LEGISLATIVE COUNCIL

Thursday, 23 February 2023

The PRESIDENT (Hon. T.J. Stephens) took the chair at 11:00 and read prayers.

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

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:01): I move:

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

Motion carried.

The PRESIDENT: I note the absolute majority.

Bills

FIRST NATIONS VOICE BILL

Committee Stage

In committee.

(Continued from 21 February 2023.)

Clause 1.

The Hon. K.J. MAHER: When we were last in committee, a number of members put a range of questions effectively on notice, and I thank them for doing so. It has allowed us to go away and get answers, and I think we will be able to provide fuller answers than maybe they would have been if the questions were asked today.

Of course, as we go through clauses, members will have questions. Many of them, I suspect, will be answered in the information that I will be able to give both from questions that people gave notice of on Tuesday and also some questions that a number of members have directly approached me about, which I will include in the answers to the ones that were put on notice.

There were a number of questions that the Hon. Tammy Franks raised at clause 1. The first one was in relation to the rights of common law holders in relation to the bill. I can confirm the advice that common law holders will be eligible to vote and stand for election on Local First Nations Voices, but they will also have other rights such as the possibility of being appointed to the State First Nations Voice native title advisory committee, if that is what the particular PBC wanted.

The Hon. Tammy Franks asked: can Voice members talk about what they raise in cabinet during a clause 43 meeting? I am advised that confidentiality of cabinet will apply. It is a fundamental principle of our democracy system. Clause 44 of the bill provides that, for the purposes of the Freedom of Information Act 1991 and any other act or law, information and documents prepared for or provided to cabinet by the State Voice will be taken to have been specifically prepared as a cabinet submission.

In general, it would be expected that the deliberations as part of state cabinet would be treated with the same level of confidentiality as those of other groups that present to cabinet. For example, business groups such as Business SA and other representative bodies have, over the course of the years, presented to cabinet. Those same rules about a formal cabinet meeting apply to them as it would to this.

The Hon. Tammy Franks asked about the historic occasion when Dr Roger Thomas addressed the parliament from the floor of the House of Assembly—in the same way as former Treasurer the Hon. Robert Lucas addressed the House of Assembly—and what provisions were made to ensure that the parliament was protected regarding their particular sovereignty on those occasions.

I can let the honourable member know I am advised there was no impact or effect whatsoever on the sovereignty of parliament when Dr Roger Thomas addressed parliament from the floor of the House of Assembly or when the Hon. Rob Lucas did from the floor of the House of Assembly for the budget speech. The same is true for the provisions contained in this bill about representatives of the Voice addressing parliament from the floor of the house.

The Hon. Dennis Hood raised a number of questions. The first was in relation to clause 23 and the issue of bodies being sued. The Hon. Dennis Hood particularly raised in relation to defamation: would they be subject to defamation proceedings potentially? I can inform the Hon. Dennis Hood that I have got advice and, like any other incorporated authority, the Voice as a body could be sued in defamation.

A claimant would have to show that the publication can be imputed to the Voice through the usual laws of defamation and corporate liability. This generally means that the claimant would have to prove that the actions of the person or persons who published the matter could be imputed as acting for the Voice body corporate. This would only be likely to be found in official publications. If found responsible for defamatory publication, the Voice would have access to all the usual defamation defences, including truth, public interest, qualified privilege or honest opinion.

Any publications made in the course of parliamentary proceedings, of course, would attract the absolute privilege of parliament under the Defamation Act. Importantly, individual Voice members could be sued in defamation, as could the body corporate. They could also be found jointly liable and enforcement of debt could be sought from either. There are, however, defences of good faith, activities which could apply to individual Voice members. In that respect it is exactly the same as any other body created. I will get to the other bodies that are created in exactly the same corporate manner by statute in a moment.

The Hon. Dennis Hood asked in relation to clause 40:

Will there be time limits for speaking, for example, when the representatives speak on the floor, or is it envisaged that, if they were speaking in the House of Assembly, they would be subject to the normal provisions of the House of Assembly? Here we do not normally have time limits: how would that—

potentially—

differ between the houses…

Understandably, there are a number of questions I think other members alluded to in their contributions. Hopefully I can answer most of what they might ask at clause 40 here. I am advised that the practicalities of how the State Voice will address parliament will be left to parliament itself. How parliament conducts its business is subject to the relevant provisions of the Constitution Act and the standing orders adopted under section 55 of the Constitution Act.

How this operates in a practical sense will be determined by each house of parliament via standing or sessional orders. For example—and this may well be how it ends up operating—the ability to address parliament once in either the Legislative Council or the House of Assembly, but not both, might well be determined by each chamber themselves in terms of the orders that they see fit.

It may well be that the standing orders committees of both houses have a discussion and come up with uniform orders in relation to this. It might be, for example, that when the Voice chose to speak on a piece of legislation once in one of either of the chambers that it might be at the start or end of a second reading stage and might be subject to the 20-minute time limit that the House of Assembly has, and that might be imported to the rules that are adopted in the Legislative Council for that purpose. That may well be how it works out, but that will be up to each house to decide for themselves—the rules relating to how that would work.

The Hon. Dennis Hood also asked: how would they be positioned in a practical sense? What does the government have in mind and how could that work? The answer I have just given I think gives an example of how that could work. That might be a sensible way forward. I suspect the standing orders committees, hopefully when this bill passes pretty soon, will have meetings to discuss these issues.

The Hon. Laura Henderson asked a number of questions. The first question was:

…the minister has made commentary about this being an advisory body and these decisions not being binding. Will the minister confirm that there is no reasonable expectation for administrative decision-makers to take the view of the Voice into account?

There are two separate issues that are asked and I will address them both. I can confirm that the State Voice is an advisory body only, and the bill does not give the State Voice the power to bind the government in relation to any recommendations that it makes. The bill also makes it clear that the Voice has entitlement to address parliament but it does not have any veto or any other power over decisions of parliament, nor the right to vote or move amendments.

The Voice cannot prevent the relevant house from conducting its business, such as the consideration of the passage of bills, even prior to it being addressed by the State Voice. However, I think there is an expectation that governments will at least consider the views put forward by the Voice even though they are not obliged to take them into account in the decision-making. Consideration of these matters does not mean that the government is bound to implement any recommendations that the Voice makes.

For example, the State Voice may present a report to parliament on any matter of interest of First Nations people. The minister is obliged to consider a formal report provided and provide a response, including information about whether action is being taken or is proposed to be taken and, if not, the reasons for not taking action. It is clear from this provision there is no obligation on the minister or the government to take any action in response to a recommendation. There is only an obligation under that particular part of the bill to set out reasons why.

The Hon. Laura Henderson asked:

…can the minister advise whether he has sought…advice on whether there is case law that would be persuasive in instances of judicial activism in establishing a reasonable expectation that recommendations by the Voice could be made binding?

I have answered that, in large part, in the last response but I can say that we did get advice and there is no legislative or other obligation that we can find on the government or parliament to adopt recommendations of the Voice. The provisions in this bill are similar to any other advisory body or any parliamentary committee. It gives advice and it is up to the government of the day to do what it will with that advice.

The Hon. Laura Henderson asked:

…is there a risk that decisions could be challenged by the First Nations Voice, given that it can sue in its own name?

I am advised that this applies no more risk than any other individual or any other organisation might sue the government on any matter.

The Hon. Laura Henderson asked:

[Does] the minister anticipates that the…Voice will address the parliament during government time or private members' time or whether there will be additional allocation on a different day, and what that might practically look like.

I think that was answered in relation to the clause 40 question that the Hon. Dennis Hood had. It will be up to each house to decide the standing orders. I have given an example of how it may work in practice that the Standing Orders Committee may take into consideration or may choose a different way forward.

The Hon. Heidi Girolamo asked a number of questions. The first one was, can the honourable member:

…get some further details about the YourSAy survey, the responses received and how it was incorporated within the development of the bill.

My advice is that the YourSAy survey was made publicly available for responses between 17 November 2022 and 6 January 2023. However, I have been advised that feedback and submissions were still being accepted up until 11 January when people asked for an extension.

I am advised that there was a total of 42 submissions, 11 from organisations and, curiously, two of the submissions posted with no content but, nonetheless, they were counted as submissions. As a result of the feedback received from the second round of community engagement and the written submissions received via YourSAy, and also written submissions that were received not via the YourSAy website but by other means, there were quite a number of changes that were made to the draft bill. An example of some of those changes include:

- a new definition of 'First Nations person' and 'traditional owner';
- a new clause 7 to make it clear that the act does not limit the functions of other First Nations persons or bodies, or affect existing or future agreements;
- a new clause 8 to make it clear that the act is to be read in conjunction with any other act in the future that may implement measures to progress Truth or Treaty;
- a change to the operations of the provisions around gender representation;
- the removal of the conflict of interest provisions which have been replaced with a statutory code of conduct;
- the removal of the provision allowing a Local Voice to establish committees. This has been replaced with four new provisions requiring the State Voice to set up specific advisory committees on elders, youth, native title bodies and stolen generations, and keeps the ability for the State Voice to set up any other committees that they choose;
- that the clerks of the chambers are to notify the State Voice of the introduction of all bills to the parliament;
- the State Voice has the same entitlement to address either house of parliament. It was originally just the House of Assembly but it applies equally to the possibility to address the Legislative Council as well;
- a requirement for the minister to consult with the State Voice on regulations made under the act;
- a reduction in the disqualifying period for a serious offence from 10 years to two years;
- the inclusion of a provision to repeal the Aboriginal Lands Parliamentary Standing Committee Act 2003; and
- an amendment to the Constitution Act 1934 to recognise the First Nations Voice Act 2023.

A question was also raised: 'How confident are you that this model will be effective and what are the potential impacts on outcomes for First Nations people?' I can advise that the model reflected in this bill is informed by extensive consultation with South Australian Aboriginal communities, people and organisations and puts forward the opportunity for First Nations people to have a direct influence on the decisions that affect their lives and the formulation of policy and legislation that affect them.

In my view and my experience of 20 years working in Aboriginal affairs, I am confident this will have a positive change. The very worst thing, in my view, that could happen is Aboriginal people will be heard to a greater extent, and the very best thing that could happen is we can start using those direct views and voices to turn around the huge gap we see in outcomes for Aboriginal people. This is what the Uluru Statement from the Heart stands for, after the most extensive dialogues right around Australia with Aboriginal and Torres Strait Islander people, and this is the first tenet of that statement.

A question was asked in relation to boundaries: 'What will happen if a representative for a particular region cannot be found?' In the probably unlikely event that there are not enough representatives for positions in a particular region or there are not enough candidates of a particular

gender, a supplementary election may be held. This is similar to provisions that we have seen used in the Local Government Act very recently where there is an insufficient number of candidates or, indeed, for elections to the executive board of the APY Land Rights Act.

There was a further question about how regions are determined. The number of regions and their boundaries are to be determined by regulation and they are still the subject of consultation that is ongoing. A couple of sets of different draft boundaries were considered in the second round of consultation, but there was significant feedback on those draft boundaries that is being considered and the boundaries will then be prescribed in regulation.

A further question was asked: 'What will happen when the population changes or moves and how will this impact on the regions and boundaries?' As I said, the boundaries are prescribed by regulation. This allows for flexibility in the future to review the regional boundaries, not just for changes in where people live but also changes if there are views about different nation groups and their better alignment in the future.

A further question asked was: 'What happens if a First Nations person moves, perhaps, from interstate into a particular region? Are they entitled to run for a role within the Voice?' Any First Nations person, any Aboriginal or Torres Strait Islander person who is on the state electoral roll may vote and stand as a candidate in the region in which they are on the electoral roll. If they are not considered a traditional owner within South Australia, then they will only be able to stand and nominate for the region in which they live on the electoral roll.

In terms of financial risk and structure, a question was asked: 'Why was a body corporate structure selected?' I am advised that it was clear, from the community engagement sessions, that the First Nations people wanted a community-elected body that was independent from government control and could put forward the collective views of the community to the government and the parliament.

The bill sets up the Voice as an independent statutory body. This structure was selected in order for the Voice to undertake its advisory functions and have a corporate identity in respect of those functions, rather than being simply a group of individuals. A body corporate also makes any question of continuity simpler to determine the future. It is a structure that I think the opposition considered the most appropriate for this sort of body, as it was a body corporate structure as the model that the opposition's Aboriginal representative body put forward as well.

There was a question: 'Are there other entities where that structure has been in place?' I am advised that there are many other entities that use a body corporate structure; for example, Adelaide Cemeteries Authority, the Art Gallery Board, the SACE Board of South Australia, the Law Society of South Australia, Anangu Pitjantjatjara Yankunytjatjara, South Australian Fire and Emergency Services Commission, and the Dog and Cat Management Board to name a few that are created by statutes that are in the form of a body corporate.

Another question was: 'It is a relative new structure, from my understanding, so why was that selected over a statutory authority or something like that?' A statutory authority is a body corporate established by its own specific legislation, either independently from government or as a public sector body, so the Voices as bodies corporate are statutory authorities.

The honourable member asked about individual risk: 'How will breaches and legal issues be resolved and communicated?' I am advised that clause 38 of the bill requires a State Voice to present to a joint sitting of parliament an annual report, setting out a summary of operations and the operations of each Local Voice in the preceding year, as well as any other matters of interest. It is expected the annual report will include information of this nature.

The honourable member also asked: 'How will the regional location of members be taken into consideration for vacancies?' I can advise that clause 14 of the bill provides that, if a casual vacancy occurs within 18 months and there was more than one candidate for the election who is eligible for election, the Governor will appoint the person of the appropriate gender who received the next highest number of votes.

The Electoral Commissioner is responsible for the conduct of the Local Voice election. They will have the results of votes for each Local Voice election and will be able to advise on who the

person of the appropriate gender with the next highest number of votes is in that region. The person must then be appointed by the Governor to the vacant position, unless a person is no longer suitable, unwilling or unable to be appointed. I am advised these are very similar provisions to the treaty-making authority, the Victorian First People's Assembly. When we were looking at setting up this body we looked to similar bodies, not just in South Australia, like the APY Executive Board, but at bodies interstate and how they are elected and operate.

The honourable member also asked a couple of questions about the election process: 'Will the Electoral Commissioner receive additional funds or support in order to run these elections?' Yes, they will. I think I outlined the costs as determined and discussed with the Electoral Commissioner for the initial election looking to be held if the legislation passes somewhere in the middle of this year—a budgeted $2.94 million, and the cost of the second election, which is intended to be run in conjunction with the state election, at $1.25 million.

The honourable member asked: 'What would happen in the event of a by-election, including the costs associated with that?' If a supplementary election was held in a number of circumstances—for example, as earlier contemplated, if there were not the right number of nominees to fill positions on a Local Voice, or if there is a casual vacancy that requires supplementary election after the 18 months—a supplementary election can be held. The supplementary elections would occur and the costs will be considered at the time, as they are for other supplementary elections or by-elections, whether for the state parliament for the House of Assembly, for local government or for the APY Executive Board.

Regarding addresses to parliament, the honourable member asked what are the logistics and how it will work in the house. I refer to the answer in reply to the Hon. Dennis Hood on clause 40. In the event there are emergency bills or significant species of legislation, how will that be communicated? Under the bill before us, it requires the Clerk of the relevant chamber to notify the State Voice of the introduction of any bills. A member or a relevant government minister may also notify the State Voice about the introduction of a significant or emergency bill.

It does recognise, though, that there will be occasions—for example, some of the COVID-19 response bills where people were given notice and a briefing on Monday and the parliament passed them the very next day, on the Tuesday, because they were required for the safety of South Australians—where there may not be an opportunity for the Voice to speak or make a submission. The legislation specifically anticipates this possibility with the inclusion of subclause (3) of clause 40.

If there are amendments to bills, will the First Nations Voice be invited back to speak or will it be one time and that is it? As previously indicated, it is an address once in relation to a bill in either the Legislative Council or the House of Assembly. I understand the question that amendments may be moved, and would the Voice keep being able to come back every time there is an amendment? The answer to that is no, but nothing would preclude members seeking the view of the Voice, should they choose to, about amendments on file, but on each bill before parliament it is a one-time opportunity.

How many staff will be allocated across the board, including research officers, public servants and assistants as well? As I advised in the second reading explanation, we currently anticipate—and of course this will be subject to getting it up and running and seeing what the needs are—a budgeted $700,000 per annum for the secretarial and administrative support for the Voice.

The bill also contemplates a possibility of any other public sector employee being able to provide support to the Voice. That may come about particularly if they are considering particular issues or particular legislation where public sector employees in a particular departmental policy area may make themselves available.

There were a number of questions that the Hon. Connie Bonaros asked last time we sat. The Hon. Connie Bonaros asked in relation to confirming that notwithstanding the youth committee will be broad enough to have whatever the definition of youth is ultimately decided upon, there will still be the ability to establish other committees that are issue specific, issues that we have canvassed in those meetings. They may well include issues that relate to youth or children or other specific issues. And yes, I can confirm that is the case.

The State Voice has the ability to establish other committees it considers appropriate pursuant to clause 34 of the bill. This could include an advisory committee that was focused on children and other specific issues. Other members have also asked particularly about the matter of the representation of children and young people on this committee to confirm the government's intention of establishing the four statutory committees. Two of them are to represent the views of elders and youth and they are selected by the local First Nations Voices.

Two people of different genders from each of those Local Voices will make up the statewide advisory committee on those issues. It was of critical importance to people in consultation that those views were heard, and it was envisaged that each Local Voice will decide their own definition of what an elder is and what youth constitutes. It will be up to those to decide what they are, but they will be made up of younger people and respected elder people from the communities. We did not want to put a statutory definition in and leave it up to the Local Voices to make that decision.

It has been asked: 'How does clause 4 of the bill operate in practice? The definition of 'accepted'? What does it mean to be accepted in a community and who is doing the accepting?' I can advise that the tripartite test adopted in the bill as stated by Justice Brennan in Mabo v Queensland (No. 2) and considered in Love v The Commonwealth of Australia is widely referred to, as I think I said last time we met, both administratively and judicially and is being adopted federally for the purposes of determining eligibility for a range of services and benefits.

The weight given to each of the three elements in the test and what it means to be accepted by the community is not a matter for determination by the minister, the parliament or by legislation. It is a question for the courts to determine on a case-by-case basis. For example, in Love v The Commonwealth and Thoms v The Commonwealth, the High Court determined that Mr Thoms was an Aboriginal Australian and therefore not within the reach of the alien powers. This is based on the fact that he is a descendant of Aboriginal people through his maternal grandmother. He identifies as a member of that community and is accepted as such by members of his people.

He was also a common law holder of a native title, which has been recognised as determinations of native title in the federal court. In respect of Mr Love, the agreed fact disclosed by Mr Love is recognised by one identified elder as a different group. It is not apparent that such recognition conferred the traditional customs of that group.

In respect of the validity of Local First Nations Voice elections, the Court of Disputed Returns, which is constituted of a District Court judge, has jurisdiction to determine disputes in the first instance, including disputes around eligibility. If a question of law arises, the court may, on its own motion or by application of a party to the proceedings, state a question of law or for the opinion of the Court of Appeal.

The state electoral roll is a roll for the purpose of the Local Voice elections. The state electoral roll is maintained by the Australian Electoral Commission and an electronic copy of the current roll is available for public inspection at the Electoral Commission of South Australia and any AEC office. In order to inspect the roll, a person must provide their name, address and photographic identification.

Any First Nations person enrolled on the state electoral roll and who completes the declaration of eligibility is eligible to vote in the Local First Nations election in the region in which they reside and are on the roll. However, the state electoral roll does not contain information about whether a person is or not a First Nations person. As I said, the person will be taken to be a First Nations person if they satisfy the tripartite test in clause 4 of the bill. If there are some questions around eligibility on the basis they do not satisfy the definition, then the eligibility may be a matter for the Court of Disputed Returns.

I was also asked: 'What is a remedy in such a situation?' If there is a question about the eligibility, the Court of Disputed Returns has a jurisdiction to hear and determine any petition addressed to it disputing the validity. The court has the power to declare a person who was elected was not duly elected. A person who falsely makes a claim under section 4 in information provided is guilty of an offence under clause 28 of schedule 1, and it attracts a maximum penalty of four years imprisonment, which is consistent with the penalty for making a false declaration under the Oaths Act.

It was further asked: will this information be shared amongst government departments and other service providers? Pursuant to section 26 of the Electoral Act, the Electoral Commissioner must, on request, provide certain information to candidates in relation to elections.

Under section 27A(1) of the Electoral Act, the Electoral Commissioner may, on application by a prescribed authority, provide the authority with any information in the Electoral Commissioner's possession about an elector. The prescribed authorities are set out in regulation 5(1) of the Electoral Act, and includes the Commissioner of Police, the South Australian Superannuation Board, the Chief Executive of the Department for Health and Wellbeing, the Central Northern Adelaide Health Service Inc., and the ICAC.

The next question was: in terms of the address to parliament, one of the things we have to canvass at length is the availability for us to effectively take into account the reports that it provided, or the addresses, when we are working through debates and consideration given to that. I think that was answered in the response to the Hon. Dennis Hood's question about clause 40. It will be one address to one house of parliament. There will not be an opportunity to reagitate if amendments are moved, but nothing precludes individual members of parliament from seeking further views if the Voice is willing to do that.

In terms of funding, there was a question from SA-Best about why we have not gone down the path of a remuneration tribunal. I can advise that, in relation to a remuneration tribunal, I think I talked about that when we sat on Tuesday. The Remuneration Tribunal generally sets remuneration for people who have significant decision-making functions, be they members of parliament or members of local government, where this is an advisory body and, consistent with advisory bodies, this is the way remunerations are determined.

I was also asked if there are any other examples of cabinet-in-confidence or commercial-in-confidence information being legislated for. I am advised there are quite a number of examples on the statute books; for example, regulation 4 of the Essential Services Commission Regulations 2019, schedule 1 of the Freedom of Information Act and section 21 of the Ombudsman Act, to name a couple of those.

With that, I am happy to open up to further questions on clause 1. I look forward to talking about questions as we go through the committee stage. I hope I have been able to answer quite a number that I suspect will come up later on, but if there are more details that I have not given, of course I am happy to do so.

The Hon. D.G.E. HOOD: Can I start by thanking the Attorney for adopting the approach he has because I found the—in fact, it is a model we could adopt on many bills I suggest, Attorney, because it was very helpful, and very helpful to the government I might suggest, because my 40-plus questions have now turned into about 15, so I think the government might be appreciative of that for future legislation. I suspect it is true of my colleagues and those on the crossbench as well. I literally found myself crossing off questions as we went through, so no doubt the government will appreciate that as we have, so thank you.

