an expiation fee of $1,250 and a maximum of $50,000. That is a tenfold increase in terms of the penalty. Given the opportunity for substantial profits with very, very low risks, it is little wonder how freely available illicit tobacco is in South Australia and other Australian jurisdictions.

You only have to walk down a number of very well-known roads in Adelaide, walk into shops and supermarkets, ask for what is under the counter and you shall receive a packet of illegal cigarettes. Again, if you consider that a packet of legal cigarettes can cost you $50 these days, it is easy to see why the demand for these cheaper, inferior, unregulated products is high. It is a low risk for organised criminal activity. It is a booming trade in illegal activity.

It is $3.4 billion that we lose in excise. That money could be going towards health. It could be going towards myriads of issues, but it is money that we are effectively missing out on because those in the criminal activity world seem to be smarter than politicians in terms of how to make money. Given the very low penalties that apply, if I were one of these traders and I knew that I would cop a slap on the wrist, most likely an expiation fee of some $500 as opposed to even a criminal penalty, and I have a couple of hundred thousand dollars' worth of illegal cigarettes out the back, I know which I would take—if that were the kind of person I was.

Why face the lengthy prison term for pushing illegal drugs when you can also make big profits in the chop-chop trade? It is not just packets of cigarettes we are talking about. We are talking about loose-leaf tobacco sold as chop-chop, and that is rampant throughout South Australia. Raising the maximum penalty to $50,000, which prosecutors may elect to pursue, instead of simply issuing these expiation fees is at least a start, but clearly a lot more needs to be done. This work needs to be done at the federal level to figure out how we are going to stop losing $3.4 billion of excise every year to the illegal tobacco trade.

Smoking rates in Australia have been on a downward trajectory, particularly in the past 30 years, and they now sit at about 11 per cent, but those people who are still struggling are turning to these cigarettes because they are effectively affordable. What they do not know is what is in these cigarettes. What they do not know is the conditions under which they were made. They do not know the chemical compound that is in these cigarettes. They do not know if they were made in hygienic or unhygienic conditions. For these individuals who continue to smoke, it is an easy choice because this is an affordable product, but it does come with significant long-term risks.

I did not know how readily available these cigarettes are. I am about to admit to committing an offence in South Australia. I visited some of these shops and asked if they sold cigarettes. I thought it would be a difficult process. I visited two or three of them. I walked in and walked up to the counter. I said, 'Do you have cigarettes?' They said, 'Yes. What would you like?' I took a stab in the dark. I asked for a brand; they had that brand. I went to another shop; they did not have that brand. I asked for another brand. I walked away with about three or four packets from a couple of shops. Maybe it was just by chance that I managed to get them, so I sent a couple of other people in. I asked

them to do exactly the same. They also walked out with a couple of packets each. Between us, on one visit I think we managed to get five or six packets of these cigarettes.

The Hon. I.K. Hunter: So you get other people to commit an offence as well.

The Hon. C. BONAROS: I did indeed, as part of my research. So it turns out that it is actually very easy. If you know where to go, it is not something that is hidden, aside from the fact that it is under the counter. They are not on display in the shop—that would be in breach of our laws that do not allow us to display cigarettes—but there is certainly a drawer that is opened. In the case of the shops that I frequented, a drawer was opened. I could see what cigarettes they had in there. I told them what I would like.

But here is the really interesting part, and I wish I could have brought one as a prop but we are not allowed to have props: you could be forgiven for thinking that they are legitimate cigarettes but in many instances, and you would have to test this with a smoker, you find that they are literally fakes. Just like a fake handbag or a fake pair of Gucci shoes or a fake Dior purse, these are not manufactured by the manufacturers themselves. They are manufactured by other companies and mimic the real cigarette. For instance, it might look like a packet of Marlboro cigarettes but it is not actually a packet of Marlboro cigarettes made by the producers of Marlboro. They are actually fake cigarettes in many instances.

As it turns out—and I saw this on one of the packets—there are telltale signs of when they are fake because sometimes they look like a packet of duty-free cigarettes. They do not have our labelling laws because they completely fail to meet our labelling laws, but if you were in an international duty-free store and you picked up a packet of cigarettes and it had the small label on it, it looks like that—and some of them are marked with 'duty-free cigarettes' on there—but when you take a closer look at the cigarette itself, sometimes the logo and the branding are a little bit off, just like a fake Gucci bag. Sometimes the spelling of Marlboro or Davidoff or Winfield is a little bit off because the spelling is not entirely right.

They are clearly not even real cigarettes made by the manufacturer and sold here illegally; they are actually rip-offs of real cigarettes that are being sold illegally. It is quite remarkable. There are any number of places where you can get them in South Australia. I know I am making light of this, but it is actually a really serious issue because what we do not know is what is going into these cigarettes.

It is one thing for us to be buying Marlboro cigarettes that are intended for the duty-free market and sold here without meeting the requirements of our labelling laws, but it is quite another to be buying a packet of cigarettes that mimics Marlboro but is in fact not Marlboro and we have no idea under what standards and practices, including hygiene standards, those cigarettes have actually been made. There is an entire report that has been dedicated to this issue. Clearly, this is an issue that we should all be concerned about. I do not know how $3.41 billion has not got the attention of anyone else in terms of lost federal excise duties, especially given that they are so readily identifiable.

I went to a function one evening—I am not going to say where I was—and there were a number of smokers at this function. At least eight out of 12 people there were smokers. I was in a country town which was even more remarkable because I was trying to figure out where the heck they got these from in a country town. There was not one legitimate packet of cigarettes on the table amongst those people. Every single person at that event had an illegal packet of cigarettes with them, which I found extraordinary. Now, it might be the company I keep or it might just be that these cigarettes are so readily available that it is that easy to get your hands on them. I am telling you it is that easily available because, as I said, I have done it, I have walked in, I have bought them.

I just want to make one final point and then I will leave this to the committee stage when I will give you some more entertaining facts and figures then. These are not precise figures but I think it is worth members noting that, if one of these shops is selling a packet of cigarettes for $20 to $25, then the advice that I have had is that that packet of cigarettes at its maximum has cost that person $10 or $15.

So they are buying the illegal cigarettes for $10 to $15 and they are selling the illegal cigarettes for $25—that is a $10 to $15 profit on each packet of cigarettes. When you go to a

legitimate tobacco retailer, that packet of cigarettes might cost you $50. They are paying the $10 to $15 for the same packet of cigarettes and they are also paying another I think between $25 to $30 per packet in excise, so that is what it is costing them in excise. So if they are making $5 a packet on each of these regulated packets of cigarettes they are selling, then they are lucky.

There is not this huge profiteering in the selling of cigarettes, but it is certainly of concern and should be of concern to that market that they are paying, quite rightly, a huge amount of money in excise, which is going towards our health system, our roads, our education and whatever else, and the person down the road is buying them for $10 and selling them for $25 and making a clear $15 profit, and they are not meeting any legal obligations and they are presenting and posing a risk to the people ingesting those cigarettes.

I do not mean to make light of it, because it is not a laughing matter. From a health perspective it is actually quite serious. This issue has just, for the benefit of members, also come up in the Legislative Review Committee, which is due to report to this parliament on the issue of tobacco and cigarettes.

I raise it in the context of the laughable penalties that apply to this compared with the maximum penalties that would actually apply to somebody who tried to take a packet of legal cigarettes into a detention setting, because we have a maximum $10,000 fine here but if I were to go to Yatala and try to sneak in a packet of cigarettes to an inmate, I would face a maximum two or five years' jail—I cannot remember exactly (I will correct the record during the committee stage).

There is a significant maximum jail term that applies for trying to sneak contraband cigarettes into a jail, yet the illegal activity that is occurring right before all of our eyes on the streets of Adelaide is attracting an expiation fee of $500 and a maximum penalty of $10,000. I am urging members to consider this bill favourably. I will provide further details from the report when we get to the committee stage. With those words, I commend the bill to the chamber.

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

GENDER EQUALITY BILL

Introduction and First Reading

The Hon. C. BONAROS (16:23): Obtained leave and introduced a bill for an act to establish the office of the Commissioner for Gender Equality, to require certain entities to promote gender equality in the development of programs and delivery of services, to provide that certain entities prepare and implement an action plan to achieve gender equality in the workplace, to make a related amendment to the Fair Work Act 1994 and for other purposes. Read a first time.

Second Reading

The Hon. C. BONAROS (16:24): I move:

That this bill be now read a second time.

The Gender Equality Bill is a replica of the bill that enjoyed the majority support of this place in November last year, with only some minor tweaks caused by the new Legislation Interpretation Act, which are of no consequence. They are technical amendments to this bill. You will be pleased to hear that I do not propose to repeat the very long and detailed explanation I delivered last year.

In fact, at the risk of using a well-known phrase of the former Hon. Mark Parnell, you all know what to do. I am looking at the new government in particular when I say that because it was their support that secured the passage of the bill in this chamber last year. I will make a few key points to refresh the memory of members and to inform new members who have not had the benefit of the previous debate.

The bill provides an important opportunity for South Australia to build on our strong history of freedom, respect, dignity, tolerance and equality. It responds to society's increasing calls for change to take up the challenge of addressing gender inequality from where many trailblazing advocates left off.

The gender equality baton has been passed between us—the current generation of South Australian legislators—and I do not want to see the opportunity pass us by because, as we

know, gender equality is something that benefits every South Australian. It is a fundamental human right and a precondition of social justice that brings significant economic, social and health benefits. Gender equality is a precondition of the prevention of family violence and other forms of violence and may be compounded by other forms of disadvantage or discrimination, age, disability, ethnicity, gender, identity, race, religion and sexual orientation.

The bill provides for the appointment of a public sector gender equality commissioner to oversee and ensure the implementation of the bill and compliance and enforcement going forward. It is based on the Victorian model, which is the gold standard in terms of gender equality legislation of this model in Australia at the moment. Of course, Victoria has the benefit of a human rights bill, which we do not have. The Hon. Robert Simms might like to take that issue up for us so that we can make this bill even better in terms of having both that bill and this coexist in South Australia, which would bring us absolutely in line with the gold standard that exists in Victoria.

This bill gives relevant entities very clear obligations to set and meet gender equality targets. Each time a relevant entity develops or reviews a policy, program or service that has a direct and significant impact on the public, it will assess the relevant venture against criteria that inspire equality. They will then be required to conduct regular workplace gender audits and gender equality action plans, which must be published followed by progress reports. Targets and quotas are set by regulation and will be tailored to an industry or sector, and organisations will be required to make reasonable progress against them. Targets and quotas are needed because, if there is one thing we do know, they work.

To be clear, there are a lot of things that the bill does not seek to do. I spoke to those at length during the last debate on this bill, but it is important again to confirm for the record that it does not arbitrarily set targets or even provide the parameters for this, because it is intended to be highly customised to the gender equality challenges that any agency faces, and it does not dispense with merit, skills, abilities and attributes as prerequisites to employment.

What it does do is empower identified public sector agencies to build on the struggles of those who have come before us and to create a better world for those who are to come after us. I am going to seek leave to conclude my remarks because I think it is, for the benefit of all members, worth getting an update on where the Victorian model is at so that we can have some comparators when we are dealing with this bill during the committee stage debate.

Leave granted; debate adjourned.

Motions

PUBLIC AND ACTIVE TRANSPORT

The Hon. R.A. SIMMS (16:30): I move:

1. That a select committee of the Legislative Council be established to inquire into and report on public and active transport with particular reference to—

(a) the availability and quality of public transport, including:

(i) infrastructure and services in metropolitan and regional areas;

(ii) the impact of fares and frequency; and

(iii) the efficacy and impacts of on-demand public transport.

(b) the role of government in enabling and encouraging active transport, including:

(i) measures to enable more participation;

(ii) the effect on community health and wellbeing;

(iii) the effect on climate change mitigation; and

(iv) measures to improve safety for pedestrians and cyclists.

(c) the use of e-scooters and potential opportunities for expansion or further regulation;

(d) any other related matters.

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

The motion that I am moving today is to establish a select committee of this council to inquire into and report on public and active transport in South Australia. What I am proposing is for this committee to have a fairly broad remit; that is, look at the availability and quality of public transport, including looking at infrastructure and services in the cities but also in regional areas, the impact of fares and frequency, and the efficacy and impacts of on-demand public transport services.

I am also proposing that this committee look at the role of government in enabling and encouraging active transport, including measures that enable more participation, the effect on community health and wellbeing, the effect on climate change mitigation, and measures to improve safety for pedestrians and cyclists. I am also proposing that the committee look at the use of e-scooters and potential opportunities for their expansion or further regulation.

This is a timely committee because we have seen a change of government, and it is an opportunity therefore to put on the new government's radar, and indeed on the radar of this parliament, active transport. 'Why is that important?' you might ask. We are in the middle of a climate change crisis, and we know that one of the major contributors to carbon emissions in South Australia is road vehicles—motor vehicles. They are a significant cause of carbon emissions. If we are going to reduce those emissions, we need to look at what we can do to encourage active transport; that is, the use of bicycles but also pedestrianisation.

There are also some really important benefits that flow in terms of community health and wellbeing. We know that, if you walk and if you cycle, there are lots of important health benefits that flow. Really, these transport options are good for people and they are good for our environment, and we need to look at what we can do to incentivise and enable those alternatives to car travel.

We have had in South Australia, I think it is fair to say, a fairly unhealthy battle between cars and bicycles. Often we see this conflict between the two, between cyclists and between motorists. That is not helpful. It is not advancing good policy here in our state. Members might recall that in the last parliament I introduced a private member's bill to establish an active transport commissioner, who would encourage walking and cycling and advocate good policy based on a model that was implemented quite successfully by the government in the United Kingdom. These are the sorts of ideas that this committee might well consider as a way of encouraging more active transport, getting people to look at public transport and what some of the barriers might be to them using it.

The other point that I want to draw members' attention to is the inclusion of e-scooters. I do think e-scooters have been a very positive addition to our transport offerings in South Australia, but there are some challenges there as well. Obviously, from the perspective of the Greens, people using e-scooters is a welcome development because it reduces, again, carbon emissions. It reduces congestion on our roads and it provides opportunities for people to move around quickly.

However, there have also been challenges. One of the issues that is regularly raised with me, for instance, is the role of e-scooters on footpaths and what that means for pedestrian safety. There are also some significant regulations placed on these scooters at the moment: for instance, people cannot purchase them for private use, and can only use them through a ride-hiring arrangement. I am hoping this committee, if it is established, will address all these issues and come up with some really good ideas that could form the basis for further work here in this parliament. With that, I conclude my remarks.

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

Bills

CANNABIS LEGALISATION BILL

Introduction and First Reading

The Hon. T.A. FRANKS (16:35): Obtained leave and introduced a bill for an act to legalise cannabis and cannabis products, to regulate the sale, supply and advertising of cannabis and cannabis products, to make related amendments to the Controlled Substances Act 1984, and for other purposes. Read a first time.

Motions

INTERNATIONAL DAY AGAINST HOMOPHOBIA, BIPHOBIA, INTERSEXISM AND TRANSPHOBIA

The Hon. I.K. HUNTER (16:38): I move:

That this council:

1. Recognises International Day Against Homophobia, Transphobia and Biphobia on Tuesday 17 May that is also known as IDAHOBIT;

2. Notes that, since its first celebration in 2004, IDAHOBIT had drawn attention to the violence and discrimination experienced by lesbian, gay, bisexual, transgender, intersex people and all other people with diverse sexual orientations, gender identities or expressions and sex characteristics.

3. Congratulates the Malinauskas Labor government on its opposition to conversion therapy and its commitment to make sure that this practice does not occur in South Australia.

Yesterday, 17 May, marks IDAHOBIT, the International Day Against Homophobia, Biphobia, Intersexism and Transphobia. First celebrated as IDAHO Day in 2004, the name has expanded to highlight the ongoing discrimination faced by bisexual and transgender communities, part of our queer communities.

IDAHOBIT is acknowledged around the world as an opportunity for LGBTI people to celebrate their identities and to push for full equality, particularly in those countries where there is still pernicious legislation against them. Countries such as Brazil, Spain, Belgium, Mexico and the United Kingdom, on the other hand, all officially recognise that day nationwide. They are joined by institutions such as the European Parliament in formally marking and celebrating the day.

Regardless of the official status of the day, it is celebrated by LGBTI communities right around the world. It is a very important day for our communities, recognising our vibrant and diverse community as well as the discrimination that is still faced and the inequality that members of the community face on a day-to-day basis.

Recent years, of course, have seen remarkable progress in LGBTI rights in South Australia. Previous state Labor governments supported by members right across parliament—the crossbenchers and the Liberal Party—made sweeping changes to bring LGBTI people closer to the equality that we have sought for so long.

Legislation has been amended to remove discrimination against same-sex couples seeking to adopt and have children through surrogacy, as well as to enable transgender South Australians to change their birth certificates without having to go through unwanted surgery to do so. But beyond the formal policies and the laws, day-to-day discrimination faced by LGBTI people still persists in this state and elsewhere. Intolerance by increasingly small but very vocal sections of the community hurts our people grievously, particularly young people.

When people like Ms Katherine Deves, a Liberal candidate in New South Wales for the federal election—Prime Minister Scott Morrison's hand-picked candidate for the seat of Warringah—make bigoted statements in the public arena, it only fans the flames of hatred and encourages other people to go out and abuse LGBTI people. Ms Deves has apparently deleted her website and social media after comments surfaced of her comparing transgender activism to Nazism. This public bigotry does incite hatred. It does give permission for people to go out and attack LGBTI people, verbally and physically. It emboldens those who wish to go out and do harm.

Deves herself is emboldened by Mr Morrison backing her so strongly, backing her bigotry, and she now uses her platform to spread lies about gender-affirming surgery for children. Contrary to her alarmist comments—her inaccurate comments—which called gender-affirming surgery 'medical mutilation of children', these kinds of procedures are not even available to Australians under the age of 18 years, yet Ms Deves goes about her business calling this out as being a pernicious harm in our community. It does not happen. In fact, these procedures are not even available for adults to access easily, requiring medical and psychological assessments and referrals and taking a lot of time and commitment by people who want to go through this process. It is not done easily; it is not done in a haphazard fashion. It is done because people truly believe that their gender identity is different from their born sex.

We have seen transgender children dragged into the political crossfire by Ms Deves and Mr Morrison, as the federal Liberal Party considers a ban on transgender women's sport and transgender women participating in women's sport. I am just getting a little bit sick of LGBTI people being the political football of this prime minister.

Using our children, our young people, as cannon fodder in his own desperate desire for re-election is, in my opinion, despicable. It is cowardice. In fact, it is the kind of bullying and discrimination that IDAHOBIT was established to fight. With IDAHOBIT falling amidst a federal election cycle, the LGBTI community will not be divided by the cultural wedge in Scott Morrison's hate campaign. We just will not be. IDAHOBIT reminds us that LGBTI people of all ages and all identities should be proud and happy with who they are and their place in the society of our very diverse country.

I want to finish on a positive note. I note published in the *Star Observer* today: 'UK footballer Jake Daniels comes out as gay'. I just want to quote a few sentences. Blackpool striker Jake Daniels, 17 years old, has:

> …become the first active professional male football player in England to come out as gay in 32 years. Daniels came out in a self-penned essay which was published on the *Sky Sports* website.
>
> Daniels wrote, 'I just don't want to lie any more' and said he was inspired by Australian footballer Josh Cavallo, who came out last year.

That is our very own Josh Cavallo of Adelaide United. The article continued:

> 'Now is the right time to do it. I feel like I am ready to tell people my story. I want people to know the real me,' wrote Daniels. 'I have been thinking for a long time about how I want to do it, when I want to do it. I know now is the time. I am ready to be myself, be free and be confident with it all. And now I have decided to come out.'

I want to congratulate Mr Daniels. I want to congratulate Josh Cavallo for being a shining example to other young sportspeople. I want to congratulate all members of the LGBTI community who have found some support in the actions of brave young people coming out, and I want to support them through that process and fight the bigotry of the Scott Morrison-Deves anti-child behaviour, which I just find so disgusting. To target our young children for political gain is just despicable.

Debate adjourned on motion of Hon. R.A. Simms.

BUDGET AND FINANCE COMMITTEE

Adjourned debate on motion of Hon. N.J. Centofanti:

1. That a committee, to be called the Budget and Finance Committee, be appointed to monitor and scrutinise all matters relating to the state budget and the financial administration of the state, any related policy matter and any other related matter.

2. That the standing orders of the Legislative Council in relation to select committees be applied and accordingly—

   (a) that the committee consist of seven members, that the quorum of members necessary to be present at all meetings of the committee be fixed at four members; and

   (b) that this council permits the committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to any such evidence being reported to the council.

3. That members of the council who are not members of the committee may, at the discretion of the chairperson, participate in proceedings of the committee but may not vote, move any motions or be counted for the purposes of a quorum.

4. That members of the council who are ministers of the Crown are unable to serve on the committee or participate in committee hearings, except as a witness called before the committee.

(Continued from 4 May 2022.)

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (16:45): I rise to indicate that the government will support this motion. This motion continues the now reasonably longstanding practice of appointing a Budget and Finance Committee at the start of each parliament to allow opposition, crossbench and indeed government members to scrutinise the expenditure of the government. Having been a member of

this committee on and off over quite a long period of time now, I know it plays an important role and gives a regular opportunity for members of the Legislative Council to examine individual departments and their expenditure.