Just to drill down on some more detail on some of the things you did mention this morning, just to clarify in my own mind—you did speak rather quickly on a few of those issues—just to be clear. Is it fair to say, Attorney, in your words—I do not want to misphrase you—do you see the Voice, as we are terming it, for want of a better term, as an advisory body to this parliament and to government on matters of Indigenous concern?

The Hon. K.J. MAHER: The intention is that it provides advice to parliament and the government. No more than advice, and that is very clear in the legislation.

The Hon. D.G.E. HOOD: And therefore is not binding, as you have said, just to be clear?

The Hon. K.J. MAHER: My advice is no, it is not binding, in the same way that anything that comes from any member of the public or a parliamentary committee or any other advisory body is not binding.

The Hon. J.M.A. LENSINK: I thank the Attorney for the very thorough half hour of responses to questions he has given. I apologise that I did not have the opportunity to put some of these

questions previously. My first line of questioning, which was partially answered in the second reading, is in relation to the model that was consulted by this government, whenever that started—some six months ago I think.

I am happy if the minister wants to take this on notice and come back to us at some further point in the debate, because it might have some detail or there might be some pre-prepared notes in his folder. The differences between the model that was originally consulted on versus the piece of legislation that we have today: in part, he says in his second reading explanation that:

> In response to feedback from engagement sessions, the definition of 'Aboriginal person' and 'country' have been replaced with 'First Nations person' and 'traditional owner'…Two new clauses have been included in part 1 of the bill in response to concerns raised about the interaction of the Voice with other bodies…

In particular clause 7. Are there any other changes from the original model that was consulted on at the start of this process compared with the model that we have now and what are they, please?

The Hon. K.J. MAHER: Yes, there are. There are numerous changes and they came about as a result of the 42—two being blank—so 40 actual submissions of substance as well as that community engagement. The community engagement process was in two stages. The first one had the Commissioner for First Nations Voice go out without a model but asked, 'What would you like to see in a model?'

As a result of that, he came back and wrote the first report that was published I think in October, from memory. That report set out what was heard from that first round of engagement, design and model. The people in the Attorney-General's Department and across government and obviously parliamentary counsel tried to translate that as best we could into a bit of legislation that formed the second round of consultation.

So there was that draft bill that, in very early November, was sent out; then, during the second part of November and December and the very start of January, face-to-face consultations right across South Australia were held again. As a result of that second round of consultation, there were some changes made. I went through a list of about a dozen of them a bit earlier on. I can go through them again or—

The Hon. J.M.A. Lensink: No, that's alright.

The Hon. K.J. MAHER: The member set out a few of the important ones and they came out of particularly submissions from the likes of the South Australian Native Title Services, the Aboriginal Legal Rights Movement, the Law Society, and I think the Adelaide University put together a policy position. There were quite a few of the submissions that had areas of commonality in terms of the things that were submitted.

The definition of First Nations person, using the tripartite test, was certainly one of those. I think we had originally put in the bill a definition of First Nations person that was much more similar to the Aboriginal representative body that the former government had. Of course, it was only natural that some of what we did borrowed from some of the language in that first bill, but it was pretty universally considered that the tripartite test as originally set out in the Mabo case that I talked about was the most appropriate and we accepted that.

For the ability to nominate for somewhere other than where you are on the electoral roll; that is, nominate on your country—we talked about country as being the defining factor. Again, a commonality amongst a lot of those submissions was that there are already definitions set down in other legislation, particularly the South Australian Aboriginal Heritage Act 1998, that talk about traditional owner and what that means and it would be more sensible to use the already existing definition, which we accepted.

They were two, but there were—as I read out a little bit earlier—at least a dozen or so changes. Some were small but some were important as well.

The Hon. J.M.A. LENSINK: I thank the Attorney for that explanation. I would also like to ask the minister if he could perhaps describe the evolution of the different roles of the commissioner. In particular, Dr Roger Thomas has held the role of South Australian Commissioner for Aboriginal

Engagement and under this government we have had Mr Dale Agius appointed as the Commissioner for First Nations Voice.

Is the minister able to perhaps explain what was the transition between those roles, if there has indeed been a transition, or what the evolution in the process has been, and how he would see those, whether they are similar or if they have particular differences in their responsibilities?

The Hon. K.J. MAHER: I thank the honourable member for her important question. The role of the Commissioner for First Nations Voice held by Dale Agius was created in I think July of last year. It was particularly for ascertaining the views about creating a First Nations body. It was, as I think I talked about yesterday, one of the first, if not the very first, election commitments that the then Labor opposition made, so it was something we were keen to start soon.

The role of the First Nations Voice commissioner has been the extensive community consultations. I think Commissioner Agius probably has not spent much of the last six months at home in Adelaide. It has been dozens and dozens of consultation sessions, from Ceduna, Oodnadatta, Coober Pedy, Mount Gambier, Murray Bridge, APY—right across the state.

The role of Commissioner for Aboriginal Engagement—and I am delving back into my memory because I might have been the chief of staff to the Minister for Aboriginal Affairs when it was first set up—came about when ATSIC was abolished by then Prime Minister John Howard. It is not something I think many Labor people are particularly proud of now but, with the acquiescence of then Labor opposition leader Mark Latham, it was filling a void in relation to governments getting some views—although not as complete as ATSIC or, I would say, this body—for dealing with issues to do with Aboriginal South Australians.

I think Narungga leader Klynton Wanganeen was the first Commissioner for Aboriginal Engagement, and there has been a succession of commissioners since who have done a very good job. Khatija Thomas, Roger Thomas, Frank Lampard, Inawantji Scales and Harry Miller have all held the position over the last decade and a half as Commissioner for Aboriginal Engagement. We envisage that once the Voice is properly established and up and running it will fill the role that not just the Aboriginal Lands Parliamentary Standing Committee has provided but also the Commissioner for Aboriginal Engagement has provided.

The Hon. J.M.A. LENSINK: I also have some questions in relation to the combined letter from SA Native Title Services, which I think a number of members would have seen, particularly the Attorney-General. I would like to put some questions to him for which I would appreciate some responses on the record. Firstly, in the two-page letter, the signatories state, 'The proposed model would establish a regional or Local Voice with no defined representation, linkages or accountability back to native title groups.' It then poses the question, 'How is this a First Nations Voice?' Is the Attorney able to respond to that particular criticism?

The Hon. K.J. MAHER: I thank the honourable member for her question. Certainly, as a result of the submissions from SANTS, there were changes made to the legislation. There were a number of changes made, in particular the insertion of a new clause 7, after a number of submissions, including from SANTS, were concerned that any agreement that native title groups had with state government or the way they interact might be usurped by any new body.

Clause 7 was a new clause introduced as a result of those submissions that makes it abundantly clear in the act that it does not interfere with any agreement any body or any person already has or will have with the government. In addition to that and in recognition of submissions made by SANTS, there are four new committees required to be established by this statute, one of them being a native title bodies committee. There will be required to be a committee to provide advice to the State Voice that is made up of a representative of each of the native title bodies in South Australia.

In relation to the make-up of the Voice, the basic building blocks or the structure of the Voice, I appreciate and understand the views put forward by SANTS that there are native title bodies and one way you could structure a Voice is to have representatives of each native title body making up the South Australian Voice. That certainly was not the overwhelming view of the overwhelming number of Aboriginal South Australians who were consulted in what I am almost certain is the most

thorough consultation the government has ever had with Aboriginal communities and Aboriginal people in South Australia.

The view was it should be a directly elected model from Aboriginal people and elected into local regions, which then form the State Voice. Some of the views that were put forward were that if native title bodies were the building blocks, that would not provide a place for, say, a Noongar person from Perth or a Koori or a Murri from one of the Eastern States—an Aboriginal or Torres Strait Islander person who is not from country in South Australia but now calls South Australia home and is on the electoral roll and quite likely faces exactly the same level of discrimination and disadvantage that an Aboriginal person from country in South Australia faces but who would not be able to be a part of that, because of course they would not be part of a native title group within South Australia.

It was also raised as part of the consultations that it would make it difficult for some members of the stolen generations who have not found their way home or ability to know their country to be involved in this. So we appreciate that, and I have had a number of very good conversations with people from South Australian Native Title Services, but in regard to what the building blocks of the Voice are, that is just a difference of view about what makes them up, although we respect the views, and we have made changes to the final legislation to take into account some of those.

The Hon. J.M.A. LENSINK: I thank the Attorney for that response. I think some of their concerns remain in that their chief concern is: who does represent cultural authority for a particular group? I think somewhere in their 12 or 13 pages there is a comment about parallel processes between not just the native title groups and the Voice but potentially other groups as well. Would the Attorney provide some commentary about how he sees cultural voice being established, utilising these laws or any others for that matter?

The Hon. K.J. MAHER: I appreciate that. The Voice is not designed to act instead of already established voices or cultural authority but to complement those. It in no way seeks to take away from the cultural authority that many Aboriginal people have through native title groups or through statutory landholding authorities like the Anangu Pitjantjatjara Yankunytjatjara or the Maralinga Tjarutja. We see this as being complementary to those, not in competition with those.

The Hon. J.M.A. LENSINK: If there is a situation where there are other groups that are not specifically represented by Voice representatives who have alternative views to the Voice—in fact, they may be diametrically opposed—how does the Attorney see those issues should be resolved? This parliament is going to have a statutory right to hear from the Voice directly. How should those other groups be represented to parliament?

The Hon. K.J. MAHER: I am absolutely certain—I know for a fact—that whatever views a representative of the Voice may put forward to parliament, there will be Aboriginal people in South Australia who have a different view and quite possibly a diametrically opposed view. The Aboriginal community, like society as a whole and like any other group within society, has a huge range of differences of views. We have seen that even in the discussion about the federal referendum, with Warren Mundine or Jacinta Price having a view or in fact senators from Victoria having a view.

The model we have put up from the consultations, which as I said are the most thorough we as governments have ever done with Aboriginal South Australia, is the model that was overwhelmingly supported. But I am absolutely certain that when individuals or organisations have a view different from what the Voice is putting up, in my experience most of us will hear about that.

The Hon. D.G.E. HOOD: I just have two more issues to explore at clause 1, and I will be done. I do not think they will take a great deal of time. Can I just further examine the issue of defamation, which the Attorney outlined in his contribution? It is just a couple where slightly more detail is required—just clarifying what he said, actually.

I think he said that individuals can be sued and that therefore they would be individually liable. My question is therefore: would they be able to access government assistance—that is, legal assistance—in the same way the executive does in parliament, yet non-executive members of parliament are not able to access legal assistance? Is that something the government has yet turned its mind to?

The Hon. K.J. MAHER: I think this is the correct answer, but I am happy to clarify it afterwards. From my experience, particularly as Attorney-General and seeing files come through and needing to give instructions, most members of the public sector have the ability, in circumstances where it is strictly in line with their duties, to seek to be indemnified and to be represented by the Crown in proceedings, including defamation. This will be no different from that I presume, but I will double-check that. Certainly, anything acting anywhere outside the duties of individuals will absolutely be liable in the ordinary course of the operation of the laws of defamation.

The Hon. D.G.E. HOOD: I think that clarifies that matter. Just to be clear, Attorney, I think you also said that they can also be sued in the normal course, as any other body corporate would be able to as an entity in itself; that is correct, is it not?

The Hon. K.J. MAHER: My advice is that is correct.

The Hon. D.G.E. HOOD: I think that deals with my matters of defamation. I will turn to my last issue on clause 1, and that is the scope of the legislation upon which the Voice may present to parliament, that is, the issues that they may wish to speak on. As I went through the *Notice Paper*, as it currently stands, it looks to me like essentially every issue—even with quite obscure bills where you think that would not necessarily be related, when you think it through you could actually find a reason. I am just looking for the Attorney's response to that more generally.

The Hon. K.J. MAHER: The honourable member is correct, it could be any bill potentially. During the course of discussion on this—and I think it has come up in public discussion federally—about whether there is some sort of scope or narrowing of what the Voice may be involved in, the other alternative way is to leave it up to the clerks of the chambers to decide what they think the Voice might be interested in, to narrow it down to particular acts that are being amended or particular topics.

It was our view, and certainly consistent with the consultations, that as the honourable member said, potentially nearly anything could be of interest to Aboriginal people. I was thinking about that as well—for example, the bill that came through parliament that dealt with the new Women's and Children's Hospital and its building. There are burial grounds all along the Torrens and that may be something that on first glance superficially you might think might not attract necessarily huge interest from Aboriginal people and the Voice, but facets of nearly everything we do will touch upon that.

We will see in the operation of what the Voice wishes to do and how they want to operate, I suspect, but I do not know. It might be on occasions that it will desire that on important matters like changes to child protection, Aboriginal heritage or things that are very directly involved with Aboriginal people, and it might be that on other matters a one or two-page report is tabled on particular bills. But the honourable member is right, the potential is, and quite deliberately, that it is any bill that is of interest to the Voice.

The Hon. D.G.E. HOOD: I think this will be the last one from me because, yes, that is right. Even more simply than that, Aboriginal people obviously will use the Women's and Children's Hospital, so that makes sense. My last question in that regard is: are we to assume that it is only matters currently before the parliament, or could it be a matter that has passed the parliament at some previous time, for example, or some matter that the Voice believes should get the parliament's attention that is not currently in front of the parliament?

The Hon. K.J. MAHER: In relation to legislation, I am advised that it is prospective—that is, bills that are introduced to parliament after this comes into operation—but of course there is the ability to provide a report on any matter of interest, so that could be on legislation that is in the past, or issues as well.

The Hon. J.M.A. LENSINK: I said I had concluded my questions at clause 1 but I just have one more line of questioning, which is the timing of it. I note that when the former Marshall Liberal government had the AR Bill before the parliament that a lot of Labor members were critical of the timing there. Attorney, why does this bill need to be passed now when, clearly, there are some outstanding concerns from groups, as have been expressed?

The Hon. K.J. MAHER: As I think I have said before, this has been an exceptionally thorough consultation. There were two rounds of consultation: one to design the legislation and then a further round over a number of months about the legislation specifically. I think the draft legislation was made available publicly and certainly to other members and to the shadow Aboriginal affairs minister by mid-November. So this has been many months of not just development but consultation on an actual model of a bill.

As I said in my second reading explanation, this is nearly six years since the Uluru Statement, it is six months of extensive consultation, and for 187 years I think Aboriginal people's voices have not been heard properly, so we are keen to get this going.

The Hon. J.M.A. LENSINK: I thank the Attorney for his response. I outlined in my second reading contribution the consultation that we did on the Aboriginal Housing Strategy, which I think we had hoped would take 12 months and actually took two years in the end. Some of that was COVID related, but certainly it was to try to achieve some form of consensus, notwithstanding that Aboriginal people, like everybody else, are diverse and have divergent views. Does the Attorney think that if he had taken more time he might have been able to achieve more consensus on this legislation?

The Hon. K.J. MAHER: I thank the honourable member for her question. My answer is: I suspect not. I think there are some things—like how we outlined the difference of views between what the basic building blocks would be and whether they be native title groups or elected bodies—that are just very different policy matters that we view. I do not think any more time would have brought a resolution to some of the things that are just one or the other differences of views.

In terms of the time taken, as I said, it was an extensive six months, but there was some feedback in the groups to the effect that, 'We have told you we want a Voice. This has been going on for six years. Can't you just get on with it?' I understand the member's views and acknowledge her work with Aboriginal people as housing minister and her familiarity with the extraordinary community respect that Commissioner Dale Agius has in the South Australian Aboriginal community.

Finding that balance between reagitating something that has been spoken about for six years with the Voice and getting it done, but getting it done in a way that, as I said, has the process where we design something as a result of the consultation and then consult again—I think we have found the balance between those two things at the right level. Of course, there will be some issues in which there will be irreconcilable differences with some groups.

The Hon. T.A. FRANKS: I have a few questions on a few topics, and one has only occurred to me today, but it has come from the question the Hon. Laura Henderson raised in her second reading that has been responded to today with regard to time limits. Is there a time limit set on the Governor's Address in Reply?

The Hon. K.J. MAHER: The answer is: not that I am aware of, but I am happy to check on that. I do not think there is.

The CHAIR: The answer is no.

The Hon. T.A. FRANKS: Thank you. In terms of the Hon. Dennis Hood's contribution, I just wanted to reflect on something that I discovered when I visited New Zealand, looking at sex work law reform. The first question that the proponents there of sex work decriminalisation asked me was, 'What do Aboriginal people think?' and I said, 'I have no idea. I had not thought to ask them.' They responded that their first question is always, 'What do Maori people think?' because Maori people have dedicated seats in the New Zealand parliament and so in fact the starting point of any legislation is 'What do Maori people think?' firstly, because they have some votes dedicated on the floor and also because they have a voice in the debate.

For me, that was one of those epiphany moments where I realised I had not even thought to consult with Aboriginal people and I am embarrassed to say that because I should have thought to. It was not until a parliament that worked in a completely different way put that as a challenge to me that I realised that it is not the way that we think currently in this parliament. It is a question for later, but perhaps we will be looking at joint standing orders to accommodate this, not just individual house standing orders.

My other questions, Attorney, come from the Liberal Party position on this bill, which I think you have answered quite clearly and I alluded to in some of my questions, with their claim in the media release issued on Tuesday morning that this would create a third chamber of parliament. Certainly, it seems to me that is a totally incorrect assertion. Further on it says in that press release:

> We oppose the bill in its current form, but may look to make amendments as it progresses through the parliament.

Attorney, has the Liberal opposition raised any amendments with you, as I note there are no amendments here before us today from the Liberal opposition?

The Hon. J.M.A. Lensink: We are going to raise them in the assembly.

The Hon. T.A. FRANKS: So you are going to raise them in the assembly? Why would you raise amendments in the House of Assembly rather than the Legislative Council?

The Hon. J.M.A. Lensink: The short time frame.

The Hon. T.A. FRANKS: Does somebody want to stand and actually answer these questions, because I do have a few questions for the Liberal opposition right now?

The CHAIR: You can stand and ask the question and then sit down, but at the moment you have the floor.

The Hon. T.A. FRANKS: I notice that there is no leadership in terms of the Leader of the Opposition in the house. My questions are: where are the Liberal opposition amendments? Why have they not talked to any crossbencher about them? Why do you refer to the Aboriginal Representative Body Bill? On which parts of that bill do you intend to seek amendments? I then have some further specific questions about that bill and why you have taken the approach you have in that bill. If you could answer those, that would be great, and then we will have a few more questions.

The CHAIR: The Hon. Ms Lensink, it is up to you—you can choose to answer those questions. I am not sure about going on to a different bill, but anyhow.

The Hon. J.M.A. LENSINK: Thank you, Chair. I will answer those that I think are within the scope of the standing orders, given that we do not have the Aboriginal Representative Body Bill in this chamber that is under debate. I think it has been clear that this is not the only piece of legislation that is being rushed through the parliament. The crossbenchers would share on occasion our concern about the inordinate haste with which the government, once it decides it has the numbers, jams stuff through, because it can. This is one example of that.

We have made the point in relation to this particular piece of legislation that we think that more time could be taken. My colleague, who is the spokesperson, both as shadow attorney-general and as minister responsible for Aboriginal affairs, will be the one who has amendments in the House of Assembly.

The Hon. T.A. FRANKS: I will clarify. I am asking questions about this bill because the Liberal opposition made a public media statement that they would have amendments to this bill. They referred in their public commentary to the Aboriginal Representative Body Bill, which I am well familiar with, given the Marshall government brought in that bill prior to the 2022 election, noting at the time that it was rushed—largely due to COVID, so I can accept that—but reintroduced by the shadow minister and shadow attorney in the other place—still rushed from the previous incarnation, completely unamended—that has sat there since the beginning of this parliament. My question is: do you intend to change the definition of 'elder' and why have you chosen the definition of 'elder' as somebody over the age of 60 or otherwise determined?

The Hon. C. BONAROS: I am rising to take exception to the comments that we are rushing this bill through parliament because we have the numbers. I think it is clear for the record—and I would ask the Attorney to confirm this for the record—that since this bill and prior to its introduction the minister and his team have made themselves readily available to answer the multitude of questions that we and our staff have worked on tirelessly to provide to them in an effort to deal with this debate in an appropriate time frame.

I will say it again: I take exception to any suggestion that this is being rushed through here simply because the numbers are the way they are. We have all done our work, and I in this instance—not often we do this—commend the government because I cannot think of another example where they have provided as much feedback, as much detail, on myriad issues we have raised with them, and then gone back to them and asked them to reclarify, and then gone back again and asked to reclarify, in meeting after meeting after meeting that they have made available to us at our request and at very short notice.

That has all happened sometimes overnight or on the same day. I would ask the minister to confirm that that has been the case in terms of their consultation, I am sure with the Greens but certainly with SA-Best over this period.

The Hon. K.J. MAHER: I thank the honourable member for her question. This bill, I think, will be the most important thing I do in my public life. I have tried and made sure that as a team we have done absolutely everything we can to have people as informed as they possibly could be about this bill.

We have met with the shadow Aboriginal affairs minister, representatives of SA-Best, the Greens, and of One Nation. I have reached out to the crossbenchers in the lower house as well to provide further briefings as it travels down to the lower house. We have made a series of amendments based on the bill that was released in early November to take into account issues raised and formal suggestions that have been put in writing by other members of parliament.

I have not been involved in a piece of legislation or a policy matter in my 10 years in this parliament that has been more involved, more detailed and with more consultation with the people who it affects and those who are going to be making decisions on it. I am very proud of the way this has been consulted on and the result that we come to here today.

The Hon. C. BONAROS: Would the minister confirm that that also includes going back to the commissioner, as required, to gather information that we have requested specifically from him in relation to those consultation processes?

The Hon. K.J. MAHER: And with the commissioner, who has been at all the consultations himself. For nearly the last six months, I have had weekly—every single week—meetings with the commissioner to make sure I am understanding what is happening, almost in real time with the consultations, to make sure we are making this bill representative of the views of Aboriginal South Australia, as well as those of us who make the decisions and whose voices we are going to hear better count.

The Hon. H.M. GIROLAMO: Can the minister please confirm what date the Greens received a copy of the bill versus when the Liberal Party, One Nation and other parties received a copy of the bill?

The Hon. K.J. MAHER: I do not have that with me. I will have to take that on notice. From memory, it would have been within possibly the same day and some time in early to mid-November, but I am happy to take that on notice and check.

The Hon. J.M.A. LENSINK: I do not wish to prolong debate or, indeed, inflame it because I do not think it is necessarily that useful but in response I would say that those are not just my words, those are words from Aboriginal people I have spoken to about this particular legislation, that they do feel that more time could be given to reach more of a consensus position, so I guess we will just have to agree to disagree. But for the purpose of the debate, it is probably not necessarily a matter worth pursuing.