I think it had traditionally been moved by the opposition at the start of each parliament. I think for the first time I can remember, after the 2018 election the government moved the motion. Because it is a committee that is the domain of non-government members by and large, I have had some discussions with the Leader of the Opposition and I think it is probably more appropriate that the opposition move this, but I indicate that we will be supporting it.

Motion carried.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (16:47): I move:

That the select committee consist of the Hon T.A. Franks, the Hon. H.M. Girolamo, the Hon. J.M.A. Lensink, the Hon. R.B. Martin, the Hon. F. Pangallo, the Hon. I. Pnevmatikos and the Hon. S.G. Wade.

Motion carried.

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

That the select committee have power to send for persons, papers and records and to adjourn from place to place and to report on 30 November 2022.

Motion carried.

Bills

STATE ASSETS (PRIVATISATION RESTRICTIONS) BILL

Second Reading

The Hon. R.A. SIMMS (16:49): I move:

That this bill be now read a second time.

I rise to speak in relation to the State Assets (Privatisation Restrictions) Bill. This bill seeks to prevent the sale, disposal or lease of certain state-owned assets unless reviewed and recommended by a parliamentary committee and approved by both houses of parliament. Privatisation has had a disastrous impact on South Australia and it has been a bipartisan sport here in SA, a joint project of the Labor and Liberal parties. Both have an appalling record when it comes to selling off our state assets.

We have seen the negative outcomes of privatisation on South Australia's rail network, on our housing and our energy providers. Privatisation has resulted in degradation of infrastructure and a reduction in services. These things are well known and they are well documented. Past governments have seen privatisation as a measure to boost proceeds and to reduce spending, while the public have suffered the consequences.

In 2001, SA Unions argued that publicly owned assets and public services are funded by South Australians to meet the needs of the community, not to generate profits for corporations. We in the Greens agree. Last year, the ACCC chair, Rod Sims (spelt S-i-m-s, not a relation) said that privatising assets without allowing for competition or regulation creates private monopolies that raise prices, that reduce efficiency and harm the economy.

The privatisation of ETSA is one of the worst examples we have seen in South Australia. We all know the devastating impacts that privatisation project had on our state. It has delivered higher electricity prices and the public know it. Research from the Australian Institute back in 2019 found that 40 per cent of South Australians blame privatisation of our state-owned electricity provider as the single biggest reason for power price increases, while three out of five people (60 per cent) consider it to be one of the main sources of upward pressure on prices. That makes sense because we know that once you sell off a key asset you lose government control and you allow private corporations that are focused on making money to hike up prices.

In the 1990s, the Public Service Association warned that increased privatisation would result in profits being put before services, higher costs for taxpayers, less efficient services and a diminished revenue base for the state. These outcomes have been seen in the years that have

followed. It is our most vulnerable people who bear the burden of increased costs and diminished services.

As the cost of living continues to skyrocket as a result of inflation, we have a responsibility to consider in this place the impact of privatisation on public utilities that are relied on by all members of our community. This bill would act as an important safeguard for our public assets. It would ensure that governments cannot conduct future sell-offs without appropriate parliamentary oversight. We want to see community services being put before private profits.

Last year, the Select Committee on the Privatisation of Public Services in South Australia, which I had the honour to chair, heard from witnesses that there was a need for improved transparency measures in relation to current and future privatisations. Under this bill, any future attempts of privatisation of state assets would require the government of the day, whether it be Labor or whether it be Liberal, to convince both houses of parliament on the merits of the case and that would increase transparency and accountability.

I must acknowledge that this is not a new concept. A very similar bill was introduced in New South Wales by the Labor MP Daniel Mookhey and it passed the upper house in late 2021. As a result of that reform, New South Wales has seen greater parliamentary oversight over privatisation and that is considered a really important safeguard in that state.

I hope that we in this place will follow their lead. It is certainly my hope—hope springs eternal—that the Labor government will see merit in this proposal, given it has been advocated for by the Labor opposition in New South Wales, but that the Liberal opposition will see the merits of this proposal as well, because it is a safeguard that would operate irrespective of who is in government.

I do want to put the old parties on notice that we will be bringing this to a vote, not today obviously, but in the fullness of time I will bring it to a vote to test support for this very important proposition so that the people of South Australia can see who is in favour of stopping privatisation, who is in favour of more safeguards and who is supportive of the fire sale that we have seen over the last several decades.

Under previous governments, trams, trains, medical administration, the Remand Centre and service centres have all been privatised. We need to protect our state-owned assets from future cost-saving cash grabs. This bill enables future privatisations not to proceed without parliamentary approval. It ensures that there is more transparency, and that can only be good for the people of our state. I commend the bill to the Legislative Council.

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

HERITAGE PLACES (ADELAIDE PARK LANDS) AMENDMENT BILL

Second Reading

The Hon. R.A. SIMMS (16:55): I move:

That this bill be now read a second time.

I rise to speak in relation to the Heritage Places (Adelaide Park Lands) Amendment Bill, and I will keep this brief; I am conscious that members are probably sick of hearing my voice today. This is a very important bill. It seeks to add the Parklands to the list of South Australia's State Heritage Areas.

Members will recall I introduced an identical bill into the last parliament, and I was really delighted to see all political parties in this place come on board and support it. I am hoping that spirit will continue when this bill is brought to a vote in a coming parliamentary session. The Adelaide Parklands are an iconic and cherished part of our city. Adelaide remains the only city in the world surrounded by park; in fact, the world's first public park. Seven hundred hectares of park remain, but we must work hard to ensure that this unique part of our city is not lost. We know with our public green space that once it is gone we can never get it back.

In 2008, the Parklands received National Heritage listing by the then Minister for the Environment, the Hon. Peter Garrett MP. In 2009, the process began to ask the state Heritage Council to consider whether SA should follow the federal government's lead and declare that the Parklands are worthy of heritage recognition at a state level. Thirteen years on, we are still waiting.

A process of public consultation commenced in 2017, and it featured a record number of submissions in support of the state heritage listing. In 2018, the then state Liberal government committed to including the Parklands on the state heritage list following a recommendation of the state Heritage Council, yet here we are in 2022 and South Australians are still wondering when we will see our beautiful, rare, city green spaces included on the state heritage list.

The Parklands are subject to slow erosion. Often we do not even notice that it is happening, but the Parklands were once 930 hectares and are now only 700 hectares. They continue to shrink. Each successive generation loses a little bit more, and there is no way to fight it, no mechanism to reclaim it. That is why legislation like this is so important. The Malinauskas government has axed the former government's plan to build a stadium on our precious Parklands. We welcome this decision, but we need to do more to protect our green, open public spaces that circle the city.

State and World Heritage listings would send governments of both persuasions a clear message that the Parklands are iconic and they should not be the plaything of developers and vested interests. Our Parklands should not be for sale. The Adelaide Park Lands Management Strategy, which was endorsed by the Weatherill Labor government back in 2015, calls to maintain the culture and heritage of the Parklands through World Heritage listing. The Greens are supportive of those efforts, and we see this bill as being an important step.

The bill is a very simple one. All it seeks to do is include the Parklands on the state heritage list—something that is a prerequisite for a World Heritage listing consideration, I suggest. The Parklands are for everybody. The benefits are for all of us to enjoy. If our federal government can recognise their significance through heritage listing, why can't we? South Australians know how precious our Parklands are. They are the envy of cities around the world. We cannot wait any longer to protect our cultural, historic, Indigenous and environmental heritage through a bill such as this.

As I say, it was really encouraging to see the widespread support for this bill in the last parliament and I am hopeful that members will get on board with this bill when it comes to a vote in coming parliamentary sessions. With that, I conclude my remarks.

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

CIVIL LIABILITY (BYO CONTAINERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 4 May 2022.)

The Hon. H.M. GIROLAMO (17:00): I am pleased to be able to speak on behalf of the opposition and indicate we fully support the Civil Liability (BYO Containers) Amendment Bill 2022. This bill amends the Civil Liability Act to provide food sellers with immunity from civil liability from the use of reusable containers brought in by the customer.

I am speaking on this bill today as it relates strongly to the incredibly successful and nation-leading single-use plastic ban, an initiative by the Marshall Liberal government, and a testament to the Liberal Party's environmentally friendly focus and agenda. As the shadow minister for the circular economy, I am a huge supporter of waste reduction measures and I think there is a great opportunity here.

On 1 March 2021, South Australia became the first state in Australia to ban plastic drinking straws, stirrers and cutlery from sale, supply and distribution. In March 2022, the ban was extended to include polystyrene cups, bowls, plates and clamshell containers. This bill is a sensible next step in promoting reusable and recyclable options, as considerations continue in relation to banning more items as market demand increases and more sustainable alternatives become available.

This bill will allow customers to bring in their own containers and alleviate concerns about the seller's liability for consequences that are beyond their control—for example, where the customer does not properly sterilise the container or store the food in a safe manner once it leaves the store. The bill also includes proper safeguards to ensure that sellers are not immune from liability for

unlawful or negligent conduct. I thank the honourable member for persevering with this bill and I am glad to see it before this place again.

The Hon. E.S. BOURKE (17:02): I also join the opposition in supporting this bill on behalf of the government. I know the honourable member has been pushing this and so has his predecessor. The bill would amend the South Australian Civil Liability Act so that vendors who sell food and drinks to customers may do so using containers supplied by customers without fear of being held liable should a customer suffer an illness or injury caused by the use of the container.

The purpose of the bill is to remove barriers to the use of reusable containers and to encourage people to move away from single-use plastics. Many environmentally conscious customers already can and do bring their own takeaway containers when they go and get a coffee or meal. But what they may not realise is that currently businesses face legal risk every time they supply food or drinks in a customer's container. This risk could act as a deterrent for businesses who are otherwise mindful of their environmental impact and sustainability to facilitate customers' use of reusable containers.

The bill would give business owners peace of mind that their support of customers who making the environmentally friendly choice to bring their own containers will not cause them any legal headaches. Importantly, the bill also builds in protections for customers who are consistent with the South Australian Food Act. Customers would still have legal recourse should the seller's use of the container be negligent or unlawful or should they purchase food or drinks that have been recalled.

The amended bill clarifies a legal position of customers and businesses with regard to the reusable containers, and strikes a sensible balance between the respective interests. In doing so, it encourages customers and businesses to support the environmentally-friendly choices of BYO containers. This is important because the environmental and social impacts of plastic wastes are enormous and are well known within this chamber.

ABS data shows that in Australia only a small portion of plastic waste is recyclable; a massive 84 per cent of plastic waste is still sent straight to landfill. Of this 84 per cent, some is buried, where it will take up to hundreds of years to decompose. As it decomposes, we all know that it will leach pollutants into the soil and the ground water

It is clear that reducing the amount of plastic that is produced, which this bill aims to do, is extremely important. It is why my belief is that this bill is a logical next step in South Australia's history of strong policies that promote waste reduction, which Labor governments have proudly championed in the past and will do into the future. It is why it is my hope, as it is the government's, that this bill will further increase the uptake of reusable containers and will reduce plastic waste and the environmental damages they cause.

The Hon. C. BONAROS (17:06): I rise on behalf of SA-Best to indicate our wholehearted support for this bill, and look forward to it being a case of third time lucky, with the two previous bills falling victim to the prorogation of parliament. On the last occasion, the same bill enjoyed the unanimous support of this place, but unfortunately, as we know, stalled at the eleventh hour in the other place, through no fault of our own, in this chamber in any event.

The bill continues South Australia's national leading agenda of limiting our reliance on single-use plastics, which began with the ban of plastic straws and disposable cutlery in March last year. We have all had to learn to deal with those measures. I think we are all still getting used to soggy straws and waiting for the ultimate alternative to the sturdy plastic straw, but it is a very small price to pay compared with the legislation that was passed with the cross-party support of this parliament.

We are all on notice about our duty as tenants on this planet, and the Greens are always here to remind us of that as well. We cannot continue to produce and dump waste for future generations. As the Hon. Rob Simms has highlighted previously, if we do not reduce the rate of plastic polluting our oceans, there will be more plastic than fish in the ocean by 2050. That is absolutely deplorable and a very scary thought indeed. It is terrifying for our children and terrifying for our children's children.

The bill, as we know, seeks to amend the Civil Liability Act to provide immunity to a food business which may choose to fill a container provided by a customer at their request. That is one of the points we had to deal with in this bill, but that immunity relates to the container and not the food itself, which SA-Best believes is a very important distinction. If food was sold with the knowledge that it was unfit for human consumption, for example, that immunity would not apply to the contents of the container. It does not obligate a business to fill a container presented to them, should they choose not to for whatever reason, and there may be very legitimate reasons a business chooses not to fill a container presented to them.

All in all, I think this bill is a win-win for food businesses and customers who choose to participate. All in all, it is another step forward in what has already been, I think, a very good demonstration by this parliament that we are committed to stamping out the use of plastics more broadly in the community. There are a few more steps to go before we get there. Obviously, there are some provisions that are being phased in as well. But with those words, I commend the member for bringing this bill before us again and look forward to its swift progress and passage through this chamber and the other place.

The Hon. R.A. SIMMS (17:09): I would like to thank all members for their thoughtful contributions and for their support of this bill. I would also like to acknowledge the work of the former ministers with whom I engaged on this bill: Ms Vickie Chapman in her capacity then as Attorney-General, the Hon. Stephen Wade in his capacity then as health minister, Mr David Speirs in his capacity then as environment minister, and of course the now Deputy Premier and environment minister, the Hon. Susan Close, with whom I also engaged and who is also supportive of this bill.

I am a big believer in the Pantene effect in progressive politics—it does not happen overnight, but it does happen—and this bill is a good example of that because my predecessor, Mark Parnell, first introduced this back in 2018 and put it on the agenda then. I took it up with a few tweaks when I came into the parliament and so it is back again. I am hoping that this time it will progress swiftly through this house and then be quickly passed in the lower house so that it can become law. I hope that the government will make it a priority there for that to happen.

I want to flag for members' benefit that when this was introduced in the previous parliament, the then Liberal government had some sensible amendments that were supported by all parties, and I will be moving those amendments. They are the same amendments that were supported by the previous parliament and have been circulated to members previously.

Bill read a second time.

Committee Stage

In committee.

Clause 1 passed.

Clause 2.

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

Amendment No 1 [Simms–1]—

Page 2, lines 16 to 19 [clause 2, inserted section 74B(3)(a)]—Delete paragraph (a)

Amendment carried.

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

Amendment No 2 [Simms–1]—

Page 2, line 20 [clause 2, inserted section 74B(3)(b)]—After ‘container’ insert:

by the person selling the food

Amendment carried.

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

Amendment No 3 [Simms–1]—

Page 2, lines 24 and 25 [clause 2, inserted section 74B(4)]—Delete ', *recall order*, *unsafe* and *unsuitable* all' and substitute:

and recall order

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. R.A. SIMMS (17:14): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GAS INFRASTRUCTURE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 4 May 2022.)

The Hon. J.M.A. LENSINK (17:15): I rise to make some remarks in relation to this bill. It is certainly not the first time this parliament has seen this particular piece of legislation. It was first moved by the Hon. Mark Parnell in 2018. The bill was not debated beyond, I understand, his second reading explanation and lapsed due to the proroguing of parliament. The bill was tabled again in parliament on 9 June 2021 by the Hon. Robert Simms, and my former colleague the Hon. Rob Lucas spoke to it on 1 December 2021.

The bill itself seeks to void any contractual arrangement requiring that a property be connected to gas, with the provision to take effect from 1 January 2023. In his second reading explanation, Mr Simms argues that, while we do not have mandated gas connection in South Australia, the decision around whether a new property is connected to gas or electricity is made by the developer, not the individual consumer, the argument being that this locks home owners into higher prices. In doing so, some developers have private encumbrance matters that they are seeking to enforce through the sale contract to recuperate costs. The bill voids such contractual arrangements.

While the sentiment of the bill is understood, that purchasers should not be locked into using a particular energy source or pay for an energy source they choose not to use, it could be argued that this type of legislative change should not be a matter dealt with under the Planning, Development and Infrastructure Act (PDI Act). Whilst in government, the former government sought advice from the Surveyor-General, who confirmed that advice. While these are private property dealings and therefore legislative intervention should be used with caution, further advice would be required to understand if it is possible to utilise other property-based legislation to address these matters.

The planning system has a limited role in the provision of gas or other utilities to consumers. This limited role includes the state planning policy on climate change, which promotes green technologies and industries, and provisions in the Planning and Design Code that ensure strict controls on development within close proximity to major gas pipelines and facilities. Additionally, the Australian Energy Regulator is also considering how future consumer choice will impact investment into domestic gas infrastructure.

Given the short notice in terms of calling this bill to a vote, the Liberal Party undertook due diligence with a range of stakeholders. Principally, we received advice from the UDIA, which I think was quite surprised that this bill was being called on.

The Hon. R.A. Simms: They will have to follow the Greens campaign more closely.

The Hon. J.M.A. LENSINK: The Hon. Mr Simms interjects in a disorderly manner and assumes that everybody is always reading our policies in great detail. The advice from the UDIA is

that they are disappointed that—the development sector which was prepared to work with all parties and members of parliament—in only the first week of parliament the Greens would introduce legislation to regulate the development sector without even picking up the phone. They continue:

> House prices are rapidly escalating—

which we are all aware of—

> and the efficient delivery of broader network infrastructure in new and large developments is one key way to keep costs down for new homeowners.
>
> The facts are that new home-owners want the choice of energy and a majority of them still want to connect to gas. Legislative changes need to be more carefully considered before putting that choice in jeopardy.

We also received similar advice from other stakeholders. I think the point that was made was that, particularly with greenfields developments, a lot of the infrastructure is done at the same time and that to try to take this position retrospectively by the parliament is something that should be avoided.

When I put this position to our party room this week I was unsure as to what the Labor government's position was—given I understand they had supported this bill in opposition—so I had an amendment drafted, which amends the start date from 1 January 2023 to a date prescribed by regulation. The effect of that is to enable greater stakeholder discussion with affected organisations, particularly those who understand how these things work in practice. That will enable the government to go off and do some consultation about this and, if they then decide they will continue to support this legislation, they can set their own start date. With those words, I conclude my remarks.

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (17:20): I rise today in relation to the Planning, Development and Infrastructure (Gas Infrastructure) Amendment Bill and indicate I am the lead speaker for the government. The government thanks the honourable member for bringing this bill to the council. It does not seek to stop people using gas; rather, the aim is to provide the market with more options and give consumers choice.

Whilst we were in opposition we supported this bill, as we believed that by doing so we could assist in giving attention to this important issue and ensuring that in the future it could be addressed in a way suitable for three things: our energy needs, our environmental needs and our consumer needs. The intentions of the bill are absolutely sound.

The Minister for Energy and Mining in the other place has indicated that he also supports the concept and the intentions of the bill; however, the full implications of the bill are not currently clear, particularly the effects on existing developments, the effects on customers, and the effects on future availability of gas appliance options in new housing developments. In government, we are now afforded the privilege of the necessary means to undertake a full and proper consultation process about this. I imagine all members of this place would agree that it is important to understand all the implications of this proposed legislation.

While we are not aware of any developers who are currently mandating a reticulated natural gas connection in new residential developments in South Australia, consultation with key stakeholders should, of course, occur to confirm this, as well as a full investigation of consumer impacts on preferences, before legislation is passed. On this basis we cannot support the bill today, but we will commit to undertaking this consultation process and returning to parliament, if necessary, when a full process has occurred.

I would like to again commend the Hon. Robert Simms for bringing in this bill. It is an important step towards change and he deserves credit for this initiative, as does his predecessor in this place, the Hon. Mark Parnell. While we are not ready to progress this as legislation just yet, we do look forward to working in appropriate and consultative ways as we move forward.

The Hon. C. BONAROS (17:22): I am not listed down as speaking but I indicate, for the record, that SA-Best supported this bill the previous time it was introduced in this place, and we indicate our full support for the bill this time around. I hope, from the words the minister has just indicated, that 'if' means we will be reconsidering this on the part of the government. I suppose time will tell if that is the case or not. Our position is that we remain committed to supporting the passage of this legislation.

The Hon. T.A. FRANKS (17:23): I was not intending to speak but, listening to the government's speech, I am moved to do so. This is not a new issue, as was noted by the now Malinauskas government's speech. It was something the Hon. Mark Parnell put to this council and it was something that the Hon. Robert Simms has put to this council. This is not a new issue.

It might be an issue worthy of ventilation. That does not mean this bill should be killed off; in fact, I seek some guidance on the wording to move an amendment that, contingent upon the second reading of this bill, it be referred to a select committee.

The PRESIDENT: The Hon. Ms Franks, a suggestion as a way to move forward: perhaps we could adjourn this debate and then you could give notice of your intention to move a motion to form a select committee with the ability to report before this particular bill is considered for a final vote.

The Hon. T.A. FRANKS: Thank you, Mr President.

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

SOUTH AUSTRALIAN PUBLIC HEALTH (COVID-19) AMENDMENT BILL

Committee Stage

In committee (resumed on motion).

Clause 3.

The CHAIR: The next amendment we have is the amendment in the name of the Hon. Ms Lensink, amendment No. 5 [Lensink-1], clause 3, page 5, after line 8.