The Hon. T.A. FRANKS: It was not asked directly of me but my understanding is I got the bill the same day that the Liberals got the bill. What I wanted to add, and the reason I have asked the Liberals to disclose what their amendments to this bill are, is I have been cognisant, having conversations, and I have met in the last week with SANTS and I outright asked, knowing that they are still not 100 per cent happy with this bill, 'Which do you prefer: the opposition bill or the government bill?' and they said, 'The government bill.'

If you have particular amendments that perhaps would have got the support of crossbenchers and the community, it was beholden to the Liberals to put them forward, not in the House of Assembly in the final stages of this without due consultation and respect for the other members of the Legislative Council. I let the shadow attorney know instantly that I had an amendment that I negotiated with the government in regard to the changes to the voting system because I have to say I do not think first past the post is something that this council should be advocating for. I am much happier that we have settled on a voting system that is fairer and more proportional and also reflects the Legislative Council's own voting system, which I imagine most of us would support.

I got a text message back but I never had a discussion. I have never had it raised with me by the Liberal opposition what their particular concerns still are. I do not actually know what your particular concerns are. I do not know if it is the definitions that are used. I am not sure because you also had conflicting second reading speeches. In fact, some of you spoke against your own Aboriginal Representative Body Bill in your second reading speeches, so I am not quite sure what the Liberal opposition position is.

I am not sure what these opposition amendments will look like, and I find it incredibly disrespectful that you would not put them up in the Legislative Council, so I just wanted to place that on the record.

The Hon. F. PANGALLO: I would like to reiterate what the Hon. Connie Bonaros said in relation to the discussions, the engagement, the consultation, the answers that we have received from the Attorney-General in relation to this bill. We had some really serious, hard questions that we posed to the Attorney-General, particularly in relation to integrity, integrity of candidates, elections, and a lot of other matters in relation to the administration of it, and I must say I was impressed at the speed and the clarity of the responses that we got from the government in relation to this legislation.

I will have some questions in relation to parliamentary process in a second, but I just want to note the Hon. Michelle Lensink and her comments in relation to haste. I note that her party and Labor were quite happy to jump on board with this absurd local government legislation that went through the House of Assembly yesterday quite easily. They were able to come to some sort of consensus with the government, and the way I view it is: probably in an effort to try to save the backsides of some of their preferred candidates, but anyway we will discuss that later on.

To the Attorney, I do have some questions in relation to parliamentary procedure. In regard to draft legislation, will the Voice be able to access draft bills before they are actually tabled in the parliament or will the Voice need to wait until the bill is actually introduced into the parliament?

The Hon. K.J. MAHER: I thank the honourable member for his question. There is no right to access draft bills under this legislation. There is a requirement, once they have been introduced, for the Clerk of the respective chamber to forward it to the Voice. That does not mean though that the opposition, private members or the government of the day are precluded from consulting with the Voice about a draft bill or indeed about concepts they might be putting forward.

Other aspects of the legislation before us has consultation processes with chief executives and with cabinet. It might even be that consultation processes on something that the government or anyone else knows is certainly going to be of direct interest to the Voice, that they might choose to engage with the Voice prior to putting bills forward. But no, there is not a right or an ability to see bills in draft form. It is sent to the Voice by the Clerks upon their introduction.

The Hon. F. PANGALLO: Will the Voice be given some kind of a deadline to be able to respond to making second reading speeches in this chamber and in the other place? In light of what has been mentioned, if there is some sort of emergency legislation that is required—as we saw during COVID or perhaps even this absurd local government bill that is going to be rushed through—will they have enough notice, and what if they cannot make a second reading speech even though they have indicated that they will?

The Hon. K.J. MAHER: I thank the honourable member for his question and I would refer to clause 40(2) and (3). Clause 40(2) requires that:

> The State First Nations Voice must give the presiding officer of the relevant House at least 7 days' written notice of the intention of the State First Nations Voice to address the House.

Subclause (3) goes on to provide:

> However, the State First Nations Voice need not give notice in accordance with subsection (2) if, in the case where a Bill is to be debated or otherwise progressed urgently through the relevant House, it is not reasonably practicable to do so.

However, as I mentioned earlier, clause 40(7) contemplates the possibility where there is just not an opportunity to be heard, and the example that I have given that it might apply to is those times during the height of COVID where we were all—I think crossbenchers and the opposition—given briefings on a Monday night after the then government's party room meeting. They had decided in cabinet earlier that day and the party room meeting on legislation that was necessary to keep us safe, and being progressed, I think on one occasion, through both chambers the very next day. Subclause (7) provides:

> Nothing in this section prevents the relevant House from conducting its business (including, to avoid doubt, the consideration or passing of Bills about which the State First Nations Voice wishes to address the House) prior to being addressed by the State First Nations Voice under this section.

It contemplates that particular situation, which from time to time may be necessary, as we found under COVID, but I would also note that there is the ability to provide reports to the parliament. My guess is it will probably occur more than addresses by reports and certainly in a situation where legislation is going to be progressed quickly once notice is given, it may be a written report that is provided rather than an address.

The Hon. F. PANGALLO: I would imagine that that second reading address would need to be presented in this place or the other place by a representative of the Voice. In the event that they are not available and there has been a rush, is there an opportunity for a proxy presentation of the second reading?

The Hon. K.J. MAHER: An explanation contemplates that it will be one of the two presiding members of the Voice who have that right to address parliament on legislation but, of course, if one of those cannot make it, it is still completely open for a written report to be provided. It is not as if parliament will not get to hear the view of the Voice.

The Hon. F. PANGALLO: Just a procedural matter: I imagine standing orders in this place and the other place will need to be amended?

The Hon. K.J. MAHER: We talked about that a little bit earlier at a little bit of length, but the intention would be that—whether they are separate standing orders that are very similar or joint standing orders—maybe the standing orders committees of each house would come to provide for the appropriate mechanism of the standing orders.

Earlier I talked about the possibility that it might be at the start or the end or during second reading speeches. It could be similar to the House of Assembly—a limit of 20 minutes during the second reading, for example—but it will be a matter for each house. I suspect the houses jointly to come up with that exact procedure.

The CHAIR: Just before you make your contribution, Hon. Ms Bonaros, we have had a broad-ranging conversation at clause 1 where members have had their opportunity to put questions. If we now have specific questions on clauses, we will deal with them as we go. If you have a general comment, by all means, but if it is specific to a clause then we will do that when we get to it.

The Hon. C. BONAROS: Thank you, Chair. I think it flows on from what the minister has just answered so it is probably appropriate now. I think it is very important—and perhaps in line with very wise changes that were made to the Coroners Act—that when those reports are made, there is a requirement for the government and the minister of the day to provide a report back in terms of any actions or otherwise that it seeks: a response, in effect, to those reports that must be tabled in this parliament.

The Hon. K.J. MAHER: There is a requirement to report back as soon as practicable but, in any case, no later than six months after the report is tabled and it requires the minister to report back on what action is going to be taken and, if no action is going to be taken, on the reasons why not. This is one piece of legislation where I can almost answer most of these questions off the top of my head.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. D.G.E. HOOD: This is a fairly minor question, actually. I will just ask the Attorney: this clause has struck me as a little bit curious and I just wonder if he might explain the intention of the clause.

The Hon. K.J. MAHER: I thank the honourable member for his question. This clause in particular recognises that nothing will require the disclosure of information that should not be disclosed according to First Nations tradition. I am very well aware that there are particular sorts of knowledge that only certain groups, only men or women, are allowed or should be allowed to have or know according to First Nations tradition. This makes it very clear that nothing requires disclosure of information that, according to that tradition, ought not be disclosed.

The Hon. L.A. HENDERSON: Could the minister please advise who determines what the traditions are and, if there are any conflicting traditions within different groups, who will have precedence over the application?

The Hon. K.J. MAHER: It is a matter for groups to work out, but this is about not disclosing information. It is not a contest of what is disclosed: this is the ability not to disclose information.

Clause passed.

Clauses 7 and 8 passed.

Clause 9.

The Hon. J.M.A. LENSINK: This relates really to part 2, which is Local First Nations Voices. I am sure the Attorney is very familiar with the comments of Native Title Services at paragraph 12 in their submission, in which they state the potential exists to disenfranchise many Aboriginal people who have connections to country in South Australia for a range of reasons, such as not being enrolled to vote, only being able to vote in Local Voice elections based on place of residence and a couple of other issues as well. Can he provide some comments on their submission in that regard?

The Hon. K.J. MAHER: I thank the honourable member for her question. Certainly, as I outlined earlier, in relation to a number of the submissions from South Australian Native Title Services, we have taken into account issues that were raised. As I said earlier, some are irreconcilable differences about the basic building blocks of how the Voice looks, but one thing that in my discussions with representatives of SANTS I am certainly alive to and that we are taking into account is the alignment with nation groups, which is something that SANTS has talked about.

I think there were two different sets of draft boundaries that went out in the second round of consultation, one based largely on local government boundaries and one based on collections of nations and nation boundaries. By far, the most preferred method was the second one, and that is certainly something that SANTS has raised with me on the constitution of regions, as clause 9 contemplates, aligning as far as is practicable with our nation boundaries.

The Hon. L.A. HENDERSON: I appreciate that the regions are to be determined by regulation. Could the minister advise whether he thinks at this stage that it will set out regions that are reasonably proportionate with their population, or will it vary from region to region?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is a reasonable question. Each region will not have exactly the same number of voters. Again, it was very clear in the consultations that there are other factors that weigh even more than the number of voters in each region, such as traditional linkages between different groups: the lakes groups, the far west groups, the western and central desert groups, groups that are along the Murray River or in the South-East. As I have said, the overwhelming consensus is to try to make sure that they follow as closely as possible the boundaries of Aboriginal nations, grouping nations together.

One of the most eagerly debated parts of the second round of the consultations was what nation groups are appropriately within different groups, whether a nation group has more in common

with and should be with, say, a west coast area or a western and central desert bloc. Certainly, that was more important than having the exact number of Aboriginal voters in each electorate.

The other thing that is apparent, too, is that we do not have exact statistics of Aboriginal voters on the electoral roll in each electorate. I think I may have said earlier in a contribution that it is not something that the Australian Electoral Commission, whose voter roll we use for state elections, has a record of as part of their dataset. So it would be very hard to quantify, but certainly it is something that will be looked if this passes and we have our first election in the middle of the year; it is something we can look at in terms of the development of how boundaries look depending on the number of people who vote in each election.

Clause passed.

Clause 10.

The Hon. D.G.E. HOOD: This is a good example of the Attorney pre-empting a lot of my questions. I had multiple questions on this clause, but now I think I have one or maybe one and a half. He will be pleased to hear that. I think this is the right place to ask this, and he might want to correct me if I am wrong. It is really about the secretariat that he mentioned with respect to the facilities to run the Voice in its various locations. Does he envisage an office, a physical locality, in each region, staff members, etc.? I am just looking for some information on that.

The Hon. K.J. MAHER: I thank the honourable member for his question. It is a reasonable question. The secretariat I think was about $700,000, somewhere around six FTEs. It is not envisaged that there will be a physical office for each of the Local Voices or a permanent single person stationed in whatever is the most central community for each Local Voice.

What is envisaged, though—and I think I had talked about it on Tuesday when we were discussing the budget, and I went into some granular detail about some things that had been considered in the budget—is that one of the items was a provision of $750 for each meeting that is held either by the State Voice or the Local Voice for venue hire. So it is not envisaged that there will be a physical office. Also, I think I talked about having provision in the budget for $1,000 per each member of a Local Voice for the hire of a laptop to conduct the business.

I suspect it will be up to Voices to decide, but I suspect a lot of the business and meetings of Voices will be conducted via AV—over Zoom or Teams, which a lot of people, including many members of the Aboriginal community, have become very accustomed to during COVID. Given the great distances in some regions, it might be the most effective and efficient way.

Clause passed.

Clause 11 passed.

Clause 12.

The Hon. D.G.E. HOOD: This clause deals with the joint presiding members, and it talks about them being removed for certain offences, as I recall. I am just looking for information from the Attorney as to what sort of offences would justify removal.

The Hon. K.J. MAHER: I am happy to answer this question that is found in clause 14, even though we are in clause 12—

The Hon. D.G.E. Hood: I beg your pardon.

The Hon. K.J. MAHER: —but it relates to clause 12. Clause 12 constitutes the joint presiding members and clause 14 talks about how vacancies occur, not just for the joint presiding members but for other members of the Local Voice. There are the usual vacancy provisions—if a member dies or resigns—but also one of the things that causes a vacancy is if a member is sentenced to serve a period of imprisonment for an offence or is found guilty of a serious offence.

The definition of a serious offence will be found in clause 3 in the interpretation section. I do not have a defined list but it refers to the various parts, particularly the Criminal Law Consolidation Act, that define serious offence. It is something that is known in many parts of legislation. I am happy

to print out the names of those offences that are defined as serious offences for the honourable member's benefit.

The Hon. D.G.E. HOOD: The reason I asked it there, though, is because in subclause (3) it says that even though they may be removed they would not be removed as an ordinary member. I seek your clarification on how that can be—under what circumstances that would be.

The CHAIR: Sorry, can you repeat that.

The Hon. D.G.E. HOOD: Thank you, Chair. It also says that even though they could be removed they would not be removed as an ordinary member. I am just seeking clarification about under what circumstances that might occur.

The Hon. K.J. MAHER: This anticipates that the most likely scenario is for misconduct, where a joint presiding member—and those two joint presiding members go on to form the State Voice—that, for example, the State Voice passes a motion and makes a decision that a member of the State Voice is removed for misconduct, but in that Local Voice the presiding member does not agree.

So the State Voice can make that decision—for example, to remove a person as a member of a State Voice for misconduct—but if it is not something that the Local Voice from which that person comes agrees with, they can still stay a member of the Local Voice even though they have been removed in that circumstance from the State Voice.

Clause passed.

Clause 13.

The Hon. L.A. HENDERSON: Could the minister please advise if there will be rules around what expenses can be claimed and if there will be any public reporting requirements in line with those?

The Hon. K.J. MAHER: I thank the honourable member for her question. In relation to remuneration, allowance or expenses, it is quite clear that that is determined by the government. As we have talked about before, that is in line with nearly all other advisory bodies. In relation to that accountability as to how any funds are used, clause 18 specifically deals with that and provides that Local First Nations Voices—and there is a similar provision when we get to the State Voice—must keep proper records in relation to its affairs, must have annual statements audited each year, and further, it is specifically provided that the Auditor-General may from time to time, and at least once a year, audit the accounts of the Local First Nations Voice. So it is provided there for, I think, quite high levels of transparency.

Clause passed.

Clause 14 passed.

Clause 15.

The Hon. L.A. HENDERSON: In the legislation there is mention of a discretion of the Local First Nations Voice to collaborate. Could the minister please advise where this discretion lies? Is it with the Local First Nations Voice? What will happen in instances where individual groups the body is looking to meet with are not willing or not able to meet?

The Hon. K.J. MAHER: The provisions under clause 15(1)(e) and (f) provide at the discretion of the Local First Nations Voice—so it is something at the discretion of the Local First Nations Voice—they may collaborate with other organisations. There is no requirement that those other organisations have to collaborate, but it just provides them powers and functions and that is something they may do. It is at the discretion of the First Nations Voice; it is not something that an outside organisation can compel the First Nations Voice to collaborate with. Similarly, the First Nations Voice cannot compel an outside organisation to collaborate with them, but it provides for that ability to do so.

The Hon. C. BONAROS: I might ask it here because I think, inevitably, it will tie into the functions of the Local and State Voice: I just wanted the minister, for the record, to indicate what he

foresees the timing of the Treaty to be. I ask it here, given the interaction that is going to have with the Local and State Voice.

The Hon. K.J. MAHER: Certainly, in terms of timing, we are progressing this as the first part of our implementation and our full implementation of a state-based response to the Uluru Statement from the Heart. The Voice is the first part of three: the Voice and then the Makarrata—the agreement-making—and truth-telling. Most of those who were involved in the dialogue in the lead-up to the Uluru Statement in May 2017 talked about a sequencing and the Voice being the sensible starting point.

Certainly, the vast majority of those who have been involved in the academic and community discussion and writing since then have I think, logically, as we accepted, seen the Voice as, in sequencing, the first logical place to start. We would see the Voice providing help in informing us about the processes of how we go about Treaty. I do not think—it is open to, but I think it is unlikely—it will be the party that treaties are negotiated with.

When we were last in government, Commissioner Thomas, whom we have spoken about before, did extensive work, as then Treaty commissioner, with consultations about how Treaty might look in South Australia. Certainly, through those consultations, overwhelmingly, at first instance, treaties or agreement-making, were sought by most Aboriginal South Australians who engaged in that consultation as the government to individual nations.

We are keen to finalise the Voice, get the Voice operational and then, certainly, take into account the Voice's views about the processes we need to look at to start on Treaty processes. I would anticipate that will start—I do not have an exact time frame—after the first elections of the Voices become operational.

I think, too, I am alive to the fact that since I think in 2016 we announced, as the then South Australian government, our commitment to Treaty negotiations and I spent a year and a half in Treaty discussions. Much like we are with this, we were the first jurisdiction in Australia to start those discussions. Other jurisdictions have since—but particularly Victoria—and I think there is an announcement today from Queensland, and the Northern Territory has had a report from a Treaty commissioner. It is a body of work to do to have a look at how other jurisdictions have progressed Treaty in Australia and also internationally. Getting this bedded down is our first priority, but we absolutely are committed to the other components of Treaty and Truth.

The CHAIR: I have been respectful and listened to the conversation about Treaty, but it has nothing to do with this particular bill. The Hon. Mr Hood, do you have something else to contribute?

The Hon. D.G.E. HOOD: Nothing to do with Treaty. I just wanted to inform the house that I had multiple questions at clause 15, multiple questions at clause 16, but the Attorney has answered all those questions, so I have nothing until clause 20.

Clause passed.

Clause 16.

The Hon. J.M.A. LENSINK: We are still on Local First Nations Voices at this point. Subclause (2) states that the Local First Nations Voice must meet not less than four, and not more than six times a year, and the next subclause enables the Local First Nations Voices to meet more than six times a year, with approval of the minister. Can the minister explain why that was prescribed that way, please?

The Hon. K.J. MAHER: The main motivating factor for a description of this was to make sure people effectively knew what they were getting into if they put themselves forward for a Local First Nations Voice. Subclause (2) of clause 16—and it repeats it again, as much of this does, in regard to the next part of the State Voice—talks about not less than four but no greater than six meetings without the approval of the minister, recognising that there may be occasions where it is needed to have more standard meetings. It was designed to give people who might want to put themselves forward some sort of indication of what will be involved in what they are doing.

For instance, if people put did put themselves forward, got elected and then found, like a lot of councillors do, that there are meetings every week, or multiple meetings a week, this was designed

to make sure there was some sort of understanding about the commitment in terms of these meetings of the Local Voice. It does not preclude, though, having discussions out of session, but the formal meetings are there to make sure people have an understanding of particularly what the time commitments will be.

The Hon. J.M.A. LENSINK: I thank the minister for that explanation. Was consideration given to enabling Local First Nations Voices to make their own rules, if you like, especially given that they will be quite diverse and have a range of needs? Is he able to comment on what came up through consultation?

The Hon. K.J. MAHER: Certainly, the final subclause of clause 16, subclause (10), allows the Local First Nations Voices to determine their own procedures, but to give some indication of what may be required of a Voice, it was thought appropriate to put it into the legislation. If more meetings are required, it does allow the ability for more meetings to occur with the approval of the minister.

Clause passed.

Clauses 17 to 19 passed.

Clause 20.

The Hon. D.G.E. HOOD: This is the clause that deals with the code of conduct and basically says that the minister may introduce one, and then requires members of the Local First Nations Voice to comply with it. Has the government contemplated one at this stage and, if so, is a draft available and where is it at essentially?

The Hon. K.J. MAHER: I am happy to advise that the government does intend to have a code of conduct that will be enforceable and must be published by notice in the *Gazette*, and that is being worked on. We had a draft section in the original bill that talked about a code of conduct and, after quite a number of submissions from groups about the needs of Aboriginal organisations, we agreed that it was best to consult further and have that done by way of a code of conduct that can be put in by notice and changed if necessary.

The Hon. L.A. HENDERSON: Why was it established that this would be a discretionary power for the minister to give notice in the *Gazette*? Why was it not mandatory that there will be a code of conduct? I appreciate that one is on the way.

The Hon. K.J. MAHER: Pretty much the same answer I gave the Hon. Dennis Hood: it was considered whether there would be five or six pages of the Public Sector Code of Ethics or other things that constitute a code of conduct, but after the original draft and further consultation we took into account the views that further consultation would be desirable and for something that can change over time.

The Hon. L.A. HENDERSON: Could the minister please advise at this stage whether it includes a public disclosure of conflict of interest, similar to what members of parliament have to do?

The Hon. K.J. MAHER: I am happy to advise, yes, that is intended in the code of conduct.

Clause passed.

Clause 21.

The Hon. L.A. HENDERSON: I have some queries about the election. Could the minister please advise if the same rules that apply for general elections for members of parliament will apply for the Local First Nations Voice candidates? Will there be rules around corflutes, where they can be placed, handing out how-to-vote cards, whether there will be spending caps for campaigns—just the more practical requirements around election time?

The Hon. K.J. MAHER: There are some rules set out in schedule 1 but it provides also that rules for the election may be determined by the Electoral Commissioner. There may be some rules that are very similar to how state elections are conducted for the first election. Of course, subsequent elections will be conducted at the same time as state elections as envisaged in this bill. It will be up to the Electoral Commissioner but initial discussions have been focused on having similar rules and conduct to state elections.

The Hon. L.A. HENDERSON: Could the minister please advise if he anticipates that First Nations Voice candidates will be campaigning for the same time period, i.e. from the writs being issued, as candidates for the South Australian parliament?

The Hon. K.J. MAHER: It will be up to the Electoral Commissioner in consultation with others, but for the first election, should this bill pass and that happens in the middle of the year, I suspect there will be longer periods—it is a new process, so to make people aware—then after this the Electoral Commissioner will have a look at how the process worked and whether it will be the same sort of time periods or it may be longer periods, given the vast distances and remoteness of many Aboriginal communities around South Australia.

The Hon. L.A. HENDERSON: For the first few elections where it is run concurrently with the parliamentary elections, I anticipate there will probably be a little bit of confusion in the public. Does the minister know if there will be any educational campaign so that people in the community understand that there are different candidates running for different roles?

The Hon. K.J. MAHER: I thank the honourable member for her question. Is it a good one. Indeed, for the first election that is not held at the same time as a state election, there is intended to be an education campaign and an awareness campaign and it is intended that there will be such things in the future.

Clause passed.

Clause 22.

The Hon. L.A. HENDERSON: Could the minister please advise if there is a minimum number of meetings a member must attend before their seat is vacated, similarly to that for members of parliament for sitting weeks?

The Hon. K.J. MAHER: There is no contemplation of that in the bill.

The Hon. D.G.E. HOOD: Should there be? It is not an insignificant issue. I wonder if that is something—

The Hon. K.J. MAHER: It is not an insignificant issue but there are provisions for the State Voice to recommend the removal of people for various reasons and not turning up to a meeting, I suspect, would be deemed as possible misconduct or not fulfilling a condition of your office that they would take into account.

The Hon. L.A. HENDERSON: It might not necessarily go directly to this particular clause, but just in response to your answer: I guess I just flag a concern. Let's be honest, it is politics, and so, if individuals miss a meeting versus multiple meetings, will there be any safeguards on how that will be determined?

The Hon. K.J. MAHER: As I answered the Hon. Dennis Hood, that will be something that could be taken into account in terms of the provisions for removal.

Clause passed.

Clauses 23 to 27 passed.

Clause 28.

The Hon. D.G.E. HOOD: This is the clause that deals with the functions of the State First Nations Voice and it lists them. It is another example of me having multiple questions that have already been answered by the Attorney. So thank you, Attorney.

One that I would like some more clarity on is (1)(a), which talks about representing the diversity of the various groups. Certainly from my experience, they can be very diverse. I know that it talks about the various areas, and it talks about the male and female representation as well, but how does the Attorney contemplate with free and fair elections that any other diversity will be specifically represented or is it really contemplated that that will be left to the election to produce an outcome?

The Hon. K.J. MAHER: I thank the honourable member for his question. I just cannot lay my hands on it, but I think it is reflective of some language or at least a concept that was used somewhere in the Aboriginal Representative Body Bill about one of the things that this seeks to do. What it contemplates I think most basically is that we are having a diverse range of Aboriginal people and Torres Strait Islander people elected from right throughout South Australia, so one of the functions is to represent that diversity.

Of course no one body is going to capture the total breadth of diversity. This chamber does not catch the total breadth of diversity. This parliament does not catch the total breadth of diversity of the South Australian community, but it is intended to make sure that the diversity of the South Australian Aboriginal and Torres Strait Islander community is represented as best as any mechanism that has a limited number of people can.

The Hon. D.G.E. HOOD: I imagined that would be the answer. I was just seeking if there was anything in particular the Attorney had in mind, so thank you.

The Hon. L.A. HENDERSON: Could the minister please advise what 'other functions' he anticipates assigning this body as outlined under clause 28(1)(f)?

The Hon. K.J. MAHER: There is nothing specifically that the government has in mind yet, but that is not to say that there might not be functions over time that governments think are important to assign to the First Nations Voice, so it is allowing for any change or evolution into the future that may be necessary.

Clause passed.

Clause 29 passed.

Clause 30.

The Hon. L.A. HENDERSON: This question is more broadly for the committees generally, but could the minister please advise if committee members will need to be enrolled to vote in South Australia to be eligible to form a part of the committee, and also if there will be a requirement for them to produce a criminal history report, similar to that of the Local and State Voice?

The Hon. K.J. MAHER: I thank the honourable member for her question. In relation to her first question, are committee members required to be on the state electoral role, the answer to that is no. There is one proviso, and again trying to represent as wide a view as possible, and that is that members of, for instance, the committee that is contemplated under clause 30 cannot be members of the Local Voice. It cannot be members of the Local Voice appointing themselves to this required committee. In relation to criminal history checks, that may be something an individual Voice wants to put in place, but it is not a requirement contemplated under this act.

The Hon. L.A. HENDERSON: Could the minister please advise if the code of conduct that applies to the Local and First Nations Voice will be rolled out for the committee members as well?

The Hon. K.J. MAHER: My advice is that it could be applied to committee members as well.

The Hon. J.M.A. LENSINK: I possibly should have asked this when it came up earlier in one of the clauses, but it is subclause (2), which refers to '2 persons of different gender'. Can the Attorney advise whether the genders include non-binary people?

The Hon. K.J. MAHER: Yes, I can advise that. It is set out in more detail I think in schedule 1, but, yes, that is the case.

The Hon. L.A. HENDERSON: Can the minister please advise whether committee members who are appointed to multiple committees will be able to seek remuneration for more than one committee?

The Hon. K.J. MAHER: That is potentially possible, and if they are doing a fair degree of work as members of different committees that may happen. I should note that, for committees, it is quite clear in subclause (6) of all the committee provisions that they are 'entitled to such remuneration, allowances and expenses (if any) as may be determined by the Minister after consultation with the State First Nations Voice'.

So if there were members that were members of multiple committees, it could be open to get remuneration for multiple committees, but it could be open not to. We do not envisage that this will be something that will create a great expense on government, and that is particularly why that clause is in there.

The Hon. L.A. HENDERSON: In the minister's second reading reply, he thoroughly outlined—and thank you for that—some of the allowances that would be provided for. Could the minister please provide if there is a figure yet anticipated for the remuneration of committee members?

The Hon. K.J. MAHER: My advice is that contemplated in the overall budget—I think it was $10.3 million over the next four years—is a small amount to pay for expenses of committee members, should travel be required to attend a meeting.

The Hon. L.A. HENDERSON: One of the minister's former responses was about needing to be enrolled on the electoral roll to be a committee member. Is there any safeguard in place to ensure that those who are being allocated to committees are from South Australia and therefore representing the needs of South Australians?

The Hon. K.J. MAHER: It does not spell it out here but committee members, particularly for the First Nations elder committee, are appointed by that local First Nations committee. I would be pretty confident that if inappropriate people were appointed there, people would find themselves voted out at the next election. There will be a high degree of self-regulation in terms of how these committees are appointed.

The Hon. L.A. HENDERSON: Can the minister please advise if there are any safeguards in place or anything that would prevent Local or First Nations Voices from appointing family members to committees?

The Hon. K.J. MAHER: There is not a prohibition on appointing family members to the committee. There is the safeguard that appears at the end of all these that the minister will determine any remunerations that are paid, so there was some suggestion that there is that safeguard that the minister could do that: to determine not to pay remuneration in those circumstances.

Of course, the notion of family members is much wider in many Aboriginal communities than it is in many non-Aboriginal communities, but there is a requirement that members of these committees cannot be members of those Voices, so a member could not appoint themselves to a committee.

Clause passed.

Clause 31 passed.

Clause 32.

The Hon. L.A. HENDERSON: Could the minister please advise: in this committee there are six members allocated, whilst in other committees there are two members. Could you please explain why there is the differentiation there?

The Hon. K.J. MAHER: I appreciate the question. For the other committees, it is two members from each Local Voice that are appointed, which would make up from the six, 12 members in the whole state for the elders and advisory committee. That is opposed to the Stolen Generations Advisory Committee, which is made up of six members, and that is a decision of the State Voice not Local Voices.

Clause passed.

Clause 33 passed.

Progress reported; committee to sit again.

Sitting suspended from 12:59 to 14:15.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the Attorney-General (Hon. K.J. Maher)—

Section 74B of the Summary Offences Act 1953 Road Blocks issued for the period 1 October 2022 to 31 December 2022

Section 83B of the Summary Offences Act 1953 Dangerous Area Declarations issued for the period 1 October 2022 to 31 December 2022

By the Minister for Industrial Relations and Public Sector (Hon. K.J. Maher)—

Public Sharing (Data Sharing) Act 2016 Instrument of Delegation

Question Time

SHEEP AND GOAT ELECTRONIC IDENTIFICATION

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:17): I seek leave to give a brief explanation before asking the Minister for Primary Industries a question regarding traceability.

Leave granted.

The Hon. N.J. CENTOFANTI: In the federal budget, the Albanese government allocated $46.7 million to develop improved livestock traceability systems around the nation; $26.6 million of this will go towards upgrading the traceability system therefore leaving $20.1 million for co-investment in regard to electronic identification with all other states and territories around the nation. In Victoria, the implementation of mandatory electronic identification was phased in over several years, with contributions from the Victorian government costing them approximately $17 million in subsidies over three years.

My question to the minister is: given it is clear that $20.1 million will not be sufficient to roll out a national co-contribution system divided up around the states, what investment will the Malinauskas government commit to the mandatory rollout of the sheep and goat EID in South Australia?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:19): I thank the honourable member for her question. The subject of electronic identification is incredibly important. The state government is supportive of improvements to livestock traceability that assist with emergency animal disease responses and maintaining access to international markets.

The state government has been working closely with industry, and a traceability steering committee was formed, as I have mentioned previously in this place. That Livestock SA sheep and goat traceability steering committee has provided a report, which I am advised was received by government on Friday. That report has been developed and will inform an implementation and communication strategy for our state. I will be considering that report closely before being able to make further decisions, along with my cabinet colleagues, and will make any further announcements following that.

SHEEP AND GOAT ELECTRONIC IDENTIFICATION

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:20): Supplementary: given that the minister does have the report in her department, can she advise what amount of money she will commit to this mandatory rollout?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:20): A report has been developed and will inform an implementation and communication strategy for our state. Once that report has come to me—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.A. SIMMS: Point of order: I can't hear anything over the screaming coming from the chamber.

The PRESIDENT: The Hon. Mr Simms, you wouldn't want to hear what is being shouted, so you are not missing anything. Now, if everyone is finished, conclude your answer, please, minister.

The Hon. C.M. SCRIVEN: Happy to do so. I have been advised that government has now received that report, which will inform the implementation strategy, and I look forward to being able to make further announcements in the near future.

SHEEP AND GOAT ELECTRONIC IDENTIFICATION

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): Supplementary: when will the minister make those announcements?

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:21): As I said, I have been advised that government has received the report. I look forward to considering that report, which will inform implementation, and I look forward to making further announcements in the near future.

REGIONAL HOUSING

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking a question of the Minister for Primary Industries and Regional Development on regional housing.

Leave granted.

The Hon. N.J. CENTOFANTI: The government says it will fast-track a land release to deliver at least 23,700 more homes for South Australians in urban and peri-urban areas; however, when it comes to regional housing the government's big announcement was a mere 150 houses in total—that is, 30 houses in five regional areas run by Renewal SA.

Copper Coast Mayor, Roslyn Talbot, has said about the scheme that she is hoping that this is a small step towards alleviating the problem, but it won't be enough to tackle the issue. Ms Talbot has also said although housing was a necessity to attract staff to the Copper Coast, the issues went hand in hand with child care and health care. Ms Talbot has said, 'We've got huge waiting lists for child care, health care and housing,' and, 'If we can attract staff with somewhere to live then they face the issue of trying to find somewhere for their kids to go to child care or a doctor to see.' My questions to the minister are:

1. How much will the housing scheme pilot cost the government and taxpayers?

2. What is she doing as Minister for Regional Development to ensure that there is adequate childcare and health services in regional communities?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:23): I thank the honourable Leader of the Opposition for her question. I am very pleased to be able to talk about some of the housing announcements for regions that we have made recently. The Premier last week, when we were on Yorke Peninsula at Wallaroo and Maitland, was very pleased to be able to announce some of the critical worker regional housing pilot that will be making quite a big difference across our state.

That particular announcement is in regard to providing housing for those critical workers such as nurses, ambos, police, teachers and so on. That will give an opportunity for us to be able to have those houses for those particular occupations, which are critical to regional areas, and then roll out where we will be able to have private investors take over the ownership of those, similar to the defence housing project, prior to then being able to reinvest into more housing.

That, of course, will be on long-term lease provisions so that those critical workers do have those opportunities to be housed. As we know and as we have talked about many times in this place, it is incredibly important that we do have housing for those critical workers in regional areas. I have told the story before, I think, of how in Mount Gambier we had two teachers who moved to the area to teach in one of the local high schools.

They loved the area, but they were living in a caravan park for two terms. They didn't want to continue that, so they ended up moving back to Adelaide, which was a sad loss for the Mount Gambier region. These sorts of stories are common around other parts of our state as well. So that was one of the announcements that we made.

We have also made several announcements in regard to temporary worker accommodation, whereby it will be streamlined for those areas that need temporary worker accommodation to be able to erect temporary accommodation through more direct means. There are a number of other announcements. These are specifically the responsibility of the Minister for Housing, so if there is additional information that I can provide I am happy to come back to the chamber to do so.

REGIONAL HOUSING

The Hon. R.A. SIMMS (14:25): Supplementary: what steps has the minister taken to ensure that this new housing in the regions is linked to public transport? Has the minister considered the recommendations of the Select Committee on Public and Active Transport in that regard?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:25): I had a briefing—I think it was the beginning of last week—with the transport department because public transport is such an important part of the infrastructure that is needed, so that is something that is certainly also top of mind. I think housing and workforce are the things that are raised most often with me in my many visits around regional South Australia, but the topic of transport is certainly up there as one of the very common topics as well.

REGIONAL HOUSING

The Hon. R.A. SIMMS (14:25): Supplementary: what action will the minister be taking in regard to those transport needs?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:26): One of the election commitments that we made was to have a review of regional transport. That review is underway at the moment.

REGIONAL HOUSING

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:26): Supplementary: what actions has the minister taken as Minister for Regional Development to ensure there are adequate childcare and health services in regional communities?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:26): I have had a number of interactions both with local government bodies, with my colleagues in the other place who have direct responsibility, for example, for health, the member for Kaurna, and these are issues that the government is progressing. Of course, we know that the former government here, the now opposition, doesn't really like to talk about health issues usually because they did such a bad job when they were in government—such a bad job that this became the defining issue of the 2022 election, so it is really quite remarkable that they want to bring that up.

We have made a number of announcements in regard to increased paramedics, increased medical personnel, and all of these are rolling out as we speak, including upgrades to a number of facilities.

SOIL HEALTH

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:27): I seek leave to provide a brief explanation before asking a question of the Minister for Primary Industries a question in regard to soil health.

Leave granted.

The Hon. N.J. CENTOFANTI: Yellow stunted bean crops have long been an issue for South-East growers on calcareous soils. A recent CRC/GRDC-funded trial, led by SARDI senior scientist Nigel Wilhelm, has yielded extremely positive results with the use of a chelated form of iron, EDDHA, which is widely used in the horticultural industry and is more stable in alkaline soils than most other iron products on the market, producing up to five tonne a hectare higher yields in bean crops. My questions to the minister are:

1. Is she aware of this trial?

2. Does the government believe this trial could alter recommendations for farmers looking to overcome soil constraints with regard to cropping?

3. Has the minister formally written to her federal colleagues in support of further funding to Dr Wilhelm's project to test novel ways of making the treatment economically viable for larger scale farming?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:28): I am happy to be corrected, but to my knowledge the trial is not yet complete and therefore speculating about what the outcomes of the trial would be is not a particularly wise idea.

The Hon. N.J. Centofanti: It is showing positive results.

The Hon. C.M. SCRIVEN: I note that the Leader of the Opposition is interjecting that it is showing positive results. I am very pleased to hear that, but I think it would be wise to wait until the end of a trial before taking a particular course of action. I think that is usually why trials are undertaken. In my experience, the science really has to be concluded. We need to make sure that a trial actually goes through its full fruition before we start jumping in to make particular decisions.

I think it is very important to always listen to the outcomes and to be guided by the science. I know in general those who wear the colours of those opposite don't generally trust science a great deal. I think perhaps the Leader of the Opposition is usually the exception to that, but maybe on this occasion she has succumbed to peer pressure, but I think waiting for the outcome of a scientific trial is always the wisest pathway.

SOIL HEALTH

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:29): Supplementary: once the trial is completed and if those extremely positive-looking results are confirmed, will the minister be formally writing to federal colleagues in support of further funding?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:30): I think that is a speculative and hypothetical question which—correct me if I'm wrong, Mr President—is against standing orders; is that correct?

The PRESIDENT: Minister, you can have a crack at answering, or you don't have to.

The Hon. C.M. SCRIVEN: I think speculating about the outcomes of a trial is not a wise path to take.

PREMIER'S EXCELLENCE AWARDS

The Hon. R.P. WORTLEY (14:30): My question is to the Minister for Industrial Relations and Public Sector. Will the minister update the council on the Premier's Excellence Awards for the public sector?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:30): I thank the honourable member for his question. I certainly will update the council on the Premier's Excellence Awards for the public sector.

As some members of the council would be aware, these are awards that have gone on for some time, and recognise that the public sector serves an essential function in our society. It delivers services that are crucial to the wellbeing of our communities and does jobs that the private sector are unable to do or can't do at a scale and in a socially equitable way: emergency health care, protecting the health and safety of the community through the police force, and the child protection system are but some examples.

In that context it is important that we recognise excellence in public sector service. That is why for many years the Premier's Excellence Awards have been delivered to acknowledge South Australian public sector employees, teams and agencies who have consistently demonstrated exemplary service delivery consistent with South Australian public sector values.

These awards are run with the general support of the Commissioner for Public Sector Employment, who is responsible for coordinating them. This year, the commissioner has invited public sector leaders, including chief executives, agency heads and senior human resources leaders and directors, to identify and nominate suitable employees within their agencies. Agencies have also been encouraged to submit nominees for employees who have been shortlisted as finalists throughout their own agency-based reward and recognition programs.

These awards send a message that we value and appreciate the hard work, dedication and commitment that goes into the Public Service, and reward those who have demonstrated outstanding performance and service to the community. But these awards also help to improve the morale and quality of the services that are provided to the public more broadly. When we acknowledge and reward the exceptional performance, we encourage others to go above and beyond in their delivery of services to make sure that they are of the highest quality for the community.

This year Premier's Excellence Awards are due to be presented by the Premier at a ceremony at the Adelaide Convention Centre on Wednesday 1 March and will involve awards in both individual and group categories, including excellence in service delivery, emergency response, making a difference, and public sector values.

There have been many individual winners of awards in previous years. Organisational awards in recent years have included Green Industries SA and the South Australian Environment Protection Authority for their work on single-use plastics, SA Health and SA Police for pop-up medics, SA Police for their COVID-19 border operations, and Wellbeing SA for the COVID-19 vaccine hesitancy project.

I am advised that this year's awards have pleasingly received a record number of submissions and entries, many of which have demonstrated the continued versatility of the public sector in light of the challenges posed by COVID-19. Their work also highlights the breadth of emergency management and critical services in the SA public sector and what it delivers for the South Australian public, including its responses, importantly, to the recent floods in the Riverland. I look forward to reporting back to the council on the winners of these very important awards in the very near future.

NATIONAL PAEDOPHILE REGISTER

The Hon. S.L. GAME (14:33): I seek leave to make a brief explanation before addressing a question to the Minister for Primary Industries and Regional Development, representing the Minister for Child Protection, regarding a national paedophile register.

Leave granted.

The Hon. S.L. GAME: Federal funding has been in place to assist in creating an Australia-wide public paedophile register since 2019, yet only one jurisdiction, Western Australia, has taken steps to implement a state-based public register that would inform the national database. That register contains names and identification photos. The first step to a national register is properly

compiling state-based registers. My questions to the minister representing the Minister for Child Protection are:

1. What is your government doing right now to initiate a state-based public paedophile register?

2. What details would be accessible within that register?

3. What tangible actions can your government claim are taken to keep our children and young people safe from paedophiles based in South Australia and those moving to South Australia from other jurisdictions?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:35): I thank the honourable member for her question on this important topic. I will refer it to the Minister for Child Protection in the other place and bring back a reply.

AUTISM SA

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:35): My question is to the parliamentary secretary to the Premier on Autism SA. After taking a question on notice, can the parliamentary secretary now please advise the chamber of any changes at all to the funding given to autism since the change of government in 2022?

The Hon. E.S. BOURKE (14:35): I thank the honourable member for her question. I think of all members in this chamber who would know the answer that I am not a minister responsible for a portfolio—

Members interjecting:

The Hon. E.S. BOURKE: I have taken it on notice, thank you.

The PRESIDENT: Order! The parliamentary secretary doesn't have to answer at all.

The Hon. E.S. BOURKE: I will bring back the answer when we have the answer available for you.

AUTISM SA

The Hon. H.M. GIROLAMO (14:36): Supplementary: when will that be?

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: The Hon. Ms Girolamo and the Hon. Mr Hunter! The Hon. Mr Hunter, put your mask on. You're much better with a mask on.

Members interjecting:

The PRESIDENT: Order!

FERAL PIGS

The Hon. J.E. HANSON (14:36): My question is to the Minister for Primary Industries and Regional Development. Will she update the chamber about the eradication of feral pigs on Kangaroo Island?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:37): I am delighted to update the chamber further on the program to eradicate feral pigs on Kangaroo Island. When the tragic bushfires ripped through vast parts of Kangaroo Island in 2019-20, many feral pigs were killed. Subsequently, the South Australian and Australian governments provided over $4.5 million in funding for the Kangaroo Island feral pig eradication project.

I am delighted to confirm that the Malinauskas Labor government has listened to the feedback of both residents and the local MP, the member for Mawson, and has committed an additional $191,250 to further strengthen the island's biosecurity protections and protect the precious and unique ecosystem.

Since becoming minister I have been in contact with industry association leaders, farmers and residents on the island, who have all spoken about the importance of resolving this perennial problem, which has been problematic ever since the pigs were released on the island around about 200 years ago. We know that feral pigs cause enormous environmental and economic damage to both the natural environment and the farming properties on the island. To date the program has culled at least 872 feral pigs. I am advised that, whilst it is estimated that fewer than 30 feral pigs remain, the expectation is that it is even less than that.

But it is important that we do finish the job and achieve complete eradication. This additional funding will also allow for quick action in the event of any new incursions of pigs. There will also be the capacity to show the proof of freedom from this pest, through monitoring cameras and eDNA sample collection.

This program can be delivered by working closely with key groups and organisations, such as the Kangaroo Island Landscape Board, farmers, landowners, National Parks and Wildlife, KI Land for Wildlife and others. I also take the opportunity to thank Jamie Heinrich from Ag KI for his continued advocacy for the continuation of this program. I have appreciated both his knowledge and perspective on this matter when I have met with him on previous occasions. Removing all feral pigs from the island will save an estimated $1 million a year in damage and other costs, as well as reducing impacts to Kangaroo Island's precious biodiversity.

FERAL PIGS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:39): Supplementary: if the additional $191,250 is not sufficient to remove all of the feral pigs from the island, will the Malinauskas Labor government commit to further funds in the future?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:39): The information that we have at present is that the additional funding that the Malinauskas Labor government is providing will be sufficient to be able to eradicate and, just as importantly, as I mentioned in the original answer, to prove freedom from this pest and have the monitoring cameras in place, as well as the eDNA collection.

FOREIGN INFLUENCE

The Hon. F. PANGALLO (14:40): I seek leave to make a brief explanation before asking a question of the Attorney-General about foreign influence.