The Hon. S.G. WADE: The Hon. Michelle Lensink and I share similar concerns about making sure that the public is provided with appropriate advice. It continues the discussion we had earlier today about the Hon. Connie Bonaros's amendment No. 2, which was about health advice. I did raise the issue that advice could be broader than health. I also make the point that I think it would be valuable to have reasons, not just the health advice that went to the government but the government to say, 'In the context of the advice we have received, health and otherwise, we have come to the following conclusion, and that's why we have done this direction.'

The Liberal opposition is happy not to proceed with this amendment, but in that context we would seek some undertakings from the government. I think it would be fair to say that my reading of the committee section is that it is not clear about what information goes to the committee. So in the context of the already stated intention of the Legislative Council that information be made public through the committee, I would seek an assurance from the government that, in relation to any new directions under section 90B, the expiry directions under 90D and the continuation of directions under schedule 1, clause 2, the committee that is likely to be established by this council later this evening be provided with all relevant advice—in other words, health or other advice—and a statement of the reasons for the directions.

The Hon. K.J. MAHER: I just want to check that we are clear what the question is. Is your question: will the government give an undertaking now that any sort of advice whatsoever that the committee that might be set up asks for will be provided?

The Hon. S.G. WADE: No.

The Hon. K.J. MAHER: Sorry, I misunderstood.

The Hon. S.G. WADE: I was thinking more in terms of when a direction is being made, a new direction under 90B, the expiry directions under 90D and the continuation of directions under schedule 1, clause 2. The Hon. Connie Bonaros has required the government to provide health advice, and what I would be seeking is an undertaking that the government would not only give health advice in relation to any of those but also any other relevant advice, for example, the police say we do not have the resources to do compliance activity in that regard.

It might not be health advice that is determinative on a direction; it might be other advice. In other words, that relevant advice be given to the committee, together with the reasons. That is then

in the hands of the committee to consider. They may seek further information, they may recommend a disallowance.

I presume that the committee actually has rights under the parliament to call all records and documents, but I am not suggesting that; they will do that if they want to anyway. I am just, if you like, wanting to expand the anticipated range of material that is going to the committee, not just health advice but any other relevant advice, and also statement of reasons. It is one thing for the government to say, 'The CDCB has given us this advice on epidemiology,' but the government might say, 'With this advice in hand, we have decided to make this decision.'

The Hon. K.J. MAHER: I thank the honourable member for his question. It is not something that has been considered in terms of what sort of advice there might be. The former minister would be more aware than I am of the range of advice that goes into making these decisions, but presumably there will be some that could have consequences in disclosing entirely and in full. That might be police and other sorts of advice.

What I think I can reasonably say is I would be confident the government would be as helpful as they could to the committee. I think the honourable member is right that this committee, which I assume will have the powers of any other committee that I have sat on, can require and if need be send for, which is effectively subpoenaing, documents and other things that the committee would desire.

The Hon. S.G. WADE: It is an interesting point. I suppose I am anticipating the establishment of the committee because there seems to be a strong consensus for it. It may well be that there is almost like a standing order: the committee in consultation with the government says, 'What will we need to properly consider the directions? Let's have a standing understanding that this is the form in which the'—I suppose not dissimilar to what the Legislative Review Committee does. I understand they have a pro forma for consideration of regulations. In the understanding that there is goodwill between the committee and the government that a useful range of information is provided, not just, with all due respect, what might be relatively limited health advice.

The Hon. K.J. MAHER: I think it would be in any government's interests to do that because the powers of committees are far ranging. I think that a pro forma as 'these are the types of advice' and if there are any more the committee can do that. Otherwise, in my experience, committees will do as they please and ask for that.

While I am on my feet, for the sake of the chamber and as we go through this, I think there have been discussions during the course of the afternoon and we have obviously adjourned a number of pieces of private members' business until tomorrow and the intention is we will do government business tomorrow and private members' business after that.

I think most of us think we can probably finish this at 6.30pm tonight and be finished this tonight. If we do that, just to foreshadow, it would be my intention, given that there is one bill plus the Address in Reply tomorrow, not to sit tomorrow morning should we finish this, as I think most people think is reasonably possible at 6.30pm tonight.

The CHAIR: The Hon. Ms Lensink, with all of that, I take it we are no longer proceeding with that amendment?

The Hon. J.M.A. LENSINK: Correct.

The CHAIR: Now we have a number of competing amendments at 90F. We are going to have you all move these amendments, if members still intend to. The first one is from the Hon. Ms Bonaros, but we also have the Hon. Ms Game and the Hon. Ms Lensink.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–3]—

Page 5, after line 14—Insert:

90F—Appeal rights

(1) If a person is subject to a direction under this Part that the person must isolate or quarantine at a place other than the person's place of residence or another location

chosen by the person, the person may apply to the Magistrates Court for a review of the direction.

(2) Subsection (1) does not apply in relation to a direction continued in force pursuant to Schedule 1 clause 2 of the *South Australian Public Health (COVID-19) Amendment Act 2022*.

(3) An application under subsection (1) may be instituted at any time during the currency of the direction (and, subject to subsection (4), more than 1 application may be made while a direction is in force).

(4) If a second or subsequent application is made with respect to the same direction, the Magistrates Court must first consider whether there has been a significant change in the material circumstances of the case and should, unless the Magistrates Court in its discretion determines otherwise, decline to proceed with the application (if it appears that the proceedings would simply result in a rehearing of the matter without such a change in circumstances).

(5) The following provisions will apply in connection with an application under subsection (1):

(a) the making of an application does not suspend the operation of a direction to which the application relates (and the Magistrates Court must not suspend or stay the operation of the direction pending the outcome of the proceedings);

(b) the Magistrates Court must consider whether 2 or more applications by separate individuals may be joined or heard together taking into account:

(i) the extent to which it is impractical or unreasonable for individual applications to be heard separately in view of the number of applications before the court; and

(ii) the extent to which there are questions of fact or law that are sufficiently similar or common across a series of applications; and

(iii) the extent to which the directions across a series of applications are the same or similar; and

(iv) such other matters as the court thinks fit in order to best manage the applications in the circumstances;

(c) the Chief Magistrate may make such orders as the Chief Magistrate thinks fit (either in a specific case, in a specific class of cases, or generally with respect to applications under subsection (1)) to assist in dealing with the management and hearing of applications under subsection (1) (and any such order will have effect according to its terms).

(6) Subject to complying with subsection (4), the Magistrates Court may, on hearing an application under subsection (1)—

(a) confirm, vary or revoke a direction;

(b) remit the subject matter to the person who gave a direction for further consideration;

(c) dismiss the matter;

(d) make any consequential or ancillary order or direction, or impose any conditions, that it considers appropriate.

(7) The Magistrates Court may only revoke a direction under subsection (6) if satisfied that the direction is no longer reasonably necessary in the interests of public health.

(8) The Magistrates Court is to hear and determine an application under subsection (1) as soon as is reasonably practicable.

(9) A party to proceedings on an application under subsection (1) may appeal against a decision of the Magistrates Court under subsection (6).

(10) An appeal under subsection (9) will be to the District Court.

(11) The following provisions will apply in connection with an appeal under subsection (9):

(a) the making of the appeal does not suspend the operation of a direction that has been confirmed by the Magistrates Court and the District Court may, as it thinks fit, make any other order with respect to the operation of any other direction that has been varied or revoked by the Magistrates Court (including, if the District

Court thinks fit, to reinstate or vary an original direction on an interim basis pending the outcome of the appeal);

(b) the District Court must consider whether 2 or more appeals by separate individuals may be joined or heard together taking into account:

(i) the extent to which it is impracticable or unreasonable for individual appeals to be heard separately in view of the number of appeals before the court; and

(ii) the extent to which there are common questions or issues across a series of appeals; and

(iii) such other matters as the court thinks fit in order to best manage the appeals in the circumstances;

(c) the Chief Judge may make such orders as the Chief Judge thinks fit to assist in dealing with the management and hearing of appeals under subsection (9) (and any such order will have effect according to its terms).

(12) The District Court may, on an appeal under subsection (9)—

(a) confirm or vary the decision of the Magistrates Court, or substitute its own decision;

(b) make any consequential or ancillary order or direction that it considers appropriate.

(13) The District Court is to hear and determine an appeal under subsection (9) as soon as is reasonably practicable.

(14) An appeal under subsection (9) will be heard in the Administrative and Disciplinary Division of the District Court (but will not be subject to the application of Subdivision 2 of Part 6 Division 2 of the *District Court Act 1991*).

(15) A person subject to a direction who is a party to proceedings before a court under this section is not entitled to attend those proceedings but is entitled to be represented at any hearing by a person (who need not be a legal practitioner) nominated by them and the court must, if reasonably practicable, allow the person who is subject to the direction to participate in the proceedings by the use of an audio visual link or an audio link.

(16) A court must, in dealing with proceedings under this section, take into account the need to ensure that its proceedings do not unduly hamper the work of public officials in dealing with the COVID-19 pandemic.

You are quite right, Chair, there are a number of competing amendments, if you like, that deal with the same issue of appeal rights. The amendment that I have had drafted is more limited in scope in that, for want of a better term, it applies to people who are detained. I have since had advice that 'detained' is probably not the correct terminology to use. It is people who are held at a place other than their own residence or another location chosen by the person.

What this amendment seeks to do is ensure that there are appeal rights for the sorts of scenarios that we saw during COVID. Again, this is based on the feedback that we had from stakeholders in relation to vulnerable persons who ought to have appeal rights. I am thinking specifically about people who are not asked to isolate at home or quarantine at home because, by the very definition of asking them to do that, if it were everybody who was asked to isolate at home because they had a COVID-positive result or were a close contact, then we would have our courts full of people who are appealing or challenging those directions.

This is aimed at vulnerable members of the community and also people who are in detention settings. It may be a child in child protection. I think the Hon. Tammy Franks raised the issue in one of the debates earlier of some Indigenous children being, for want of a better term, detained. We had some concerns around where they were being placed, how they were being placed and what was happening to them.

The other scenario that has been raised with us is somebody who is in an aged-care facility. They are effectively being held somewhere because they have a COVID-positive result or are even a close contact. Whatever the case may be, they are not being held where they normally would reside, or they are not being held in the same sorts of scenarios where they would normally live. We want to make sure that they have some protections.

If we think more broadly afield, for somebody who is held in a mental health facility, somebody who is held in juvenile detention, somebody who is held in the Remand Centre or somebody who is held in detention in a hospital, we want to ensure that there are appeal rights that apply to them in line with what applies in other areas of the Public Health Act to ensure that they do have the ability, for whatever reason, to appeal those decisions.

There could be other people who come under specific detention. I am going to use the word 'detention' because it is easy. They are told to isolate somewhere: at a border, at an airport, in a hospital, wherever the case may be. There may be very good reasons for them wanting to challenge being held at a particular place other than their home or where they would normally reside. That is what this amendment seeks to do: to insert appeal rights for those individuals.

When I received advice on this bill, that was the cohort of individuals that we were particularly concerned about because their movements could be further restricted. We are again dealing with a cohort of individuals who find themselves in a situation where they are not treated the same as other individuals who are asked to isolate because of a direction in relation to being a close contact or a COVID-positive case.

We want to ensure that our older people in aged-care facilities are being treated respectfully in the way that they deserve to be treated, regardless of the fact that they are having to isolate or quarantine. We want to make sure that people in mental health facilities—I am just giving some examples—who are being directed to isolate in a particular way, that that is being done in a respectful and dignified manner and the same can be said for children, particularly our Indigenous kids, who are potentially in juvenile detention or in child protection.

We want to ensure that anyone who falls into those categories of individuals who I have just outlined, who are being quarantined at a place other than where they normally reside or another location that is chosen, are afforded appeal rights because, for whatever reason, there may be some concerns about the manner in which and the places in which they are being directed to serve out that period.

They were the specific cohort of people who were raised with me during the briefings in terms of the safeguards and the lack thereof in the original bill. When we talk about the concerningly opaque nature of the original bill and the disquiet this caused, particularly the issues that the Law Society raised, that is the cohort of people who certainly were identified to me as the ones who warranted some appeal rights to ensure they were being directed to stay at a place but had appeal rights accompanying those.

I might add that the reason I lodged a set three of these amendments is to avoid the procedural issues that we raised previously because the Hon. Ms Game raised a very valid point when it came to the original clause 14, which is now clause 15 of this bill, and that is that, by virtue of the fact you have a COVID-positive result or you are a close contact, you are not entitled to attend proceedings that happen in court under the provisions that would ordinarily apply that have been mirrored from the Public Health Act. You are appealing that decision but, because of your COVID status, you cannot actually attend.

However, it is absolutely fair, reasonable and should be expected that, if those individuals want to, they should, if reasonably practicable, have the ability to participate in the proceedings not only by having a legal representative with them or attend for them but by the use of proceedings involving audiovisual link or an audio link.

Rather than go through the procedural steps of trying to amend this amendment to incorporate the part of the provision of the Hon. Ms Game's amendment, which I said I did support, the advice to us was that it was cleaner to incorporate that into a new set, which is what I have done.

I think it is important to place on the record why I think this is an addition that warrants support. The advice I have is that, under rule 15.4 of the Uniform Civil Rules, there is already the ability to have audiovisual appearance in civil proceedings, but as it turns out it is actually not as strong as the Hon. Ms Game has suggested and recommended to this place. Those provisions state that:

(1) The Court may direct or permit the participants (parties, lawyers and witnesses) or a specific participant to appear at a hearing remotely by audio visual or by telephone.

(2) A request to appear by audio visual link or by telephone must be made to the Court in sufficient time before the hearing to allow the Court to decide whether to allow the request and, if so, make appropriate arrangements.

(3) If the Court is unable to contact the party or lawyer at any time within 15 minutes after the time appointed for the hearing at the nominated facility, or by the nominated telephone number, the party or lawyer will be regarded as having failed to appear at the hearing for the purposes of these Rules.

(4) Unless the Court otherwise orders, the costs incurred by the Court in conducting an audio visual hearing at the request of a party must be paid by the requesting party.

What the Hon. Ms Game has put forward is strengthening those provisions by requiring, if reasonably practicable, that a court will, regardless of those rules, allow the person who is subject to the direction to participate in the proceedings by the use of an audiovisual link or an audio link. I do not know how many honourable members here participate in court proceedings regularly; I do, and I think the general practice is that, where somebody is unable to attend, I have seen firsthand where the courts are very amenable to allowing that to happen, and this is why those rules apply. There may be circumstances—I do not know—where the court finds that under these rules this does not happen, but certainly that is generally the practice, and it has been so under COVID.

I attended a court hearing recently where the judges themselves—and this has been standard practice as well—because they are in isolation have appeared via video link. You may have a courtroom full of lawyers and clients, but the judges themselves are appearing via an audio link. If only we could do that in here. I make that point, because I think the amendment proposed by the Hon. Ms Game is a very worthy one. It ensures that there is a higher level of guarantee, if you like, that there will be those measures made available to somebody if they are unable to attend because they are COVID-positive or are a close contact.

The amendments themselves deal with a narrowed field of individuals. I have broadly defined them as more vulnerable in the sense that they may already find themselves in another form of detention: they may be on remand at a detention centre, they may be in a mental health facility, they may be in juvenile detention, it may be somebody in a hospital or somebody who has arrived at an airport and been directed to quarantine somewhere other than their home. There may be instances where the appropriate safeguards are not being afforded to those individuals.

The specific cohort that was mentioned to me that is of particular concern is young kids and people in aged-care facilities. They are the ones that this amendment is focused on ensuring have the appeal rights. I suppose the broader question in terms of the other amendments—and we will get to those—is applying appeal rights across the board to everybody who is required to isolate or otherwise. I appreciate from the government's perspective, and from the perspective of others, it would present some challenges and potentially be unworkable.

Insofar as my amendment is concerned, I will keep my comments at that, but I do have some further comments that I am happy to make when we deal with the other competing amendments around the sorts of appeal rights that may be envisaged by other honourable members, and the reasons we do not support broadening that scope any further.

The CHAIR: I will let the Hon. Ms Game introduce her amendment and speak to that. The next one is the Hon. Ms Lensink, who can introduce her amendment and speak to that. We can have a broad ranging discussion and then decide what action we are taking from there.

The Hon. S.L. GAME: I move:

Amendment No 5 [Game–1]—

Page 5, after line 14—Insert:

90F—Appeal rights

(1) If a person is subject to an individual direction, the person may apply to the Magistrates Court for a review of the direction.

(2) An application under subsection (1) may be instituted at any time during the currency of the direction (and, subject to subsection (3), more than 1 application may be made while a direction is in force).

(3) If a second or subsequent application is made with respect to the same direction, the Magistrates Court must first consider whether there has been a significant change in the material circumstances of the case and should, unless the Magistrates Court in its discretion determines otherwise, decline to proceed with the application (if it appears that the proceedings would simply result in a rehearing of the matter without such a change in circumstances).

(4) The following provisions will apply in connection with an application under subsection (1):

(a) the making of an application does not suspend the operation of a direction to which the application relates (and the Magistrates Court must not suspend or stay the operation of the direction pending the outcome of the proceedings);

(b) the Magistrates Court must consider whether 2 or more applications by separate individuals may be joined or heard together taking into account:

(i) the extent to which it is impractical or unreasonable for individual applications to be heard separately in view of the number of applications before the court; and

(ii) the extent to which there are questions of fact or law that are sufficiently similar or common across a series of applications; and

(iii) the extent to which the directions across a series of applications are the same or similar; and

(iv) such other matters as the court thinks fit in order to best manage the applications in the circumstances;

(c) the Chief Magistrate may make such orders as the Chief Magistrate thinks fit (either in a specific case, in a specific class of cases, or generally with respect to applications under subsection (1)) to assist in dealing with the management and hearing of applications under subsection (1) (and any such order will have effect according to its terms).

(5) Subject to complying with subsection (3), the Magistrates Court may, on hearing an application under subsection (1)—

(a) confirm, vary or revoke a direction;

(b) remit the subject matter to the person who gave a direction for further consideration;

(c) dismiss the matter;

(d) make any consequential or ancillary order or direction, or impose any conditions, that it considers appropriate.

(6) The Magistrates Court may only revoke a direction under subsection (5) if satisfied that the direction is no longer reasonably necessary in the interests of public health.

(7) The Magistrates Court is to hear and determine an application under subsection (1) as soon as is reasonably practicable.

(8) A party to proceedings on an application under subsection (1) may appeal against a decision of the Magistrates Court under subsection (5).

(9) An appeal under subsection (8) will be to the District Court.

(10) The following provisions will apply in connection with an appeal under subsection (8):

(a) the making of the appeal does not suspend the operation of a direction that has been confirmed by the Magistrates Court and the District Court may, as it thinks fit, make any other order with respect to the operation of any other direction that has been varied or revoked by the Magistrates Court (including, if the District Court thinks fit, to reinstate or vary an original direction on an interim basis pending the outcome of the appeal);

(b) the District Court must consider whether 2 or more appeals by separate individuals may be joined or heard together taking into account:

(i) the extent to which it is impracticable or unreasonable for individual appeals to be heard separately in view of the number of appeals before the court; and

(ii) the extent to which there are common questions or issues across a series of appeals; and

(iii) such other matters as the court thinks fit in order to best manage the appeals in the circumstances;

(c) the Chief Judge may make such orders as the Chief Judge thinks fit to assist in dealing with the management and hearing of appeals under subsection (8) (and any such order will have effect according to its terms).

(11) The District Court may, on an appeal under subsection (8)—

(a) confirm or vary the decision of the Magistrates Court, or substitute its own decision;

(b) make any consequential or ancillary order or direction that it considers appropriate.

(12) The District Court is to hear and determine an appeal under subsection (8) as soon as is reasonably practicable.

(13) An appeal under subsection (8) will be heard in the Administrative and Disciplinary Division of the District Court (but will not be subject to the application of Subdivision 2 of Part 6 Division 2 of the *District Court Act 1991*).

(14) A person subject to a direction who is a party to proceedings before a court under this section is not entitled to attend those proceedings but is entitled to be represented at any hearing by a person (who need not be a legal practitioner) nominated by them and the court must, if reasonably practicable, allow the person who is subject to the direction to participate in the proceedings by the use of an audio visual link or an audio link.

(15) A court must, in dealing with proceedings under this section, take into account the need to ensure that its proceedings do not unduly hamper the work of public officials in dealing with the COVID-19 pandemic.

(16) In this section—

individual direction means a direction or requirement issued to an individual (as opposed to a direction or requirement issued in relation to a class of persons)—

(a) under this Part; or

(b) under Part 11 in relation to a public health incident or public health emergency declared in respect of COVID-19.

This amendment that I propose is consistent with the existing appeal provision of section 90 in the Public Health Act 2011 and it ensures the right of appeal to the Magistrates Court for the individual. I have also requested an addition at (14) to ensure that, where an individual is unable to attend the proceedings, reasonable steps are undertaken to provide the person with an audio or audiovisual link to the proceedings. I do thank the health minister for calling me personally to say he would definitely be supporting at least that section.

I also thank the Hon. Connie Bonaros for her concerns with restoring some kind of appeal rights. But I do find some aspects of her commentary quite misleading, and I do not feel deliberately so. The main difference between our two amendments is that mine is not restricted simply to those who are in detention. It states those who are given an 'individual direction'. That does not apply to thousands of people told to stay at home in a lockdown. That is not an individual direction.