Leave granted.

The Hon. F. PANGALLO: In federal parliament this week, the head of spy agency ASIO, Mike Burgess, gave an ominous warning of the threat of foreign influence in this country. Without being specific, he revealed ASIO has expelled a hive of spies from this country and that there were emerging threats to judicial figures, journalists, veterans, defence contractors, diaspora community leaders, public officials, politicians and, without doubt, officials and elected people in local government.

Now that Mr Burgess has made that public, it seems it was no coincidence that last Friday a memo was sent out from the Deputy Chief Executive of the Department of the Premier and Cabinet, which contained a warning and an attached sensitive report from ASIO outlining how and why elected officials and staff at all levels might be targeted by foreign powers and their spooks and offering some tips on dealing with it—not that there was anything new or that we don't already know. According to Mr Govett's email, ASIO considers spying by foreign states a bigger threat to our national security than terrorism. My questions to the Attorney-General are:

1. Has the government been made aware of suspicious activities or foreign interference in this state?

2. Did any of the members of this hive of spies expelled come from this state?

3. Is the government—and, I would imagine, ASIO—concerned about the hive of activity going on in suburban Adelaide where the Chinese government has built a huge consulate disproportionate to the normal-size consulates here, and that it could be used to spy on its own citizens as well as the state's sovereign interests, including defence manufacturing under the AUKUS arrangement and the contract to build frigates?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:42): I thank the honourable member for his question. I am aware of the email that was circulated. The relationship it has to any evidence or reports from national agencies—I am not aware of a direct link between the two. Certainly, I think it's incumbent on all of us as elected officials to make sure that we exercise everything we do for the benefit of the people that we are elected for and for no other interests whatsoever at all.

In terms of any briefings government does or doesn't receive, the honourable member would appreciate these are not things that are generally publicly disclosed, but I can assure the honourable member that we, like I know he does, take our duties to the people of South Australia, and only to the people of South Australia, very, very seriously.

SURVEILLANCE EQUIPMENT

The Hon. J.M.A. LENSINK (14:43): I seek leave to make a brief explanation before directing a question to the Attorney-General regarding security in state government buildings.

Leave granted.

The Hon. J.M.A. LENSINK: It was revealed during Senate estimates last week that surveillance cameras manufactured by the Chinese company Hikvision were being used in the electorate offices of 88 Australian federal members of parliament. As Hikvision is partly owned by the Chinese Communist Party, these cameras had been banned in the United States and the United Kingdom as they were deemed a national security risk in those countries. My questions for the Attorney are:

1. Has an audit been conducted to ensure that no state government buildings have been compromised by technology, and, if not, why not?

2. Can the minister rule out that any Hikvision surveillance equipment is installed in any state government buildings?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:44): I thank the honourable member for her question. I am not aware of any cameras from the particular company that the member refers to in state government buildings, but I am happy to pass that along. I suspect the minister responsible might be the police and emergency services minister, who I think has protective services under them, but I will endeavour to find out who the correct responsible minister is who looks after protective services and state government facilities and bring back a reply to the member.

SURVEILLANCE EQUIPMENT

The Hon. J.M.A. LENSINK (14:44): Supplementary question: is the Attorney saying that he would not ordinarily be briefed about such matters in his role as either Attorney-General or as a member of cabinet?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:44): I thank the honourable member for her question. As I said, I am not aware of such issues.

SURVEILLANCE EQUIPMENT

The Hon. L.A. HENDERSON (14:44): Supplementary question: could the minister please also take on notice if any ministers have surveillance equipment installed in their homes as part of their package of being a minister, whether these CCTV cameras have been installed as well?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:45): I thank the honourable member for her question. I try to be as obliging as I can be. I am happy to ask the question but I strongly suspect the security details for ministers or anyone else probably wouldn't be publicly disclosed. I'm happy if there is a reason that they can be disclosed and if it is possible to bring back an answer, but I very strongly suspect it is not going to be, but I'm happy to ask.

NGARRINDJERI PHOTOGRAPHY PROJECT

The Hon. T.T. NGO (14:45): My question is to the Minister for Aboriginal Affairs. Will the minister tell the council about the recent launch of the Ngarrindjeri Photography Project?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:45): I thank the honourable member for his question, his interest and his very longstanding stewardship of the Aboriginal Lands Parliamentary Standing Committee, which evidences his strong interest in Aboriginal affairs generally.

I am very pleased to answer this question about my recent attendance at the launch of the Ngarrindjeri Photographic Project, Keeping Culture Project Alive, that was launched a few weeks ago in Murray Bridge. I am particularly pleased because I can remember being involved at the very start of this project.

It would have been six something years ago, I was travelling to Murray Bridge and my parents were travelling up from Mount Gambier and, as we do sometimes, we met at Camp Coorong to have a cup of coffee to get together with Aunty Ellen Trevorrow. At that meeting, a bit over six years ago, there were a number of senior Ngarrindjeri women sitting down with a number of academics from Swinburne University going through hundreds and hundreds of old photos in shoeboxes.

Over a discussion, just over six years ago, while we were there, they were asking for any thoughts about ways these could be preserved for the longer term. I remember having a discussion about the Ara Iritja software that is used on the APY lands. I think at that time I had only just recently returned from the APY lands. I also let them know about the community grant Stolen Generations Reparation Scheme that they might apply for funding, should they wish to do that. I had actually forgotten about that meeting six years ago before going to the launch of this event and was reminded of it at the opening of the Ngarrindjeri Photography Project.

The project focuses on something critically important: remembering and keeping alive the past. In particular, it works to create an archive of photographs to help people better access photographs of their family and their ancestors. The project brings together photographs Ngarrindjeri people have taken and kept in their own collections and utilises the Ara Iritja software 'Keeping Culture'.

Ara Iritja means 'stories from long ago' in the Pitjantjatjara and Yankunytjatjara languages. The organisation has been working for many years to bring together historic and cultural items in a digital form for the benefit of Anangu. Ara Iritja was formally established in 1994 by Anangu elders Mr P. Nyaningu, Mr C. Tjapiya, Pitjantjatjara Council anthropologist the late Ushma Scales and also archival consultant John Dallwitz as a project of the Pitjantjara Council Aboriginal Corporation back in the mid-1990s.

Ara Iritja is now overseen by APY and is an important cultural resource for many Anangu who I have had the privilege of being involved with a number of times. It allows appropriate access to Anangu based on different levels of access to what is culturally appropriate. I have been very fortunate and privileged to have been able to see more and more of the collection over recent years.

The software provided by this project now also underpins the Ngarrindjeri Photography Project, which is something I think is going to be of great benefit to Ngarrindjeri. The launch of the project was a well-attended event at Ngarrindjeri Regional Empowered Community Centre in Murray Bridge, just over the other side of the river from Adelaide.

Attendees were welcomed by an impassioned Welcome to Country by Harley Hall and we heard from Aunty Ellen Trevorrow, Aunty Lyn Lovegrow, Aunty Dot Shaw and Sonya Newchurch. There were many Ngarrindjeri elders and community members in attendance and I won't try to name

many of them because I will miss people out but it was great to catch up with so many Ngarrindjeri elders—who I have known for a long period of time—in the one day.

The project was a collaboration between the Ngarrindjeri Photography Project, Moorundi Aboriginal Community Controlled Health Service, the Ngarrindjeri Regional Empowered Communities, along with Swinburne University, Adelaide University and the South Australian Museum. It's a critically important way for Ngarrindjeri to connect with history and particularly those affected by the stolen generations.

I am particularly proud to have seen something that I was involved in many years ago, last time I was in government, come to fruition now. I pay particular tribute to those involved, particularly Aunty Ellen Trevorrow, who has been the linchpin of this project.

TENNIS AUSTRALIA AND CHILD LABOUR LAWS

The Hon. T.A. FRANKS (14:50): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about Tennis Australia and child labour laws.

Leave granted.

The Hon. T.A. FRANKS: Earlier in 2023, it came to light that Tennis Australia has not been paying the ballkids for their work in the Australian Open and other tennis events across the country. Ballkids are boys and girls aged between 11 and 17 years old who play an integral role in ensuring that tennis tournaments run smoothly.

There is now, quite rightly, public outrage as many ballkids were forced to endure torrential rain and searing heat in the first week of the Australian Open, not to mention the dangers of course of tennis balls flying at about 200 km/h in their vicinity. Ballkids at other grand slams do get financially compensated. The US Open pays them $15 an hour and at Wimbledon they get a flat rate of $351 a week.

At the Australian Open they get a gift bag and food allowance, despite it being a year-long selection process, with an estimated 2,500 children applying for the job and less than five of those actually being successful. Applicants must perform rigorous drills that test court awareness, agility and the ability to roll, catch and toss a tennis ball.

The Australian Open reclassified the job as a volunteer position in 2008, meaning that children were no longer paid the $40 they had traditionally been allocated as of the 2009 Australian Open. Broadcaster and founding director of Western Sydney Women, Amanda Rose, said that it's about educating children on what they are worth. She said:

> Essentially, I think it conditions children at a young age that the experience is worth more than being paid. For girls in particular, I think it's really important to actually say, 'no, (we're) worth this money…It's not a charity event.
>
> You don't want them going for a job in their 20s and being told that it is for the experience, and they are not getting paid. So they should get paid.

My questions to the minister are:

1. What will the Malinauskas government do to ensure that children, ballkids, in Tennis Australia events in South Australia—where we profit and benefit from the tourism and events of those matches—are treated without being exploited?

2. What, more broadly, will the Malinauskas government do with regard to child labour laws?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:53): I thank the honourable member for her questions. In relation to the Australian Open specifically, I think there are two particular issues raised: child labour laws but also work, health and safety laws—as the member correctly identifies, balls whizzing around at 200 km/h do provide hazards in a workplace, without any doubt.

That will be a matter for interaction for the Australian Open specifically, the Victorian government and the national system, but I am happy to make inquiries in terms of any Tennis Australia events, and I think there is at least one in the lead-up to the Australian Open that happens

here at Memorial Drive, in relation to children on court who retrieve the balls. I will bring back a reply to the honourable member.

DISABILITY EMPLOYMENT

The Hon. H.M. GIROLAMO (14:54): My question is to the Minister for Industrial Relations relating to employment of people living with a disability:

1. Can you provide an update on the number of people living with a disability who are currently working for the public sector?

2. What programs or supports are in place to increase public sector employment for people with disabilities?

3. What is the targeted employment rate for people with disabilities in the public sector?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:54): I thank the honourable member for her question. Making sure that the public sector is a welcoming workplace for all South Australians is of critical importance. I have regular meetings with the Commissioner for Public Sector Employment, who provides at our meetings verbal updates about actions that are being taken across a range of areas to make sure we are an inclusive workplace—an inclusive workplace for women, an inclusive workplace for Aboriginal and Torres Strait Islander people and an inclusive workplace for people living with a disability—and also promoting things like a strategy for inclusiveness across our public sector.

In terms of the exact numbers of public sector employees who are living with a disability, I do not have that figure with me, but I am more than happy to go away and bring back a reply for the honourable member. I know that there are regular reports like the State of the Sector report that are published. I do not have a full copy of that report in front of me, but I suspect it will be in there. I suspect it is publicly available, but I am happy to go and get those numbers and bring them back.

RECREATIONAL FISHING SURVEY

The Hon. I. PNEVMATIKOS (14:55): My question is to the Minister for Primary Industries and Regional Development. Will the minister inform the chamber about the recently released South Australian recreational fishing survey?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:55): I thank the honourable member for her question. This week saw the release of the South Australian recreational fishing survey, with some positive and interesting results. The South Australian recreational fishing survey was led by SARDI in partnership with the University of Tasmania. The project was jointly funded by the Fisheries Research and Development Corporation (FRDC) on behalf of the Australian government and the South Australian government.

Researchers used a combination of methods to obtain data for a one-year period between March 2021 and February 2022. At various points in time, these methods included phone screening, diary surveys and boat-ramp interviews, otherwise known as onsite surveys. The type of data collected included estimates of participation, effort and catch, including total retained and released and by weight, with the additional objective to report on the demographic and behavioural characteristics of recreational fishers in South Australia.

The last time a statewide survey was conducted was in 2013-14, and at that time it showed approximately 277,000 people fished on a regular basis in South Australia. Research released by Deloitte Access Economics in 2017 showed that recreational fishing was worth around $160 million to the state's economy in 2015-16. The data that has been collected through multiple surveys has clearly shown that recreational fishing has always been an important social and economic driver in our state.

The SARDI survey released this week shows that recreational anglers have increased in numbers, now estimated to be almost 360,000, or just under one in four South Australians. The survey further indicates that of those roughly 360,000 approximately 230,000 are male and just under 130,000 are female, equating to around 36 to 37 per cent of anglers. That is why the government's

election commitments around increasing participation amongst women, children and multicultural communities are important, and work continues alongside RecFish SA to boost those numbers.

According to the survey, there were approximately 1.3 million days of fishing effort recorded, which works out to an average of around three to four days of fishing effort per person. Of an estimated nearly five million fish caught in South Australia over the survey period, 38 per cent of those were estimated to be King George whiting; 14 per cent were Australian herring, better known as tommy rough; 7 per cent were southern garfish; and 6 per cent were Australian salmon. The rest of the estimated catch, 35 per cent, was made up of other fish species.

Of the estimated nearly six million invertebrates caught, 32 per cent were recorded as blue swimmer crab, 28 per cent were pipi, 16 per cent were yabby and 9 per cent were calamari, with 15 per cent being made up of other invertebrates. The majority of species I mentioned are sustainable according to SARDI stock assessment reports, and of course it is the priority of not only the government but also the commercial, recreational and charter sectors that sustainability remains a top goal. I look forward to continuing to work with the recreational fishing community, RecFish SA and Minister Hildyard in the other place in growing participation and maintaining a sustainable fishery.

RECREATIONAL FISHING SURVEY

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:59): Can the minister indicate whether there are concerns that the volume of fish obtained via recreational fishing has increased significantly over the last two decades and that this could be impacting sustainability now and into the future?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:59): The fish management processes in place are certainly very robust. As I mentioned, the majority of the species are considered sustainable. The one that is not is garfish, which is considered to be a recovering species. But the excellent work of SARDI, as well as the work contributed by RecFish SA, our FishWatch volunteers, the Department of Primary Industries and Regions and all others involved in the sector, all contribute to us being able to ensure that we have appropriate management policies in place to ensure the sustainability of the sectors and the species going forward.

RENTAL PROPERTY STANDARDS

The Hon. R.A. SIMMS (15:00): I seek leave to make a brief explanation before addressing a question without notice to the minister representing the Minister for Consumer and Business Affairs on the topic of rental standards.

Leave granted.

The Hon. R.A. SIMMS: The Bureau of Meteorology has issued a heatwave warning for South Australia, with some parts of the state experiencing an extreme heatwave. In SA Health's guide to coping with hot weather and heatwaves, it is stated that, and I quote from that document:

> Everyone is at risk of heat-related illnesses during hot weather and heatwaves, and some groups of people, such as:
>
> - babies and young children
> - pregnant women
> - the elderly (especially people living alone)
> - people with chronic illnesses…
> - people with mobility issues
>
> are more at risk of heat-related illness than others.

The guide goes on to recommend staying indoors with a fan or air conditioner on to stay healthy in the heat. South Australian rental properties are not required to provide fans or air conditioning for tenants, and many renters find it difficult keeping their houses cool. SACOSS have called for provisions to ensure minimum standards for private rental properties in South Australia. During a 2019 heatwave, SACOSS's CEO, Ross Womersley, was quoted by the ABC as saying that:

> We should be ensuring that all properties that are being built are up to a very high environmental standard, in order to ensure that in the long term, we're protecting everybody in our community from these events.

My question to the minister therefore is: will the government commit to introducing minimum rental standards to ensure that renters are able to stay cool during heatwave events?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:02): I thank the honourable member for his question, and I will refer it to my colleague in another place the Hon. Andrea Michaels, Minister for Consumer and Business Affairs and member for Enfield, and bring back a reply that she provides.

CHILD SEX OFFENDER REGISTER

The Hon. D.G.E. HOOD (15:02): I seek leave to make a brief explanation before asking questions of the Attorney-General regarding child sex offender registers.

Leave granted.

The Hon. D.G.E. HOOD: Recently, in the media, there were renewed calls from child safety advocates for the urgent establishment of a public child sex offender register. Indeed, prior to the 2022 state election Labor promised it would, and I quote:

> ...establish a three-level public sex offender register based on the Western Australian model to provide greater confidence and safety. A new missing offenders website will provide photographs and personal details of reportable offenders who have either failed to comply with their reporting obligations, provided false or misleading information to police and whose location or whereabouts is not known to police. A local search program will allow police, subject to an approved application, to provide photographs of dangerous and high-risk offenders in your suburb or surrounding area. A parental disclosure scheme will allow police to provide a parent or guardian of a child with information about a specific person who has regular contact with their child.

My questions to the Attorney-General are:

1. Has the state government commenced consultation further to its election commitment to establish the three-level public sex offender register based on the Western Australian model, and if not, why not?

2. When does the state government expect a bill to be introduced to the state parliament?

3. When can South Australians expect a public child sex offender register to be established and accessible to the community?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:04): I thank the honourable member for his important question and his diligent observance of our election commitments, and I acknowledge the honourable member's regular vigilance in terms of issues of keeping South Australians safe. I can answer very simply to his question, yes, consultation and planning is well underway. I know that numerous departments that will be involved in the register across the South Australian government have had substantial interactions with the Western Australian government.

There are, I know, issues around information technology systems and how Western Australia has implemented theirs and, given our IT systems, how we might implement, as we have said, a similar system in South Australia. I don't have an exact time frame, but I know that it is very well underway, well progressed, and in the not too distant future I would expect we will have a system proposed, and up and running in South Australia. It was a key election commitment as part of our election commitments aimed at keeping South Australians safer.

CHILD SEX OFFENDER REGISTER

The Hon. D.G.E. HOOD (15:05): Supplementary: is it reasonable, Attorney, that we would expect to see a bill this year?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:05): Yes, I would suspect that that would be the case given I am aware that it is well developed in terms of consultations. I think it would be a reasonable expectation to see a bill this year. I don't want to commit absolutely given sometimes things can be

more complicated than they first appear, but I don't think that would be an unreasonable expectation given that we are well developed in the consultation process, and particularly with Western Australia.

WIRANGU NATIVE TITLE CLAIM

The Hon. R.B. MARTIN (15:06): My question is to the Attorney-General. Will the minister please inform the council about the resolution of the Wirangu native title claim?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:06): I thank the honourable member for his question and his interest in this area. I would be most pleased to inform the council of the resolution of the Nauo and Wirangu native title claim.

Members of this council may recall recently I reported to the council on the resolution of other Wirangu native title claims by consent determination. I am pleased to report to the council that the Wirangu No. 2 Part B, Wirangu No. 3 Part B, and Wirangu Sea Claim No. 2 Part B, as well as the Nauo No. 1, Nauo No. 3. and Nauo No. 4 native title claims resolved by consent determination on 10 February this year. The Nauo and Wirangu native title claims took in much of the western side of the Eyre Peninsula, including areas around Coffin Bay, Elliston and Streaky Bay.

The Wirangu people first lodged their native title claims over large areas of the West Coast of South Australia in 1997. In 1998, following amendments to the commonwealth Native Title Act, the Wirangu No. 2 and Nauo claims were first filed in the Federal Court. In October 2019, the Wirangu filed the Wirangu No. 3 native title determination application. This claim covers areas of land within the external boundaries of the original Wirangu No. 2 claim that had since become unalienated Crown land, and potentially subject to section 47B of the Native Title Act, with the result that the prior extinguishment of native title is to be disregarded.

Wirangu No. 3 was also split into parts A and B (corresponding with Wirangu No. 2 parts A and B). Part B of each of the Wirangu claims was wholly overlapped by the Nauo No. 3 claim. On 18 May 2021, the Wirangu lodged the Wirangu Sea Claim No. 2, claiming waters seaward of the low watermark adjacent to the Wirangu No. 2 claim. That also separated into parts A and B. In October 2021, the Nauo No. 4 claim was filed, and this claim was within the outer boundaries of the Nauo No. 1 claim.

As I have previously remarked in this place, the Eyre Peninsula is noted as one of South Australia's most significant areas of frontier violence, with settlement causing significant disruption to local Aboriginal people and populations. From the mid-19th century there was recorded likely extensive movement of Aboriginal people around the West Coast, particularly around the settlements of Streaky Bay, Port Lincoln and inland pastoral areas.

In the late 1800s, the spread of cultivated areas also significantly affected the Aboriginal populations in the claim area here. Despite that frontier violence at the time of settlement and alienation of the land, the native title holders and their ancestors have maintained their connection and identity as members of the Wirangu and Nauo nations, and their connection to country.

The consent determination, which proceeded with the agreement of all parties, results in the formal recognition of the traditional and continuing relationship which the Wirangu and Nauo people have with this unique part of Australia. It is recognition, in Australian law, of the important relationship with the land, and of the rights and interests held by the Wirangu and Nauo people as holders of native title for this area.

The hearing was held at the Elliston Community Hall with His Honour Justice O'Bryan presiding over the matter. Many members of the native title groups were in attendance, as were members of the community. The court was convened and counsel for both native title groups made submissions noting the occasion for the groups, followed by submissions from the state. Counsel for the local government and commercial fisheries, Mr Tim Mellor, also made brief submissions on their behalf, particularly for the counsel, noting the counsel's intention to work together with the native title holders. His Honour Justice O'Bryan then addressed parties and the gallery on the consent determination, published the determination, and concluded the hearing.

Following the conclusion of the hearing, solicitors for each of the groups and invited representatives came forward to receive bound copies of the determination. Once all copies were received, Michael Miller, Jody Miller and Jack Johncock each delivered speeches on the importance and impact the determination has had on the native title holders. It was pleasing also that a representative from the District Council of Elliston delivered a speech noting the significance of the occasion and the determination.

This consent determination is the first time that the native title of the Nauo people has been recognised by law, and it is a very significant thing. It has been a long road for that recognition. This settlement resolved Federal Court proceedings that have been on foot for 25 years, and now will record what the Wirangu and Nauo people have always known: that the land that is subject to this native title always has and always will be Aboriginal land.

WIRANGU NATIVE TITLE CLAIM

The Hon. T.A. FRANKS (15:11): Supplementary: in recent years the Nauo traditional owners have been completely silenced and sidelined in major government decisions, including at Whaler's Way with the orbital launch complex. How will reparations be made to ensure that their voices are heard on their land?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:11): Certainly, native title proceedings and native title consent determinations—all consent determinations—give certain statutory rights to native title holders, but I can assure the honourable member that we intend to listen carefully to all representations put forward by Aboriginal groups and Aboriginal elders and, in fact, this parliament will be contemplating mechanisms to increase that voice even further.