This is where an individual is being given an individual direction from the government. So I just want to be clear about that. Including the words 'individual direction', I have been advised, is reasonable, practical, it covers those who have been given an individual direction and are in detention and it also has some wider scope. It does not mean that it applies to thousands of people given the same direction. I have been advised that does not classify as an individual direction.

The Hon. J.M.A. LENSINK: In relation to these amendments, our position is that we did have an amendment that was drafted in my name. We will be deferring to the Hon. Ms Game's amendment, given that it is largely the same but it also includes audiovisual. Obviously, like many

others, we are concerned about the rights of citizens, including their right to reviews and appeals. We consider that now the public situation has eased to the point where we can leave the major emergency then it should also mean that normal provisions of public health should apply. If the public health situation escalates, the Emergency Management Act can be activated through a fresh application.

The amendments that we are supporting and which we had drafted on appeal rights would allow an appeal to the Magistrates Court then to escalate to the District Court based on section 90 of the Public Health Act for people who are affected by, as the Hon. Ms Game has articulated, individualised directions. If you are subject to the same direction as everybody else in the state, that is all people with COVID have to isolate at home for seven days, then you do not get an appeal on that but if you are being subjected to some different personalised direction, such as you are being detained in a secure facility to quarantine for seven days or you have to attend this specified counselling or you have to submit to this particular medical examiner, then you do get an appeal.

Our understanding is that the Bonaros amendment is similar but is limited only to directions requiring the detention of a person, whereas these amendments will apply to any personalised directions.

The Hon. S.G. WADE: I was wondering whether the Attorney might, reflecting on the comments of the Hon. Sarah Game, have any advice as to how many individualised directions might be currently being issued. The Hon. Sarah Game makes the point that most of the directions are a set of general directions—I think it is 15 to 18, including the Emergency Management Act, do most of the work—but whether his advisers might be able to give an indication about whether the public health team is needing to issue individualised directions and how many might be being issued in the current time.

The Hon. K.J. MAHER: My advice is we do not have that information here. We can certainly supply it on notice but we just do not have that available here and now.

The Hon. R.A. SIMMS: I just want to make it clear on behalf the Greens that we are supportive of the amendments being moved by the Hon. Ms Bonaros. I apologise for having to leave the room; I had to take a phone call. From our perspective in the Greens, we believe it is vital that there are appeal rights for people who are in a situation where they are required to isolate or quarantine in a place other than their home environment. We recognise that those people are acutely vulnerable, and it makes sense in that context for them to have clear appeal rights.

What we were concerned about in terms of the broader amendments that are being proposed is that they could open the door potentially for an inundation of our court system with a range of other appeals being made in terms of people being required to isolate at home in relation to other COVID orders. This seems like an appropriate compromise, one that ensures the broader integrity of the system.

I do note the addition of the Hon. Ms Game around videoconferencing facilities and so on, which has been incorporated by the Hon. Connie Bonaros. We are supportive of that as well and think this is a really important addition. Again, these things were not in the original bill and they have been negotiated by the crossbench. Assuming they get support today, I think that will be a really positive addition.

The Hon. K.J. MAHER: For the benefit of the chamber and for you, sir, I indicate that the government will be supporting amendment No. 1 [Bonaros-3].

The CHAIR: I am going to put the amendment, firstly, of the Hon. Ms Bonaros.

Amendment carried

The CHAIR: That effectively means that we are not going to put the question with regard to the Hon. Ms Game's amendment.

Clause as amended passed.

New schedule a1.

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

Amendment No 1 [Simms–3]—

Page 5, before line 15—Insert:

Schedule a1—Related amendment of *Parliamentary Committees Act 1991*

1—Insertion of Part 5F

After Part 5E insert:

Part 5F—COVID-19 Direction Accountability and Oversight Committee

Division 1—Preliminary

15P—Preliminary

(1) In this Part—

relevant COVID-19 direction means a direction under section 90B of the *South Australian Public Health Act 2011*, including a direction continued in force as a direction under that section pursuant to Schedule 1 clause 2 of the *South Australian Public Health (COVID-19) Amendment Act 2022*.

(2) This Part applies in relation to a relevant COVID-19 direction despite any other Act or law to the contrary.

Division 2—Establishment and membership of Committee

15Q—Establishment of Committee

The COVID-19 Direction Accountability and Oversight Committee is established as a committee of the Parliament.

15R—Membership of Committee

(1) The Committee must consist of 5 members of whom—

(a) 2 must be members of the House of Assembly appointed by the House of Assembly; and

(b) 3 must be members of the Legislative Council appointed by the Legislative Council.

(2) Not more 2 members of the Committee may be members of a political party forming the Government.

(3) A Minister of the Crown is not eligible for appointment to the Committee.

(4) The Committee must from time to time appoint 1 of its Legislative Council members to be the Presiding Member of the Committee but if the members are at any time unable to come to a decision on who is to be the Presiding Member, or on who is to preside at a meeting of the Committee in the absence of the Presiding Member, the matter is referred by force of this subsection to the Legislative Council and that House will determine that matter.

Division 2—Functions of COVID-19 Direction Accountability and Oversight Committee

15S—Functions of Committee

(1) The COVID-19 Direction Accountability and Oversight Committee may report to each House of Parliament if the Committee considers that a relevant COVID-19 direction—

(a) does not appear to be within the powers conferred by the Act under which the direction was made; or

(b) without clear and express authority being conferred by the Act under which the direction was made—

(i) has a retrospective effect; or

(ii) imposes any tax, fee, fine, imprisonment or other penalty; or

(iii) purports to shift the legal burden of proof to a person accused of an offence; or

(iv) provides for the subdelegation of powers delegated by the Act under which the direction was made.

(2) A report of the COVID-19 Direction Accountability and Oversight Committee under this section may contain such recommendations as the Committee considers appropriate.

15T—Disallowance of relevant COVID-19 direction

(1) Subject to this section, if—

(a) a relevant COVID-19 direction has been laid before each House of Parliament in accordance with section 15U; or

(b) there was a failure to comply with section 15U in relation to a relevant COVID-19 direction and the Committee has reported that failure to each House of the Parliament,

the relevant COVID-19 direction may be disallowed by resolution of either House of Parliament and will cease to have effect.

(2) A resolution is not effective for the purposes of subsection (1) unless—

(a) in the case of a relevant COVID-19 direction that has been laid before the House in accordance with section 15U—the resolution is passed in pursuance of a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the direction was laid before the House; or

(b) in the case of a relevant COVID-19 direction that has been the subject of a report by the COVID-19 Direction Accountability and Oversight Committee under subsection (1)(b) —the resolution is passed in pursuance of a notice of motion given within 6 sitting days (which need not fall within the same session of Parliament) after the report of the Committee has been made to the House.

(3) When a resolution referred to in subsection (1) of this section has been passed, notice of that resolution shall forthwith be published in the Gazette.

(4) This section does not apply in relation to a direction continued in force as a direction under section 90B of the *South Australian Public Health Act 2011* pursuant to Schedule 1 clause 2 of the *South Australian Public Health (COVID-19) Amendment Act 2022*.

1 5U—Tabling of relevant COVID-19 direction

On the making of a relevant COVID-19 direction, the Minister with responsibility for the administration of the *South Australian Public Health Act 2011* must, within 2 sitting days, cause a copy of the direction to be laid before each House of Parliament (and the direction is referred by force of this section to the COVID-19 Direction Accountability and Oversight Committee).

Division 3—Expiry of Part

15V—Expiry of Part

This Part expires on the day on which section 90B of the *South Australian Public Health Act 2011* and all directions under that section expire.

This is the amendment to establish the SA public health COVID-19 Direction Accountability and Oversight Committee. The intention behind this amendment is to ensure that there is maximum accountability and transparency in this bill. Like the Hon. Connie Bonaros, we had very clear feedback in the Greens that, were a bill like this to be legislated, it was really vital that the parliament have the opportunity to disallow new health directions, and that is what this committee does. It is a powerful committee in that it has all of the powers that a usual parliamentary committee has, but it will be able to review any new health directions relating to close contacts relating to COVID-positive people and be able to make recommendations to the houses of parliament for disallowance.

This, we believe, is a much more effective way of managing the pandemic directions in the long term. It provides an opportunity for parliament to really consider the impacts that these restrictions have on the health and wellbeing of South Australians. It has been based on the Victorian model, which is widely regarded as best practice. We understand there are, of course, some distinctions based on our different jurisdictions.

It is important to know that South Australia does not have a human rights charter to protect human rights, which is something the Victorian legislation has protected. Obviously, for us in the Greens we would love to see a human rights charter being put in place; that would be a very good accompaniment to the other legislation we are dealing with.

This committee will be made up of five members, two from the House of Assembly and three from the Legislative Council. The amendment would ensure there is a majority of non-government members. That is a really important inclusion worth highlighting, because it means the government is not in a position to dominate this committee. It means the committee will be able to provide frank, fearless advice, genuinely independent advice, direct to the parliament for its consideration.

The committee will be in place only for the duration of the bill. We agreed earlier today that would be six months. It will provide reports to each house of parliament, it will make recommendations to parliament. There is also a requirement that the minister will table a copy of any directions within two sitting days in each house, and that any such direction is then referred to the committee. As I stated, this allows for disallowance in both houses.

We think this is a really important addition. It is one that will provide better outcomes in terms of directions but also give the South Australian people a level of confidence that the parliament is having oversight over these important directions.

We talked a little bit about the evolving space of this pandemic. We have come out of the phase where these decisions were being made by health experts alone, and are now moving into another phase of the pandemic where politicians and the parliament need to be more actively involved. It is only appropriate that if the health minister is being charged with making these directions, the parliament has a role to play and that there is an independent oversight that operates outside of the government. We think this is a really important step in that regard.

The Hon. C. BONAROS: I indicate our support for this amendment. There were a number of amendments that were originally drafted—but specifically the one around the time frame on this bill at three months—which were, I suppose, safeguards in the absence of safeguards that ought to have been in this bill in the first place. It is a very good outcome and an absolutely necessary outcome that this committee has been agreed to by, I am assuming, all members of this place.

A lot of work has gone into this bill behind the scenes by the entire crossbench in terms of trying to address the safeguards lacking from the original bill proposed by parliament. I commend the minister for seeing sense and supporting the safeguards, because without them it would have been a very different outcome. We would have had a bill that lasted only three months, if that, or we would have had another declared state of emergency—which none of us wanted. That is where we were at.

These are very important safeguards and we were all told, all the advice we were getting from experts, was that without these safeguards this bill was just not going to be feasible, that it lacked the protections and safeguards the community of South Australia expected and that we as legislators should ensure were enshrined in this bill.

I think it is also worth noting, and I will put this on the record, that I was very pleased when I saw this amendment, because when I first looked at the bill and started drafting amendments I started from the opposite end of where the Hon. Robert Simms started. I started thinking there was absolutely Buckley's chance of this committee getting off the ground, absolutely Buckley's chance, so I started with the easier amendments, thinking if we got those safeguards in—and we had to—then we would come back in three months and absolutely insist on these further safeguards.