WORKPLACE INJURIES

The Hon. C. BONAROS (15:14): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about workplace injuries.

Leave granted.

The Hon. C. BONAROS: A report recently released by the McKell Institute reveals that workplace injuries are plaguing the state's economy to the tune of more than $100 million. The new report is heavily critical of South Australia's current compensation system for leaving South Australians 'mired in poverty'. It warns the sleeper issue is set to cost the state at least $106 million over the next seven years as more than 1,200 South Australians each year are injured so badly on the job that they cannot return to work.

The institute made a number of recommendations to address the problems that have been outlined, including the government consider establishing a 2030 return to work rate target that is pinned to the national average, and that it considers cost incentives for returning injured workers to work, amongst other things. The report forecasts that, if SA achieved that national average by 2030, 582 South Australians would remain in the workforce instead of being prematurely exited from the labour market due to injury. My questions to the minister are:

1. Is he aware of the findings of the McKell Institute?

2. Does he agree with some or all of the findings and recommendations and, if so, which?

3. What is the government doing to address the state's concerning return to work rate and the recommendations of that report?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:15): I thank the honourable member for her question and her very significant interest in relation to injured workers, which has been no more evident than when she has made ministers read out explanations of the clauses for bills that are introduced.

The government is very keen and happy to support policy discussion about the Return to Work scheme. In fact, work is ongoing right now to look to see how we can improve the Return to Work scheme to do exactly what it says it should do, that is, return to work.

Section 18, on which there was a lot of discussion in relation to other legislation last year, is being looked at to see what can be done to help injured workers return to work better and what further legislative incentives we might have to do that. I expect we will have legislation this year to reflect some of those discussions and consultations that have gone on.

We were also pleased to support the creation of a select committee of this council to inquire into operations of the scheme and how that works. That committee is ongoing and I understand has hearings over the next couple of weeks and the next few months to look at those exact things. Any policy discussion in this area is difficult and complex, as workers compensation schemes are, but we have to be sure that we are doing all that we can and that the measurements we are using are as comparable as possible. Return to work rates are difficult to compare across jurisdictions because of the very different ways workers compensation schemes are at work in each state and territory.

I know that when the report was released I had discussions with officers from the Return to Work scheme, and I think they will work with people from the McKell Institute just to drill down into some of the statistics that they feel might not accurately reflect the scheme here, but acknowledge there is work to do to further improve the Return to Work. A lot of the figures are based on surveys that are three to four years old for the McKell Institute in that Return to Work scheme.

In relation to the honourable member's question as to whether we accept all, some, or none of the recommendations, I think it is fair to say that absolutely we accept some of the recommendations. We haven't gone through and highlighted which recommendations we accept or which of the assertions or findings probably need a bit more work done to understand how they have come to the conclusions, but I know there is work ongoing at the moment to look at some of the assumptions used and to make sure that we can make sense of some of the figures that don't necessarily quite correlate with the figures that ReturnToWorkSA has themselves, but we are looking into that.

Bills

FIRST NATIONS VOICE BILL

Committee Stage

In committee (resumed on motion).

Clause 34.

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

Amendment No 1 [Game–1]—

Page 18, line 2 [clause 34(1)]—Delete 'The' and substitute 'Subject to subsection (1a), the'

Amendment No 2 [Game–1]—

Page 18, after line 3—After subclause (1) insert:

(1a) A committee may not be established under subsection (1) unless it is established for the purposes of advising the State First Nations Voice in relation to a matter or matters on which the State First Nations Voice is otherwise unable to adequately inform itself.

I just want to make clear that my position on the First Nations Voice Bill is that I oppose the bill entirely. As I have already stated, that is because I want to see a system where we are supporting people based on their needs, not based on their race. But given the reality that we clearly have the numbers for the First Nations Voice Bill to pass, I would like to give every opportunity to the chamber to ensure that new committees are only established if the First Nations Voice is otherwise unable to adequately inform itself.

It has been said that the local First Nations Voice will comprise 40 elected members, but actually the number of elected members is not stipulated in the bill. It has been said that the State First Nations Voice will comprise 10 members from that 40, but actually the number of State First Nations Voice members is also not stipulated. My point is that, in fact, we may end up with in excess of 40 elected members for the Local First Nations Voice.

It states also within the bill that a further four committees will be established and they will require additional members, so in addition to the 40-plus elected members. It also states that those committees will be ensured adequate resourcing. It further states that the State First Nations Voice may establish further committees and that the establishment of those committees only requires approval from the Attorney-General and then they will be also given guaranteed resourcing. My amendment would ensure that the First Nations Voice only establishes further committees if it is unable to adequately inform itself.

I want to put on the record that my understanding is that the Liberal Party will not be supporting this amendment, and I am confused by that. I also want to put on the record that last year I put forward a piece of legislation to ensure resourcing for the Children and Young Person's Visitor role, where Aboriginal and Torres Strait Islander children are over-represented in state care, and that resourcing would have ensured that those children could have been checked on at least four times a year rather than once a year.

The Liberal Party did not support resourcing for the Children and Young Person's Visitor role, but they appear now to be in support of the potential establishment of, really, limitless committees as part of this First Nations Voice Bill despite apparently opposing the bill. I was just wondering whether they wanted to put on the record why they are not supporting the amendment.

The Hon. K.J. MAHER: I am happy to rise first and quite clearly indicate that we do not support this amendment. I am happy to provide further information, which the honourable member would have been able to avail herself of at any given time, given the numerous briefings that were offered and indeed accepted by the honourable member in relation to how the First Nations Voice is proposed to be structured.

I can give further information, which I have given to anyone who has asked the question, about the proposed number of regions and the proposed number of members for each region after the second round of consultations. What we are proposing and the outline I have given in terms of remuneration, allowances, travel and the budgets that we have worked on contemplate a total of six regions or areas around South Australia. Five of them would be outside the metropolitan region and, as we have had extensive discussions already, based as close as practicable to groupings around Aboriginal nation boundaries grouped together. One region would cover the Adelaide metro region or the Kaurna nation boundary.

In the working model that we have, it is proposed that each of those five regions outside Adelaide would comprise seven members, so 35 members from outside the Kaurna boundary region, and to take into account the much larger population in the metro area, 11 members in the Kaurna boundary region, which will give a total of 46 members of all the Local Voices. Having six Local Voices, each with their two presiding members being on the State Voice, would equate to 12 members of the State First Nations Voice.

The honourable member talked about in excess of 40 and 10. We would have been happy to provide the details of where the current thinking is if the honourable member had asked for it at any stage, but I am happy to place that on the record now, as I have already provided, I think, great detail in terms of how the budget, how the thinking is being worked out and where we are with everything else in relation to this bill.

I can say that having given that information, as I have been very keen to do on every aspect that I possibly can give as much information on, we just do not understand the purpose of this provision and what the honourable member is seeking to do. In our view, it is absolutely implicit in clause 34 that the Voice would establish committees on matters it feels it needs further information on.

We are struggling entirely to see what the point of this clause is. If it is the view of the First Nations Voice committee that they do not feel they can adequately inform themselves, it will be completely up to them to establish the committees anyway. We really struggle to understand exactly what this does or how it changes anything that is already in the bill.

The Hon. J.M.A. LENSINK: I rise to make some remarks in relation to this amendment and also, indeed, the particular questions of the mover of these amendments, the Hon. Sarah Game. It

is correct that we will not be supporting these particular amendments. To address some of the matters that go to the operations of the two different models that operate, both this version by the current government and the version by the previous government, clearly the specific Voices that this legislation establishes are a creature, if you like, of the government's version of the bill.

The Liberal Party's version of legislation provided more autonomy through our model and goes to some of the questioning before lunch about the prescription by the current government of the number of meetings and so forth. Our model was very much more that the Aboriginal representative body would make its own rules and set its own operational aspect. Therefore, these particular amendments that we have before us are inconsistent with our pre-existing position.

The Hon. T.A. FRANKS: Just for the record, the Greens will not be supporting this amendment. I can see where an additional committee might be required and advice might be required, it might well be issues of juvenile justice, child protection. Indeed, I will point to the current issues with the CNS where, in fact, some voice and advice from those who are at the frontline of working with the new Custody Notification Service (CNS) would have alerted government agencies, the government, to the fact that, while we thought we had actually created a better way and implemented the recommendations from the Royal Commission into Aboriginal Deaths in Custody with the changes to the CNS made under previous Attorney-General Chapman, which were done by regulation not through a bill, we actually made it worse.

Specialised legal frontline advice on that, much earlier, would have resolved that issue. Child protection is one of the biggest challenges I think that we will have facing us and having the Grannies Group and the Nunga Babies Watch actually providing advice, specialist advice, to the Voice will probably be very helpful and something that we need.

Every time I hear the debate meshed with the one about the Child and Young Person Visitor, I would note that the Child and Young Person Visitor is actually the person who was formerly with Reconciliation SA and ran the workshop that taught me much more about the Voice, and she actually supports the Voice.

The Hon. C. BONAROS: I am glad the honourable member provided that explanation or, at least, reasoning now, because that is certainly one of the issues that I have continued to raise with the Attorney throughout the course of this bill. I acknowledge our discussions around where children fit into those committee structures, but also the ability for those members to define 'youth' themselves in the same way that they will be able to define 'elders'.

I accept that that has been the outcome of that consultation process but, inevitably, I think we all can see that child protection is going to form the basis of some of the work, we hope, that happens in that advisory role in terms of the information we receive here in parliament by way of reports.

The Attorney has been quite clear that if there was to be a separate child protection committee or a committee that looks specifically at issues involving children in child protection, in youth detention, in the criminal justice system and so forth, then these would be the provisions that they would be covered by and they would be able to rely on experts and other groups in the know like Nunga Babies Watch and the Grannies Group and others to provide that level of advice. We see this as a very critical addition to the bill and for that reason we will be opposing the amendment that has been proposed.

Amendments negatived.

The Hon. L.A. HENDERSON: Could the minister please advise: there is no stipulation on this size of these committees. Is there an upper limit on the membership?

The Hon. K.J. MAHER: No, there is not.

Clause passed.

Clauses 35 to 39 passed.

Clause 40.

The Hon. L.A. HENDERSON: Could the minister please advise if members of the Voice, when they appear before the parliament, will be covered by parliamentary privilege when they make their contributions?

The Hon. K.J. MAHER: My advice is yes.

Clause passed.

Clause 41 passed.

Clause 42.

The Hon. D.G.E. HOOD: My question is to clause 42(3), where it talks about the President and the Speaker having the power to request either a report or an audience, if you like, with members of the Voice or from the Voice. Then it says in subclause (3) that there is nothing compelling the individual to come. I accept that and that seems not unreasonable to me.

What I want is to just get an assurance from the Attorney that that does not cross over to parliamentary committees. Currently, we have committees that have the right to be able to demand witnesses appear, if you like. I do not see anything in here that prevents that occurring with a parliamentary committee. I just wanted to make sure that that is the case.

The Hon. T.A. FRANKS: Subclause (4) provides:

To avoid doubt, nothing in this section limits the general privilege of Parliament to send for persons, papers or records.

Clause passed.

Clause 43 passed.

Clause 44.

The Hon. L.A. HENDERSON: Noting that members of the Voice are not members of the cabinet, would it not be in the interests of the public to be able to know what the Voice are looking to communicate with cabinet on and, also for the benefit of members of this place, to benefit from those conversations?

The Hon. K.J. MAHER: I thank the honourable member for her question. There would be nothing necessarily that would prohibit members of the public knowing what the Voice intended to raise with cabinet. But as discussed earlier, at a formal cabinet meeting, cabinet confidentiality would apply to the deliberations of cabinet just as when other groups attend, as I have talked about. I think Business SA, the Ai Group and other business groups over the course of the last 12 months have attended cabinet as part of the formal proceedings of the cabinet, and the principles of cabinet confidentiality would apply to those in-cabinet discussions.

The Hon. D.G.E. HOOD: Extending from that, we understand that cabinet information and documents cannot be FOI'd, but can communications within the Voice, for example, their communications, be FOI'd?

The Hon. K.J. MAHER: Yes. My advice is, absolutely, the documents and operations of the Voice would be subject to the operation of the Freedom of Information Act.

The Hon. L.A. HENDERSON: Further to what the Hon. Mr Hood has just queried, if members of the community were to write to their local member of the Voice, does that mean that their correspondence with that member could be FOI'd?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is capable of having an FOI application lodged about it, but of course it would be subject to the usual considerations of FOI about the interests of private people and considerations in the normal course of FOI, just as any private individual corresponding has those things determined under the normal course of FOI applications.

Clause passed.

Clauses 45 to 48 passed.

Clause 49.

The Hon. L.A. HENDERSON: Due to a duplication, will the minister be abolishing the South Australian Aboriginal Advisory Council as they will be advising the government on matters that affect Aboriginal people?

The Hon. K.J. MAHER: I thank the honourable member for her question. I have indicated that there will be a number of advisory functions that we think the Voice is better placed to take. One of those, as the bill contemplates, is the Aboriginal Lands Parliamentary Standing Committee. I think the Hon. Michelle Lensink asked about the Commissioner for Aboriginal Engagement, and we indicated that it would be the intention that we see this as a better mechanism.

Certainly, the South Australian Aboriginal Advisory Council was a mechanism much like the Commissioner for Aboriginal Engagement. I can remember being involved in the establishment back when I was a chief of staff to a former Minister for Aboriginal Affairs with the abolition of ATSIC. We think the Voice is probably the better mechanism rather than that as well to provide that advice not just to government but to parliament.

Clause passed.

Clause 50.

The Hon. L.A. HENDERSON: Could the minister please advise why the body is asked to report on themselves, and why there would not be an independent review? Clause 50 states that it is a First Nations person or body, appointed by the minister on the recommendation of the State First Nations Voice. How will the minister ensure that there is not a clear conflict of interest here?

The Hon. K.J. MAHER: I think that would not be any different to the general principles when people are appointed to review certain things. There are statutory reviews required under a whole range of legislation on all sorts of things and all sorts of powers, and it is something that government has to turn its mind to probably every week of the year in terms of a review being conducted and making sure the reviewer is an appropriate person given their own interest.

The Hon. L.A. HENDERSON: Could the minister advise if it is standard practice, though, for the body that would be reviewed to provide the recommendation of who will be reviewing them?

The Hon. K.J. MAHER: We do not have a table that compares it with other legislation. However, I would note that this is a unique proposition that has been put forward, and we are conscious and keen to, as I think as the Hon. Michelle Lensink talked about, be creating as much scope as possible for the Voice to be involved in decisions. That is what we have tried to reflect in this bill: to make sure that the Voice themselves are involved in decisions we are making about the Voice.

The Hon. L.A. HENDERSON: Does the minister not acknowledge that that is a potential conflict of interest—that a body that is being reviewed is to provide the recommendation of who will be reviewing them?

The Hon. K.J. MAHER: We do not see that as a conflict of interest. It is, again, for the minister to appoint but take into account the recommendation.

Clause passed.

Clause 51 passed.

Clause 52.

The Hon. L.A. HENDERSON: Can the minister please advise what the threshold of attempting to obstruct is, and can the minister please provide examples?

The Hon. K.J. MAHER: I do not have particular examples, but I am advised this is a very common and reasonably standard provision in relation to these sorts of bodies and pieces of legislation and, given that it creates an offence, it would be up to a prosecuting authority and then for the courts to determine.

Clause passed.

Clauses 53 and 54 passed.

Schedule 1.

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

Amendment No 1 [AboriginalAff–1]—

Page 29, line 24 [Schedule 1 clause 11(2)]—Delete subclause (2)

Amendment No 2 [AboriginalAff–1]—

Page 30, lines 9 to 33 [Schedule 1 clause 13]—Delete the clause and substitute:

13—System of voting and determination of certain rules etc

(1) Voting in an election is to be conducted using a single transferable vote system in accordance with rules determined by the Electoral Commissioner after consultation with the State First Nations Voice and the Minister.

(2) Without limiting the rules that may be determined under this clause, the Electoral Commissioner must make rules relating to—

(a) the method of voting in an election; and

(b) the counting of votes in an election; and

(c) scrutiny of the counting of votes in an election; and

(d) the gender representation requirements set out in clause 4 of this Schedule.

(3) Without limiting clause 4 of this Schedule, the Electoral Commissioner must, in determining rules under this clause, as far as is reasonably practicable, ensure that the rules are consistent with the provisions of the *Electoral Act 1985* relating to the election of members of the Legislative Council.

(4) Despite subclause (3) and any provisions of the *Electoral Act 1985* to the contrary, a ballot paper is not informal only by reason of the failure of the voter to mark a particular number of preferences on the ballot paper.

Again, I want to thank the Hon. Tammy Franks for the work the Greens have done with the government on these amendments. They were suggested by the Hon. Tammy Franks, and we were able to use the resources of departmental and other officials to give effect to the suggestions that were put forward.

This makes a change to how the voting occurs. Instead of a first-past-the-post system, as was originally envisaged and I think as both APY users and maybe the First Peoples' Assembly of Victoria have, this now reflects a voting system that is one that we are all familiar with in the Legislative Council—I think, technically, the Inclusive Gregory method of single transferable vote that elects all of us.

The Hon. T.A. FRANKS: It will come as no surprise that the Greens welcome and will support this amendment. We thank the government for being open to it. I note it was an issue raised by Ben Raue of The Tally Room and also today with me by Deane Crabb, who has just got an instant reply saying that, yes, we have addressed this particular issue that would have been an offence to good democracy. I know that means that in the future people who are voting for the Voice will not be required to use three different electoral systems, they will only be required to do the standard two. It is certainly a fairer electoral process that we welcome and that we thank the government for assisting us with.

The Hon. C. BONAROS: I note for the record also that SA-Best will be supporting this. We did have discussions about this, and I mentioned to the Attorney my concerns around first past the post and also the issue of having different voting systems at the election, which we know only serves to confuse voters when they have to use different forms of voting, depending on which election we are dealing with. So I think this will serve us well in terms of streamlining those processes as well as making them consistent. I, too, would like to thank the Hon. Tammy Franks for raising this with the government and support the amendments.

The Hon. J.M.A. LENSINK: Yes, it does seem to have been an oversight that has been corrected, so I add my support to the comments of others.

Amendments carried.

The Hon. L.A. HENDERSON: I appreciate this may go more to a clause earlier in the bill, but it also applies to this as well. Could the minister please advise why a Confirmation of Aboriginality certificate obtained from a registered community organisation is required for government departments such as Housing SA in order to access Aboriginal housing but not required to qualify for the First Nations Voice?

The Hon. K.J. MAHER: This was a direct result of that second round of feedback after the bill was originally drafted, and there was a very strong view that we should make the barriers to vote as low as possible and as inclusive as possible. There are provisions and penalties for a false declaration in terms of voting that attract I think it is the maximum of four years in jail or the comparable fine as the Sentencing Act would provide and a mechanism for that, and certificates of Aboriginality would possibly come into play if there was that dispute system, but it was very strongly wanted in the second round of consultations to make the barriers to voting as low as possible.

The Hon. L.A. HENDERSON: In the earlier clauses there was a test that would be adopted to satisfy the section that a person was biologically descended from persons who inhabited Australia or Torres Strait Island before European settlement. Can the minister advise what would happen in instances where a person is unable to satisfy that test?

The Hon. K.J. MAHER: That test, or a similar enunciation of that as the first part of the tripartite test that was used by Brennan J in Mabo and then in many other jurisdictions, I know has quite a number of ways that has been found to judicially be able to be shown, which includes evidence from elders and others. I know in the case law that has developed in the interpretation of this there are a whole range of different ways that that has been able to be established.

Schedule 1 as amended passed.

Schedule 2.

The Hon. L.A. HENDERSON: Schedule 2, part 2, clause 2: in the draft bill of this piece of legislation from the First Nations Voice Bill 2022 there was not originally an amendment to the Constitution Act. Can the minister please explain why this was added in the last-minute version?

The Hon. K.J. MAHER: I do not think it is fair to describe it as a last-minute addition. It was out of the second round of consultation and a view put forward that this is an extremely important bit of legislation, an extremely important part of our democracy. I think I mentioned in the second reading sum-up speech that the document or the legislation that acts as basically the birth certificate of our democracy, whether it be at state or federal level, is worthy of mention in that, given the significance that many Aboriginal people have placed on what we are doing here today.

The Hon. L.A. HENDERSON: The amendment talks about making unique and irreplaceable contributions to South Australia that benefits all South Australians. I note that the rest of the act talks particularly about being a Voice for Indigenous communities. Can the minister please explain why the specific use of 'all' was made in the amendment?

The Hon. K.J. MAHER: I am happy to be able to provide the advice that it is the view that we believe First Nations peoples contribution—Aboriginal and Torres Strait Islanders—is of great benefit and great importance to all of us, not just First Nations people. What we seek to do with the Voice and elevating the Voice we believe will provide a benefit and lift us all and say good things about who we are as a state in general, not just for Aboriginal and Torres Strait Islander people.

Schedule 2 passed.

Preamble and title passed.

Bill reported with amendments.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:51): I move:

That this bill be now read a third time.

The Hon. D.G.E. HOOD (15:51): I would like to speak briefly to the third reading. In my second reading I made it very clear that I oppose this bill, and that remains my position, but I did want to make a few comments, if I may.

It does not take a genius to work out that this bill will pass this chamber, and I think it would not take a genius either to work out that, given the numbers in the other place, it is likely to pass the House of Assembly in a week or two's time—whenever it is. That being the case, I just wanted to say that it is my intention to fully get behind this bill and support the outcome.

It is not my preferred model by any stretch. I made that clear in my speech, but I did also say that the disagreement here is about the way of achieving what we all want, which is improved outcomes for our Indigenous population. They have, no doubt, faced very difficult circumstances and not had the improvements that all of us have sought to see for them over a substantial amount of time now.

Now we almost have a model in place. Should it pass this place and the House of Assembly, we will have a model in place. I just want to say publicly to the Indigenous population that whilst I opposed the bill, because I do not believe it is the right approach, I will be behind it nonetheless. I will support it and I will do what I can as an individual member to ensure its success.

Bill read a third time and passed.

FORFEITURE BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:54): Obtained leave and introduced a bill for an act to make various provisions in relation to the common law forfeiture rule, to make related amendments to the Administration and Probate Act 1919 and the Criminal Assets Confiscation Act 2005 and for other purposes. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:55): I move:

That this bill be now read a second time.

I am pleased today to introduce the Forfeiture Bill 2023, which reforms the common law forfeiture rule. Stated briefly, the common law forfeiture rule prevents an unlawful killer from receiving any profit or benefit as a result of their crime. The rule stems from a longstanding and powerful maxim of public policy, that is, that no person should benefit from his or her wrongdoing.