This is a very good outcome in terms of ensuring the safeguards that have been raised with us and which will all work hand in hand. This is a collaborative effort that has been made here and all these amendments will work hand in hand. Disallowance motions, appeal rights, oversight by the committee and having evidence provided to us about the rationale for directions being made all work hand in hand, so when we are giving these powers to the executive, in relation only to those close contacts and COVID-positive cases—and I keep stressing that, because it is very important to stress—there is the appropriate oversight by parliament of the executive in its function in terms of making directions, if indeed any directions at all are made around those.

I think it is also worth mentioning at this point that none of us here have the benefit of a crystal ball. We do not actually know what is going to happen in six months' time. We do not know what is going to happen in three months' time. In fact, we do not even know what is going to happen next week with this pandemic. I am sure the health experts are better placed and have a better idea, with their modelling and so forth, of where we are headed.

COVID hit us like a sledgehammer in this state, and we acted accordingly and appropriately at the time. We are transitioning away from that in the very sincere hope, I think on the part of all of us, that we are not going to find ourselves where we were one or two or 2½ years ago. So it is appropriate that we move away from those very stringent and very heavy-handed measures we had previously towards this approach, but nobody in their right mind in this place would accept doing so without these safeguards in place.

I just emphasise again—I cannot emphasise it enough—the importance of this committee. I think the Victorian legislation, when it was first introduced, was the subject of a lot of contention because it lacked all of its safeguards, and a lot of work went into that legislation to make it the gold standard that it is now. It would have been an absolute missed opportunity on the part of this parliament and the bill absolutely would not have had the support, I think, of a majority of this parliament without the insertion of all of the safeguards that we have managed to pass so far.

This amendment is certainly critical among that list because it allows all the other amendments that we have passed to operate effectively. As I said, these things will work hand in hand and collaboratively together.

The last point I will make before I sit down is the point that the Hon. Stephen Wade made earlier. I think what the COVID committee has demonstrated—and that was just a select committee—is that in terms of getting the appropriate advice and evidence needed it had broad powers, but a statutory committee that is enshrined in legislation will certainly have much stronger oversight and scrutiny powers much more in line, probably, with what the Legislative Review Committee has.

We request all sorts of documents from every single agency every single time we meet, much to the dismay of those agencies, but they form the basis of whether or not we allow a regulation to pass or we disallow a regulation, and I think this committee will serve that function as well so it is critically important to the outcome of this bill.

The Hon. K.J. MAHER: I will very briefly rise to indicate that we support the amendment and thank the Hon. Robert Simms for bringing it forward.

The Hon. J.M.A. LENSINK: The Liberal Party is supportive of these amendments and is pleased that this piece of legislation has had quite a number of amendments to it, which I think demonstrates the value of the Legislative Council in its role as a house of review.

New schedule inserted.

Schedule 1.

The Hon. S.L. GAME: I move:

Amendment No 6 [Game–1]—

Page 5, line 20 [Schedule 1, clause 1, definition of *relevant direction*]—Delete 'apparently'

My sixth amendment relates to removing the word 'apparently' from line 20 under schedule 1, transitional provisions of the government's proposed bill. I would like to ask why the word 'apparently' has been inserted here. It states, 'relevant direction means a direction or requirement apparently in force'. I have had legal advice from various sources informing me that the insertion of the word 'apparently' here serves to undermine legal action in the courts with regard to the legality of vaccine mandates. For this reason, I request the removal of the word 'apparently'.

The Hon. K.J. MAHER: I thank the honourable member for her contribution and indicate that we will not be supporting the amendment. I can understand the reasoning that the honourable member has put forward. My advice is the word 'apparently' is important in this context. Any directions that are issued now that transfer over into the new scheme that this bill contemplates will continue in force and can be expired in whole or in part but cannot be amended or reintroduced. If there was any

technical legal deficiency in a direction that is issued now, once the scheme that is contemplated in this bill comes into force there is no prospect whatsoever of amending it to make up for that technical legal deficiency. That is why the word 'apparently' is there.

I am advised it is not aimed at any particular action that is before a court at the moment. It is there so that it is used in the substance of the directions that are to continue and enforce upon transitioning in respect of any technical legal arguments that might be said to undermine them, because the directions to be continually enforced can be expired in whole or part but cannot be amended.

The Hon. J.M.A. LENSINK: The advice of the former Attorney is that the Liberal Party should not support this amendment, for the reasons outlined by the Attorney-General.

The Hon. C. BONAROS: I will make a brief comment about this, because I think we are dealing specifically with provisions that are being transitioned over as opposed to new directions. The new directions, as we have said, are around close contacts and COVID-positive cases, but these are directions that we have all lived with for a long time and there are some concerns that we are going to undermine those directions. We have talked about the vaccine mandates specifically. There has been reference to those.

I think it is really critical at this point to make the point—and I do this for the public record more so—that there is this perception out there that all of us in this place have mandated vaccines amongst public servants and whatnot or private companies, and that just is not the case. Under the state of emergency, those powers were handed over to the State Coordinator. There were directions that were put in place, certainly during the initial stages, requiring individuals who worked in various places to be vaccinated.

There are legal challenges that are occurring in relation to vaccine mandates at the moment, but to a large extent—regardless of the fact of whether there is a direction there or not—these are employment law matters, they are industrial law matters, and they are matters over which this parliament has had no control. They are not vaccine mandates that we as a parliament have legislated for, but the perception publicly, and I know because I get asked this all the time: 'Why did you support the vaccine mandates?' That is not something this parliament has done. None of us in here passed any laws that mandated vaccines.

Were there directions under the state of emergency that required certain agencies to have their staff vaccinated? Yes, there were. Would they have arisen or did they arise under the employment arrangements of those agencies regardless? Yes, they have and they did. Are there private companies who are requiring their staff to be vaccinated? Yes, there are.

But this parliament, no member in this place, has legislated for mandated vaccines, and I think that is very important to place on the record because certainly the feedback that we have had, and I am sure that others have had, is that we are responsible for mandated vaccines, and that is just simply not the case. We did not direct any company, we did not have the powers to direct any company, we did not pass any laws that directed any company to make sure that their staff were vaccinated. We did not do so with any public agency either, and we did not do so because we do not have the ability to do so.

Those challenges are taking place in the courts. That process will play out. We will find out what the results of those are, but to suggest that somehow we as individuals in this place have mandated vaccines or indeed masks when it comes to high-risk settings is just simply untrue. We have not done that because we do not have the ability to do that. They are industrial employment law matters and will be dealt with accordingly.

The Hon. S.G. WADE: I am just wondering if the Attorney could give us any advice about whether he thinks that this bill when passed, putting aside this amendment, would have any impact on current legal proceedings?

The Hon. K.J. MAHER: My advice is, and the honourable member asked me this earlier and I have some initial advice, that it may do. It may mean that the results have no work to do depending on what the results of the court action are. It might mean that whatever the result of the

court action is, when we transition to the new regime it might not have any effect. That is what I am advised.

The Hon. S.G. WADE: My understanding of the Attorney-General's earlier explanation of why he would apparently prefer it not be removed is that this relates to the continuation of the directions at the end of the last emergency declaration, and what we are trying to avoid is any currently unidentified flaw in a current direction meaning that that continuation is problematic. Now of course the cessation has not happened, so any current legal proceedings are happening in a world where the cessation of the last emergency declaration has not occurred, and the continuation of the directions, so I am assuming it does not have any impact on current legal proceedings, but I just hope to clarify that.

The Hon. K.J. MAHER: As I said, I only have some initial quick advice since I was asked, but the current legal proceedings will proceed on foot under the emergency management regime. Once this comes into force this may render whatever decision happens afterwards to have no work is my advice, but I am happy for the lawyers who work in government to let me know if there is anything I need to come back to the member to add or give further advice on.

Amendment negatived; schedule passed.

Title.

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

Amendment No 2 [Simms–3]—Long title, page 1—After 'South Australian Public Health Act 2011' insert:

, and to make a related amendment to the *Parliamentary Committees Act 1991*

Amendment carried; title as amended passed.

Bill reported with amendment.

Third Reading

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (18:25): I move:

That this bill be now read a third time.

The Hon. S.L. GAME (18:25): I want to express the very difficult position that I find myself in, to either vote against this bill moving forward and hence staying in the Emergency Management Act, which really nobody wants, or voting for a bill that does not, in my opinion, provide enough safeguards. I do want to thank the Liberal Party, or the opposition, and also SA-Best for showing that they are prepared to collaborate with me on some issues.

I just want to point out the missed opportunity, which I feel lies with the Greens, actually, because they have chosen to not support for their constituents to have a greater right of appeal and not to have greater safeguards. I feel that the reason behind this is quite transparent and is really nothing more than a political move. Were those amendments to be moved by anybody else, I believe they would have supported them.

The Hon. R.A. SIMMS (18:26): I want to speak in favour of the bill and to thank all members for their thoughtful contributions. I think this has been an example of what this house does very well, that is, being a house of review, as the Hon. Michelle Lensink noted earlier. This has been a difficult process, but I think all members have worked in good faith in terms of putting ideas on the table.

I do take issue with the Hon. Sarah Game's criticism of the Greens, because I think what we have done is take a constructive approach in terms of working with this, and we have supported the inclusion of one of Ms Game's ideas in the form of an amendment from the Hon. Connie Bonaros.

In any case, I feel pleased with what has been achieved here today. Certainly, this was not a Greens' bill. It was a government bill, but we have, by working constructively with the government and with the crossbench, been able to negotiate some outcomes that I think really improve this legislation and ensure that there are some good safeguards in place. On that basis, we are happy to support the bill.

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (18:27): I will make just a brief contribution. I want to thank members for their patience during the course of this debate. I think it was a baptism of fire for our newest member in here, from One Nation, the Hon. Sarah Game. It has been a difficult procedural debate, but I think it shows two things: when there is goodwill, it can work well, and we have the benefit of having the former health minister being able to give us real life examples. I think it also shows that when we have a time limit we can stick to it, or expand what we say to meet that time limit.

I think there have been improvements made to the bill in terms of the oversight mechanisms, and I think there have been other improvements that show how well it works when the Legislative Council works well. I think it is well understood that this is about transitioning to a new phase. High-risk areas are not places like hospitality venues that we have seen in the past. High-risk areas would be hospitals and aged-care settings, and so we are transitioning to a new phase where the only new restrictions imposed are on those who have tested positive or are close contacts of COVID, not the sort of new restrictions that we have seen in the past. I think that is probably where the South Australian public is and would welcome this bill passing.

Bill read a third time and passed.

At 18:30 the council adjourned until Thursday 19 May 2022 at 14:15.