The rule has a very long history, dating back to Jewish and Roman law, and was formally established in its modern form in the 1892 case of Cleaver v Mutual Reserve Fund Life Association. It was extended to both murder and manslaughter in the 1914 case of the matter of Hall. The rule has been endorsed by courts in countries around the world, including the High Court of Australia.

At common law in South Australia the rule applies to all cases of murder and manslaughter, with no discretion to modify the operation of the rule, regardless of any presence of extenuating circumstances. While the premise of the rule remains sound, the scope and operation of the rule has been criticised in recent times for its uncertainty and rigidity. In particular, concerns have been raised that the strict operation of the rule may lead to potentially unjust outcomes in situations involving a lesser degree of moral culpability or diminished capacity.

It is conceivable the rule could lead to potential unfair implications in such situations as a survivor of a suicide pact, where an offender has a major cognitive impairment, or especially in the context of domestic or family violence where a victim kills an abusive spouse and is convicted of manslaughter on the basis of excessive self-defence or provocation. The strict application of the rule in such circumstances has been described as 'unnecessarily harsh, inconsistent and…irrational' and 'injudicious and incongruous' with public policy foundations.

In 2011, the then Attorney-General, the Hon. John Rau MP, commissioned the South Australian Law Reform Institute (SALRI) to review the role and operation of the common law

rule of forfeiture in South Australia. Specifically, SALRI was asked to consider whether there was any need for legislative intervention and to permit the application of the rule to be mitigated in appropriate cases.

SALRI published its report 'Riddles of Mysteries and Enigmas: The Common Law Forfeiture Rule' on 20 February 2020. The SALRI report is a substantive piece of work containing 67 recommendations for reform, including the creation of a new standalone act, the Forfeiture Act, to clarify the scope and application of the rule.

Members may recall that an earlier version of this bill was tabled in parliament in 2021 by the former Attorney-General in the other place. I understand the bill was tabled for the purposes of conducting public consultation and not progressed before the conclusion of the last parliament. I am pleased to formally introduce this bill into parliament, which is substantially similar to the 2021 bill.

In accordance with the recommendations of the SALRI report, the bill provides a statutory basis for the application of the common law forfeiture rule in new standalone legislation. In particular, the bill provides that the forfeiture rule applies to any benefit that an offender would otherwise obtain as a result of the unlawful killing. For the purposes of the bill the term 'benefit' is defined to broadly include any property, whether real or personal, interest or entitlement under the estate of the deceased person.

As recommended by SALRI, the bill also extends the common law rule of forfeiture so that it not only applies to murder and manslaughter but to all forms of homicide in the Criminal Law Consolidation Act 1935, including any person who aids, abets, counsels or procures the commission of those offences.

Turning to the substance of the bill, part 2 of the bill provides for a range of applications that can be made to the Supreme Court in respect of the application and the operation of the forfeiture rule. Clause 6(2)(a) allows for the executor or administrator of the deceased estate to apply to the court for an order specifying whether or how the forfeiture rule applies to the distribution of the estate.

Alternatively, clause 6(2)(b) provides that the executor or administrator of the estate may distribute the assets of the estate without having to obtain a court order if the offender has been found guilty in criminal proceedings of the unlawful killing or a court has in civil proceedings found that the offender committed the unlawful killing.

As recommended by SALRI and in keeping with the position at common law in South Australia, the bill clarifies the forfeiture rule does not apply to a person who is alleged to have unlawfully killed another person and has been found by a court to have been mentally incompetent to commit the offence. A person who is found by a court to be mentally incompetent to have committed the offence does not, in the eyes of the law, commit the crime and it is therefore appropriate the forfeiture rule does not apply in these circumstances.

In the case of a person who is found mentally unfit to stand trial, the bill makes provision for an interested person to apply to the court for an order that the forfeiture rule apply to the person as if they had been found guilty of the charge. The court is empowered to make such an order if satisfied that: firstly, the objective elements of the offence have been established, either to the criminal or a civil standard of proof, as the case may be; and it is in the interests of justice for the forfeiture rule to be applied.

In terms of modification of the forfeiture rule, part 3 of the bill makes provision for the offender or any interested person to make an application for an order to modify the application of the forfeiture rule. In accordance with the recommendations of the SALRI report, clause 9 of the bill provides that the court may only make the order where exceptional circumstances exist such that it is in the interests of justice to modify the effect of the rule.

In determining whether or not exceptional circumstances exist, the court is required to have regard to the circumstances of the offence, the effect of the application of the rule on the offender or any other person and such other matters as appear to the court to be material. In doing so, the bill seeks to allow for greater consideration of individual circumstances whilst ensuring that the underlying policy rationale of the forfeiture rule is not unduly diminished.

In accordance with SALRI recommendations, part 4 of the bill empowers the court to make other ancillary orders in relation to the operation and effect of the forfeiture rule. This includes an application by interested persons for interim orders to reserve property or any other benefit that may be subject to the forfeiture rule where there are reasonable grounds to suspect an unlawful killing has occurred (in clause 10), and for orders relating to other property and interests that the offender may have acquired as a result of the unlawful killing but that do not otherwise form part of the deceased's estate and are therefore not subject to the forfeiture rule (in clause 11).

There will be some cases where an offender is convicted, or the conviction is overturned, long after the deceased has been killed and their estate has been distributed to any beneficiaries. In these circumstances, the SALRI report recommended that the court should have the power to trace the inheritance and to make appropriate orders to ensure that those who have benefited from the deceased's estate do not receive unjust enrichment.

To that end, the bill includes the power for the court to make orders in relation to the enforcement of the forfeiture rule where the benefits of the estate have already been distributed—we find that in clause 12. Conversely, there is scope for the court to also make orders for the return of benefits in circumstances where the offender is found not guilty of the unlawful killing by a court or a conviction for the unlawful killing is subsequently quashed on appeal—found in clause 13.

In relation to part 5 of the bill, further to the creation of this new standalone legislation, schedule 1 of the bill makes related amendments to the Administration and Probate Act 1919 and the Criminal Assets Confiscation Act 2005 to support the operation of the Forfeiture Act. Schedule 1, part 1 makes amendments to the Probate and Administration Act to codify the effects of the forfeiture rule on the succession rights of third parties.

Schedule 1, part 2 amends the Criminal Assets Confiscation Act to exclude the operations of the act in circumstances where the property vests in a person in accordance with the forfeiture rule, forfeiture modification order, or other order made by the Supreme Court pursuant to the Forfeiture Act. While the government expects this legislation will be used in very rare circumstances—that is, where the forfeiture rule applies—it nonetheless addresses an important aspect of the law which is very clearly in need of reform.

Specifically, the bill will provide for greater clarity and certainty regarding the operation of the forfeiture rule. It will also enhance justice outcomes for the community by enabling the Supreme Court to modify the application of the rule in those exceptional circumstances, where it is in the interests of justice to do so.

I would like to thank everyone at SALRI for their excellent work over the last decade in delivering the report, which informed the drafting of the bill. During the consultation period, some stakeholders expressed surprise that there is no statutory basis for the rule of forfeiture. I am pleased that with this bill that will no longer be the case and that the forfeiture rule can be dragged into the 21st century. The application of the rule in increasingly complex property, inheritance and succession contexts is another driver for this important reform.

I commend the bill to the chamber. I seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

4—Application of Act

The measure applies to property within or outside the State and unlawful killings whether occurring within or outside the State.

5—Property subject to forfeiture rule

This clause clarifies that the forfeiture rule applies to any benefit that an offender would otherwise obtain as a result of the unlawful killing.

Part 2—Application of forfeiture rule

6—Application of forfeiture rule by executor or administrator

An executor or administrator who knows (or ought reasonably to know) that the forfeiture rule applies in relation to the distribution of an estate, must distribute that estate in accordance with the rule and any agreement to modify or disapply the rule is of no effect. It is possible to apply to the Supreme Court for an order specifying whether, or how, the forfeiture rule applies to the distribution of the estate or, if the unlawful killing has been proved in criminal or civil proceedings, the estate can be distributed in accordance with the rule without any court order.

7—Rule does not apply to person who was mentally incompetent or unfit to stand trial

The forfeiture rule does not apply to a person who is found to have been mentally incompetent to commit the unlawful killing and, subject to an order under clause 8 of the measure, the rule does not apply to a person found to be mentally unfit to stand trial on a charge of the unlawful killing.

8—Forfeiture application orders

This clause allows and interested person to apply to the Supreme Court for an order that the forfeiture rule applies to a person who has been found by a court to be mentally unfit to stand trial on a charge of an unlawful killing.

Part 3—Modification of forfeiture rule

9—Forfeiture modification orders

This clause allows the offender or any other interested person to make an application to the Supreme Court for an order modifying the effect of the forfeiture rule.

Part 4—Other orders

10—Interim orders

The Supreme Court may, on the application of an interested person, make any interim orders in order to preserve property or the value of any benefit that might be subject to the forfeiture rule or to protect the interests of any interested person.

11—Orders relating to other property and interests

If the Supreme Court is satisfied that an offender will or may be entitled to obtain any property or interest as a result of an unlawful killing (not being a benefit that is subject to the forfeiture rule), the Court may, on the application of an interested person, make orders under this clause to prevent the offender from obtaining the property or interest.

12—Enforcement of forfeiture rule etc after distribution of benefits

If a person has received a benefit as a result of an unlawful killing (otherwise than pursuant to a forfeiture modification order), an interested person may make an application to the Court for an order requiring the person to deliver up the benefit, or to pay an amount determined by the Court to be equivalent to the value of the benefit, to any person who would have been entitled to the benefit if the offender had died before the deceased person.

13—Return of benefits where conviction quashed etc

This clause allows for the return of benefits that were distributed in accordance with the forfeiture rule (or payment of their equivalent value) where the offender is subsequently found not guilty of the unlawful killing by a court or a conviction for the unlawful killing is subsequently quashed on appeal.

Part 5—Miscellaneous

14—Proceedings to be civil

Proceedings under the measure are civil proceedings.

15—Orders under Act

An order of the Supreme Court under the measure may be in such terms and subject to such conditions as the Court thinks fit.

16—Time for bringing proceedings

This clause specifies time limits for applying for orders under the measure.

17—Evidentiary

This clause provides for evidentiary certificates.

18—Regulations and fee notices

This clause provides for the making of regulations and fee notices.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Administration and Probate Act 1919*

1—Insertion of section 36A

Proposed section 36A provides for an alternate grant of probate or administration where the Court considers that there are reasonable grounds for believing that a person otherwise entitled to a grant of probate or administration has committed an offence relating to the deceased person's death.

2—Insertion of section 118

If a person is for any reason disqualified from taking their interest under a will or taking their share in the distribution of an intestate estate, the person is to be treated as having predeceased the testator or intestate (as the case may be).

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

3—Amendment of section 7—Meaning of proceeds and instrument of an offence

Property that vests in a person from the distribution of the estate of a deceased person in accordance with the forfeiture rule or a forfeiture modification order or other order under the measure will cease to be proceeds of crime for the purposes of the *Criminal Assets Confiscation Act 2005*.

Part 3—Transitional provision

4—Application of Act

The measure only applies in relation to an unlawful killing occurring after its commencement.

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

FAIR WORK (FAMILY AND DOMESTIC VIOLENCE LEAVE) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:06): I move:

That this bill be now read a second time.

The Hon. K.J. MAHER: I seek leave to insert the second reading explanation and explanation of clauses in *Hansard* without my reading them.

Leave granted.

This bill fulfills the government's election commitment to create consistency in the state industrial relations system for family and domestic violence leave to ensure more workers can access such leave and to expand the objects of the Fair Work Act to include promoting and facilitating gender equity.

Presently, the entitlements of state system employees to family and domestic violence leave are governed by an inconsistent array of policies, procedures and industrial instruments. Public sector employees are entitled to paid leave through a determination of the Commissioner for Public Sector Employment. Local government employees are entitled to unpaid leave under their awards, which some councils supplement through paid leave negotiated through policies or enterprise agreements.

This bill will ensure consistency across the state industrial relations system by inserting a new schedule 38 to the Fair Work Act, providing a minimum standard for paid family and domestic violence leave.

The bill defines family and domestic violence by reference *to* the definition of domestic abuse in the Intervention Orders (Prevention of Abuse) Act 2009. The carefully considered and comprehensive language of that act recognises that family and domestic violence takes many forms, including physical injury, emotional or psychological harm, and coercive control of a person's financial, social or personal autonomy.

The bill provides that all employees—full time, part time and casual—are entitled to up to 15 days of paid leave each year. Importantly, this leave is paid at the employee's full rate of pay, including any overtime, allowances, loadings or separately identifiable amounts. This ensures victim survivors of domestic violence are not disadvantaged by having to choose between their financial security and accessing these leave entitlements.

This exceeds the 10 days minimum standard recently inserted into the commonwealth Fair Work Act. The government has deliberately chosen to adopt a higher standard for the state industrial relations system, reflecting the degree of responsibility state and local governments have as democratically elected bodies to combat the scourge of domestic violence.

The bill provides that these leave entitlements may be accessed for any purpose relating to the employee dealing with the impact of family and domestic violence, including but not limited to attending medical appointments, seeking legal advice, attending to legal proceedings and relocating residences. The bill provides that, where requested by an employer, the employee must provide evidence that would satisfy a reasonable person that the leave is being taken for one of these purposes. This is not intended to be a high threshold. The kinds of evidence which may satisfy this requirement include but are not limited to police documents, referrals from health practitioners and support services, court documents, letters from employee assistance programs, as well as personal letters or statutory declarations.

We do not want to see family and domestic violence leave being denied for any arbitrary or capricious reasons, and we trust that employers will approach these entitlements in the spirit that they are intended.

The bill also includes robust confidentiality requirements so that employees can have confidence that their personal information will be appropriately treated. Employers cannot copy or retain evidence provided by the employee to support their leave claim. Employers are also prohibited from requesting information from an employee about the nature or the extent of the domestic violence they are experiencing.

The bill makes it a criminal offence for an employer to disclose information obtained through these processes without the consent of the employee to whom the information relates. The bill also amends the objects of the Fair Work Act to include promoting and facilitating gender equity. This will make gender equity a central consideration of the South Australian Employment Tribunal wherever it is carrying out its functions under the act such as when making industrial awards.

With this bill, this government—and we hope this parliament—is making a clear statement that we will do what we can to support victim survivors of family and domestic violence in leaving these terrible circumstances. Paid family and domestic violence leave is not a silver bullet. It is not the whole solution but it is part of the solution.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Fair Work Act 1994*

3—Amendment of section 3—Objects of Act

This clause inserts a new object of promoting and facilitating gender equity into the Act.

4—Insertion of section 70B

This clause inserts a new section into the Act construing a contract of employment under the Act as if it provided for family and domestic violence leave in terms of the minimum standard. The minimum standard will either be the minimum standard as set out in the inserted section (being that outlined in clause 5 of this measure or as substituted by the South Australian Employment Tribunal), or the provisions of the particular contract of employment where such provisions are more favourable to the employee.

This clause also provides that the South Australian Employment Tribunal may, upon the application of a peak body, review the minimum standard for family and domestic violence leave set out in this measure and, if satisfied of the matters specified, substitute a fresh minimum standard.

5—Insertion of Schedule 3B

This clause inserts Schedule 3B into the Act, which sets out the minimum standard for family and domestic violence leave. Clause 1 of inserted Schedule 3B defines family and domestic violence as being domestic abuse within the meaning of the *Intervention Orders (Prevention of Abuse) Act 2009*. Clause 2 of inserted Schedule 3B provides that an employee is entitled to take 15 days of family and domestic violence leave, non-accruing, in each year of their employment.

Clause 3 of inserted Schedule 3B outlines the purposes for which an employee is entitled to take family and domestic violence leave, the manner in which the employee is to give notice of the leave, the fact that the employee must, at the request of the employer, provide evidence that the leave is for 1 of the purposes listed in proposed subclause (1), the information that an employer is not permitted to request from the employee and the manner in which periods of family and domestic violence leave is to be taken.

Clause 4 of inserted Schedule 3B provides that an employee is entitled to their full rate of pay for any period of family and domestic violence leave, including separately identifiable amounts such as overtime and allowances. The full rate of pay for an employee who is not a casual employee is worked out as if the employee had not taken the leave. The full rate of pay for a casual employee is worked out as if the employee had worked the hours for which the employee was rostered. A casual employee is taken to have been rostered to work hours in a period where the employee has accepted an offer to work those hours by the employer.

Clause 5 of inserted Schedule 3B requires that information obtained under the inserted Schedule in relation to an employee's experience of family and domestic violence leave is not to be disclosed, except in limited circumstances. If information is disclosed in those limited circumstances, the information so disclosed is not to be used for any other purpose.

Debate adjourned on motion of Hon. J.S. Lee.

LOCAL GOVERNMENT (CASUAL VACANCIES) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:06): I move:

That this bill be now read a second time.

The Hon. K.J. MAHER: I seek leave to insert the second reading explanation and explanation of clauses in *Hansard* without my reading them.

Leave granted.

The *Local Government (Casual Vacancies) Amendment Bill 2023* (the Bill) will amend the *Local Government Act 1999* (the Local Government Act) to amend section 54 of the Local Government Act, to retrospectively restore to office those council members whose positions have become vacant due to their failure to submit their campaign donations return on time.

As noted by the Minister for Local Government in the other place, it is the responsibility of all members to make sure that they lodge their returns within the timeframe

I note that there have been numerous public references to new requirements, and I am advised that there were two changes to these requirements for the 2022 periodic elections that were made through the *Statutes Amendment (Local Government Review) Act 2021.*

The first was to require all candidates to lodge an additional return, shortly after nominations had closed and before voting had begun, so that voters could see which candidates had received donations, and, if they had, from whom. This was strongly supported at the time, as this information can be critical to voters' decisions about who they wish to vote for.

The second change was to require all candidates to lodge their returns with the Electoral Commissioner, rather than with the chief executive officer of the relevant council.

I am advised that this change was requested by the local government sector through the reform work that led up to the 2021 Amendment Act, and was also supported by the Local Government Association. The change reflected a view across local government that all aspects of council elections should be managed by the Electoral Commissioner as an independent body, as is the case for State elections.

I am also advised that other aspects of campaign donations returns remained unchanged through the Amendment Act.

In particular, the trigger within the Local Government Act that has caused the vacancies that have necessitated this Bill has been in place for life of the Act—more than twenty years.

However, before the 2022 periodic elections, I understand that this clause had never been triggered before—that there had been 100% compliance across 68 councils for six periodic and many supplementary elections.

Many of the elected members affected have made applications to the South Australian Civil and Administrative Tribunal (SACAT) for restoration to office, which SACAT may do if it is satisfied that the failure was due to circumstances beyond a member's control. The reasons put forward by members may therefore be considered in this context.

However, the Government's strong view is that it is not acceptable that their communities and ratepayers may have to bear the trouble and the cost of replacing a large number of council member positions.

To prevent this, the Bill proposes to amend section 54 of the Local Government Act to retrospectively effectively 'disapply' the provisions that automatically make a member's position vacant when they have not lodged a return within one month of the statutory deadline for doing so (which is 30 days after the conclusion of the election) by deeming the vacancies to have not occurred.

To prevent any confusion that may result from a retrospective disapplication of the vacancy of council member positions, the Bill also makes other amendments to the Local Government Act to ensure that acts and decisions by these members and their councils are not invalid due to this change.

The Bill also clarifies that the 45 members in question should receive their allowances and other entitlements as they were entitled to over this period.

In recognition of the importance of lodging campaign donations returns, the Bill also requires members to lodge their returns within 10 days of the commencement of these amendments, if they have not done so already, or their positions will become vacant.

I note that there is a tendency to describe this requirement *to* lodge returns as 'administrative', implying that it is simply a piece of red tape that council members must deal with.

In fact, making information about campaign donations known and accessible is critical for transparency, accountability, and ensuring trust in our elected member bodies. And it is just as important for members to transparently declare that they did not receive any gifts, if they did not. Simply not completing a return on this basis does not provide certainty to council members' constituents that this has been the case.

Therefore, the Bill makes clear that returns must still be lodged. It also does not affect the provisions within the *Local Government Elections Act 1999* that provide that candidates in the election who did not return their campaign donations return may be liable for a $10,000 penalty. Of course, it will be open to the Electoral Commissioner to decide whether to pursue this course of action.

In closing, I emphasise once again that I am introducing this Bill to manage an unacceptable situation. The Government agrees with the Local Government Association (LGA) whose President, Mayor Dean Johnson wrote to the Minister for Local Government on 14 February to request a legislative solution to this particular problem, that it should be addressed now, in the best interests of councils and their communities.

We agree with the LGA President when he says that 'while the LGA accepts that individual elected officials bear personal responsibility for complying with their campaign reporting obligations, it appears the cost and consequence of not submitting paperwork on time is utterly unreasonable'.

The Minister for Local Government will also be looking at all measures to ensure that this situation is never repeated, as part of a review of Local Government elections that will be underway as soon as the current election processes are complete.

This has never happened in the history of the *Local Government (Elections) Act 1999* until the previous government made changes to this process. For the benefit of our communities the Government is offering a solution.

Explanation of Clauses

Part 1—Preliminary

1—Short title

The short title is the *Local Government (Casual Vacancies) Amendment Act 2023*.

Part 2—Amendment of *Local Government Act 1999*

2—Amendment of section 54—Casual vacancies

Section 54 of the *Local Government Act 1999* is amended so that the office of a defaulting member will be taken not to be, and never to have been, vacant as a result of the failure by the defaulting member to submit a prescribed return before the expiration of 1 month from the end of the relevant period for the member.

The terms *defaulting member, defaulting period, prescribed return* and *relevant period for a member* are defined.

In connection with the above, it is provided in the measure that—

- the member's performance or discharge of official functions or duties during the defaulting period is not invalid or unlawful by reason only of the failure referred to above; and
- no allowance, expense or other entitlement paid or payable to a defaulting member in respect of their office during the defaulting period is to be recovered or withheld by reason only of that failure.

A defaulting member must submit their prescribed return (unless the member submitted it during the defaulting period) within 10 business days after the day on which the measure commences. If they fail to do so, their office becomes vacant.

It is provided that the operation of Part 14 of the *Local Government (Elections) Act 1999* is not affected by the measure and no act or proceeding of a council is invalid by reason only of the operation of subsection (1a) (as proposed to be inserted by the measure).

Other amendments are technical or consequential.

Debate adjourned on motion of Hon. J.S. Lee.

SUCCESSION BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 October 2022.)

The Hon. J.M.A. LENSINK (16:07): I rise to make some remarks in relation to this bill. I thank the current Attorney-General particularly for acknowledging the work of the former Attorney-General in his second reading explanation, as the former Attorney-General had introduced a version of this bill to the parliament prior to parliament being prorogued.

This particular bill was introduced into this place on 20 October last year. It repeals the Administration and Probate Act 1919, the Wills Act 1936 and the Inheritance (Family Provision) Act 1972 and consolidates those acts into a single act. The bill updates and simplifies some of the language used in legislation. It also makes consequential and related amendments to the Aged and Infirm Persons' Property Act 1940, the Guardianship and Administration Act 1993, the Law of Property Act 1936, the Public Trustee Act 1995, the Supreme Court Act 1935 and the Trustee Act 1936. This bill adopts the contents of the 2021 bill subject to one change at section 115(3)(e) to delete the word 'natural' before the word 'parent'.

I understand the government has indicated the reason for this is that 'natural parent' would confine the scope of that provision to biological parents, whereas the intended application of the provision is to include a parent who is not a step-parent. This piece of legislation is the culmination of a large body of work that I understand commenced some time around 2011 when the South Australian Law Reform Institute identified areas of succession law that were most in need of review and recommended reforms.

SALRI, as it is known, is an organisation that many governments refer things to to ensure that we have a thorough understanding of existing provisions and how they may be improved through legislative reform. Over a period of eight years, SALRI conducted significant consultation and produced seven final reports: in 2013, 'Surety guarantees'; in 2016, two reports, 'Small deceased estates and minor succession law disputes' and 'Will register'; and in 2017, four reports, 'Who may inspect a will', 'Missing persons', 'Intestacy' and 'Family inheritance'.

Within these final reports were some 113 recommendations and one recommendation was adopted in 2014 by the former Labor government. Of the remaining 112 recommendations, the 2021 bill saw 104 of those recommendations adopted in whole or in part. That is a bit of a potted history of how this bill came to us today. Obviously, the Liberal Party supports the bill and looks forward to the committee stage of debate.

The Hon. T.T. NGO (16:11): I rise to speak in support of the Succession Bill 2022. Albeit a challenge to make this an exciting speech due to the complex and multilayered legislation it relates to, I will try my best to highlight some important new provisions that it provides.

This is a bill that began when Labor's former Attorney-General, the Hon John Rau MP, invited the South Australian Law Reform Institute (SALRI) to identify areas of succession law that were most in need of review and reform. As our current Attorney-General, the Hon. Kyam Maher MLC, acknowledged, the former Liberal government—in particular, the former Attorney-General the Hon. Vickie Chapman MP—introduced a version of this bill last year before parliament was prorogued.

For many South Australians, the death of a family member will be the first time they address this legislation so it is important that it is easily understood. Part 1 contains mostly preliminary provisions, including updated definitions. Part 2 of the bill only had a few recommendations for reform, so changes here focus on updating and simplifying the language used.

Part 3 of the bill contains provisions relating to the granting of administration or probate and includes a small number of amendments arising from the SALRI recommendations. In part 3 of the bill, the Supreme Court has the power to pass over applicants for a grant of probate or administration.

This allows the court to appoint another person who they consider to be appropriate and to vary or revoke such a grant.

Another significant inclusion in part 3 of this bill are the provisions that introduce a deemed grant model to administer smaller estates of $100,000 or less. This means the Public Trustee will not have to apply for a formal grant of letters of administration and will instead have a deemed grant of administration. It will make the process for the administration of small estates by the Public Trustee much simpler, and it will reduce fees and costs for South Australians.

Part 4 of this bill deals with administration and probate. When we are confronted with a death, we become aware how important it is for our laws to support families dealing with the loss of a family member. Only recently, I was approached to help a constituent who told me that one of the executors of a family member's will was not carrying out their duty. Part 4 of this bill deals with executors and the process of administering deceased estates. This section contains a number of changes recommended by SALRI.

A significant change in this bill includes giving the courts additional powers to hold executors and administrators to account in relation to the administration of estates. The constituent I just referred to told me that the executor of their family member's will was refusing to act on administering the wishes of the deceased. The provisions here provide an important structure to ensure that the beneficiaries of estates can hold executors and administrators to account for failing to undertake their duties.

With the reforms outlined in this section, the court may order the executor or administrator to compensate persons who have suffered loss or give any other order that the court considers appropriate. As is the case of my constituent, this reform provides a pathway for families to resolve a problem with an executor who refuses to act on the wishes of the deceased.

Part 5 of the bill deals with situations where the deceased does not have a will, known as intestacy, and part 6 deals with claims for family provision. The reforms in part 6 do a better job at balancing the wishes of the deceased with the right of beneficiaries to make a claim if they believe they have not been properly provided for. It excludes former partners and spouses when financial matters have already been settled. This prevents long-term divorced spouses from making claims years after a marriage or partnership has ended.

This section also clarifies the position of adult stepchildren. With today's changing family structures, part 6 of this bill affects more families than it did in the past. Adult stepchildren have a way to make a claim on their step-parent's estate when their own parent leaves assets to a spouse rather than directly to their children. Part 7 of the bill provides a range of miscellaneous provisions, all of which better reflect the contemporary society we live in today.

The Succession Bill 2022 provides a much-needed and extensive review and reform, one we have not had since the Inheritance (Family Provision) Act in the seventies. The bill enacts the recommendations from seven SALRI reports that have been accepted by the government. It repeals the Administration and Probate Act, the Wills Act and the Inheritance (Family Provision) Act 1972 and consolidates the provisions from those acts into a single act. It also includes related amendments made to the Aged and Infirm Persons' Property Act, the Guardianship and Administration Act, the Law of Property Act, the Public Trustee Act, the Supreme Court Act and the Trustee Act.

What is important is that this bill reflects society today and uses simplified language. As I mentioned earlier, the provisions in this bill are detailed and extensive, and I have only touched on some of the important adjustments. It provides an updated use of language and reforms that better reflect the world today and will enable families to navigate through this legislation when having to deal with death.

Dealing with a death in the family can be a traumatic and daunting task in itself. Anything we can do to assist families in this process will reduce their anxiety and stress. So I commend this bill to the house.

The Hon. R.P. WORTLEY (16:20): I rise to speak in support of the Succession Bill 2022. This bill contains some of the most extensive reform to succession law in South Australia since the

Inheritance (Family Provision) Act in the 1970s. Largely the same as last year's bill, it is updated to include some technical amendments filed by the previous government.

The bill is the result of the South Australian Law Reform Institute (SALRI) review kicked off by a previous Attorney-General, the Hon. John Rau, in 2011. The bill enacts recommendations from the seven resulting SALRI reports that are legislative in nature and that have been accepted by the government.

The bill repeals the Administration and Probate Act, the Wills Act and the Inheritance (Family Provision) Act 1972 and consolidates provisions from those acts into a single act. It also makes consequential and related amendments to the Aged and Infirm Persons' Property Act, the Guardianship and Administration Act, the Law of Property Act, the Public Trustee Act, the Supreme Court Act and the Trustee Act.

Many modernisations and updates were needed to the language and outdated references, including a reference to the reign of King Charles II in the definition of 'will'. There have also been updates to reflect modern society, such as that people would prefer inheritance to be kept in the family before going to the Crown and the inclusion of an additional degree of relative to the distribution in the case of intestacy, namely, the children of the first cousins of the intestate.

I will give an overview. Part 1 contains the preliminary provisions, such as the interpretation provisions. Part 2 contains provisions relating to wills. Part 3 deals with the administration and probate, part 4 administration of deceased estates, part 5 intestacy, part 6 claims for family provisions, followed by miscellaneous provisions in part 7.

I turn to the substantive parts. Part 1—Preliminary, deals with commencement and interpretation (i.e. definitions). In the definitions section some of the definitions have been modernised or simplified where possible. For example, the definition of 'will' has been modernised and is based on the definitions used in interstate legislation. The commencement provisions in part 1 disapply the automatic two-year commencement provisions of the Acts Interpretation Act to ensure that a longer time period is available prior to commencement of the bill, if required.

Part 2 now contains the provisions that formerly made up the Wills Act. There were very few recommendations from SALRI that dealt with the provisions of the Wills Act. Therefore, the changes in this part of the bill are focused on modernising and simplifying the language, where that has been possible.

One of SALRI's recommendations that does come within this part of the bill is a new provision that gives certain classes of person the right to inspect a will of a deceased person. The class of persons includes persons named in the will, beneficiaries, surviving spouses and domestic partners or former spouses and domestic partners, parents or guardians of the deceased and persons eligible to a share of the estate under the rules of intestacy had the person died intestate.

Persons with claims against the estate in law or equity can also inspect the will, but only with the permission of the Supreme Court, if they have a proper interest in the matter and if it is appropriate for them to do so.

Part 3—Probate and Administration. This part of the bill incorporates a small number of recommendations from the SALRI report. It has been clarified that a grant of probate or administration can only be granted to a person aged 18 years and over, and also that a grant may be made to more than one person. The Supreme Court has also been given the power to pass over applicants for a grant of probate or administration to appoint another person who they consider to be appropriate, and to vary or revoke a grant (recommendation 4 in the SALRI report titled 'Sureties Guarantees for Letters of Administration').

The other significant inclusion in part 3 of the bill are the provisions introducing the deemed grant model for the administration of small estates. This was a SALRI recommendation from the report titled 'The Administration of Small Deceased Estates'. These provisions allow the Public Trustee to give notice to the Registrar of Probates that they intend to administer a small estate (of the value of $100,000 or less) under the deemed grant provisions.

The Public Trustee will not have to apply for a formal grant of letters of administration and will instead be taken to have a deemed grant of administration. This will make the process for the administration of small estates by the Public Trustee simpler and less costly, which is important for small estates.

Following the consultation process, the design of the deemed grant model has been adjusted from the model originally suggested by SALRI. Changes to the model include not requiring the Public Trustee to file a notice with the court but rather to publish a notice in the *Government Gazette* declaring that it would administer the estate under the deemed grant provisions. The notice is then required to be published on the Public Trustee's website. The grant will be taken to have been granted 14 days after the gazettal of the notice.

Further, the court has been given the power to revoke a deemed grant on application by the Public Trustee or a person interested in the estate. The maximum estate value, initially set at $100,000, is able to be increased by the minister by notice in the *Gazette*. This will allow the value to keep up with the effects of inflation over the longer term but will not require the amount to be updated every year.

Part 4—Administration of deceased estates. Part 4 of the bill deals with the administration of deceased estates and contains a number of changes recommended in the SALRI reports. Some of the significant inclusions in part 4 are provisions which allow the court to require an executor or administrator to give an undertaking to the court related to how the estate is to be administered, or in relation to other related matters.

The court has also been given a wide range of powers to remedy loss if an executor or administrator fails to perform their duties. The court may order the executor or administrator to pay into the estate an amount equivalent to the financial benefit obtained by the executor or administrator as a result of their failure, and order for the executor or administrator to compensate persons who have suffered loss, or any other order the court considers to be appropriate.

The ability of the court to impose these types of orders is important, as the criminal offences related to the duties of executors and administrators have been removed from the legislation as a result of another SALRI recommendation. At the suggestion of the South Australian Bar Association (SABA), a limitation period of three years has been set to make an application for a remedy under section 98, starting from when a person aggrieved by the failure became aware of the failure.

Provisions have also been included upon the recommendation of SALRI to allow persons who hold money or personal property for a deceased person (up to the value of $15,000) to pay the money or transfer the property directly to a surviving spouse or domestic partner of the deceased or a child of the deceased without need of a grant of probate or letters of administration. This is intended to allow, for example, banks to transfer the money in a bank account belonging to the deceased to the person's spouse in a much faster time frame than if the grant of probate is required.

One other addition to the bill not included in the SALRI recommendations is the inclusion of a provision to codify the application of assets in the payment of debts and liabilities in solvent estates. There were existing provisions dealing with insolvent estates but South Australia relied on the common law for solvent estates. Reliance on the common law has meant that the rules are more complex to apply in South Australia, and a clear codified formula will be beneficial for executors and administrators to follow when dealing with deceased estates. Therefore, a provision has been included at section 83 that is based on the provisions used in the Victorian legislation.

A further change has been made in relation to the payment of interest on pecuniary legacies. SALRI recommended a different interest rate be used to the current 180-day bank bill swap rate, as that interest rate is not really published anywhere that is accessible to members of the public. The provision has been amended to allow the interest rate to be prescribed.

Part 5—Intestacy. The provisions that deal with intestacy—that is, where a deceased has died without a valid will—have been the subject of a number recommendations from SALRI. However, it should be noted that a majority of the recommendations preserve the status quo. The amount of the preferential legacy a surviving spouse is entitled to under the rules of intestacy has been increased by $20,000 to $120,000.

One of the other main changes is that the distribution of intestacy has had one additional degree of relatives—the grandchildren of relatives of the fourth degree, being the children of the first cousins of the intestate—included in the distribution order before the estate passes on to the Crown. This change has been undertaken as there was a strong preference expressed to SALRI during the public consultation that people would prefer their estate to pass to a more distant relative, if there is one, rather than go to the Crown. Distribution is on a per capita basis in equal shares to children and grandchildren of the intestate, but on a per stirpes (inheriting the share of the relevant parent) basis in all other cases.

It has also been clarified that a spouse or domestic partner of an intestate has no entitlement to any part of an intestate's estate if they are a party to a prescribed agreement or order. The intention of these changes is to provide that spouses or domestic partners who have separated but not legally ended their relationship through divorce or been removed from the relationship register and finalised the financial matters between them, are removed from the order of inheritance for intestate estates.

The agreements and orders that are to be prescribed are likely to be binding financial agreements and orders relating to the distribution of property under the Family Law Act 1975, which is a commonwealth act, and agreements under the Domestic Partners Property Act 1996, which is a South Australian act. The specific types of agreements will be prescribed by regulation to give flexibility in the event that the legislation providing for these types of agreements or orders undergoes amendments.

Part 6—Family provision. The feedback collated by SALRI during the preparation of the report 'Review of the Inheritance (Family Provision Act) 1972' was generally supportive of the notion that claims under the family provision act are too easy to make and not enough weight is placed on the wishes of the testator. Therefore, the categories of claimant who are automatically entitled to bring a claim under the family provision act have been adjusted.

Former spouses and domestic partners are excluded from making a claim for family provision if they have been a party to a prescribed agreement or order similar to section 107. The specific agreements and orders will be prescribed but, again, as outlined above, are intended to include binding financial agreements and orders relating to the distribution of property under the Family Law Act 1975, a commonwealth act, and the agreement under the Domestic Partners Property Act 1996, which is a South Australian Act.

This provision is intended to prevent a former spouse or domestic partner who has effectively ended their relationship and settled all financial matters between themselves and the testator to come back and make a family provision claim after the testator is deceased, perhaps even a number of years after the end of their relationship.

Adult stepchildren have to demonstrate that either they are disabled and significantly vulnerable by reason of their disability, or they were genuinely dependent on the deceased at the time of their death, or they cared for or contributed to the maintenance of the deceased immediately before their death, or they significantly contributed to the estate of the deceased, or assets accumulated by the stepchild's parents substantially contributed to the estate of the deceased person.

Additionally, stepchildren who are minors are also entitled to make a claim if they satisfy the court that they were wholly or partly, or were legally entitled to be wholly or partly, maintained by the deceased immediately before their death. Grandchildren of the deceased person will now have to satisfy the court that either their parents died before the deceased person or that the grandchild was wholly or partly, or was legally entitled to be wholly or partly, maintained by the deceased before they will be able to make a claim.

Section 116 now provides that, when determining whether to make a family provision order, the court's primary consideration is to be the wishes of the deceased person. The court may also order a party to the proceedings to give security for costs that may be awarded against the party if it appears to the court that the party's claim for family provision may be without merit, or the party is not willing to negotiate a settlement of a claim for provision. This is aimed at discouraging unmeritorious claims.

One change from the original drafting instruction in part 6 is that the provision requiring a person to seek permission from a court before making a family provision claim has been removed. This was a recommendation from SALRI. However, feedback from the Chief Justice, the Law Society of South Australia and SABA all indicated that it would not be helpful in preventing unmeritorious claims and would likely only result in increased legal costs and extending the length of proceedings.

Part 7—Miscellaneous. Part 7 of the bill contains the miscellaneous provisions. One significant addition in this part is a provision that will codify the rules governing the situation where there are simultaneous deaths of spouses or domestic partners. Currently, South Australia relies on common law rules in this situation, which means that the rules in South Australia are different from other Australian jurisdictions. The new provision states that where there are simultaneous deaths any jointly-owned property will devolve in equal share to each person's estate as if they were tenants in common.

An additional provision in part 7 has been included to codify the presumption of survivorship. This provision provides that, where two or more persons have died in circumstances where it is not possible to determine the order of death, the deaths will, for all purposes affecting title to property, be taken to have occurred in order of seniority, with the eldest having died first. Other provisions in part 7 include provisions dealing with how copies of wills are to be obtained, provisions dealing with admitting wills into evidence, provisions dealing with the exercise of rights of retainer, and provisions allowing for court rules and regulations to be made.

Schedule 2—Related amendments. Schedule 2 contains the related amendments to other acts. One significant inclusion in the schedules are the amendments to the Guardianship and Administration Act. SALRI recommended that provisions be made to allow for the limited administration of the estate of a missing person. The provisions are located in the Guardianship and Administration Act, as they do not deal with the estate of a deceased person but a person who is missing.

The administrator may apply to the court for an administration order which allows the administrator to deal with the estate in order to pay the person's debts for the maintenance of dependents of the person and the care and maintenance of the property of the person. If the administrator becomes aware that the missing person is alive or is deceased, they must advise the court as soon as practical.

This is a very important bill. There are a lot of issues out there in the community in regard to estates and the way they are handled. I seek the support and approval of the council to this bill.

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

Resolutions

LEGALISATION OF CANNABIS

The House of Assembly concurs with the resolution of the Legislative Council contained in message No. 60 for the appointment of a Joint Committee on Medical Cannabis and that the House of Assembly will be represented on the committee by three members, of whom two shall form the quorum necessary to be present at all sittings of the committee. The members of the joint committee to represent the House of Assembly will be Mr Bell, Mr Hughes and the Hon. D.G. Pisoni.

The House of Assembly also concurs with the Legislative Council's resolution:

(a) for the committee to be authorised to disclose or publish, as it thinks fit, any evidence or documents being reported to the parliament; and

(b) that the members of the committee to participate in the proceedings by way of telephone or videoconference or other electronic means and shall be deemed to be present and counted for purposes of a quorum, subject to such means of participation remaining effective and not disadvantaging any member.

The Hon. T.A. FRANKS (16:41): I move:

That the members of the council on the joint committee be the Hon. J.E. Hanson, the Hon. L.A. Henderson and the mover.

Motion carried.

Bills

NATIONAL GAS (SOUTH AUSTRALIA) (EAST COAST GAS SYSTEM) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 16:42 the house adjourned until Tuesday 7 March 2023 at 14:15.

Answers to Questions

GOVERNMENT PROCUREMENT

157 The Hon. H.M. GIROLAMO (28 September 2022). Can the Treasurer advise:

1. What major IT procurements are planned for 2022-23?

2. What is the status of the electricity procurement contract?

3. Who will be the provider?

4. What is the term and total value of the contract?

5. What portion of the contract has the government underwritten?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Treasurer has advised:

1. The major IT procurements planned for 2022-23 are:

Telecommunication services marketplace–a tender for the provision of telecommunication services including fixed telephony, mobility services and data and internet services. The new panel contract will replace the network carriage services and network internet services contracts that expire in October 2023.

Network hardware and services marketplace–a tender for the provision of management services for the state's central data network and agency networks, including the provision of network hardware. The new panel contract will replace the network devices panel, which will expire in September 2023.

Microsoft software and licensing–direct negotiations to renew the across government enterprise agreement, which expires in June 2023 and covers the desktop licencing subscriptions of approximately 90,000 users and devices.

2. The status of the electricity procurement contract is summarised as follows:

The Across Government Electricity Retail Agreement (AGERA) with ZEN Energy commenced on 1 November 2020 and was established with a 10-year and two-month term initial term, and an option to extend for a further five years.

Under the AGERA, ZEN Energy committed to facilitate the construction, commissioning and operation of the following two new electricity generation and storage projects:

- 280MW solar farm at Cultana (near Whyalla) by 30 April 2022; and
- 100MW utility battery at Playford (near Port Augusta) by 31 March 2023.

These new assets were to be built by SIMEC Energy Pty Ltd (SIMEC), which is part of the GFG alliance, under a subcontract arrangement with ZEN Energy.

Due to third-party financing issues, ZEN Energy has been unable to honour its contracted commitments to the State for the two generation and storage projects.

As a result, the state government has negotiated a variation to the AGERA which addresses and remedies ZEN Energy's inability to deliver the two projects. The key aspects addressed in the variation agreement include:

- Replacing the two electricity generation and storage projects with a comparable alternative in the form of a project titled 'Solar River', which includes a 200MW solar farm and 100MW battery near Robertstown;
- Providing financial compensation to the state;
- Maintaining comparable investment commitments to the South Australian economy through job creation, local supply, and market benefits; and
- Extension of the contract term to 31 December 2035.

3. ZEN Energy has been selected as the contracted sole provider of electricity to state government sites under the AGERA.

4. The term of the AGERA is 15 years and two months, having commenced on 1 November 2020 and due to expire on 31 December 2035, with a total estimated contract value of $1.534 billion.

5. The state government has not underwritten any portion of the AGERA.'

MICHELLE DE GARIS KINDERGARTEN

203 The Hon. N.J. CENTOFANTI (Leader of the Opposition) (1 December 2022). Can the Minister for Education, Training and Skills advise:

Will the government restore funding to the Michelle DeGaris Memorial Kindergarten in the electorate of Mackillop, noting that the opposition has been advised that the kindergarten has been required to reduce the cap by 10 from this year's numbers in order to leave room for mid-year enrolments, but that the staffing allocation has therefore been reduced for the first half of next year?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Education, Training and Skills has advised:

Preschool staffing is calculated using a formula based on predicted enrolments at term 1 of the prior year. The predicted enrolment for Michelle DeGaris Memorial Kindergarten for term 1 2023 is lower than it was for 2022. This means the staffing allocation is also lower for 2023.

This was not reduced due to the mid-year intake, but is based on the department's preschool staffing formula.

If enrolments increase at the beginning the 2023 and warrant a staffing adjustment, the preschool director can put in a request to the department through their education director.

The department will automatically provide preschools any increases in staffing required for the mid-year intake for term 3, 2023. Further information will be provided to preschools during term 1, 2023.

PRESCHOOL STAFFING

204 The Hon. N.J. CENTOFANTI (Leader of the Opposition) (1 December 2022). Is the government reducing staff in preschools in the first half of 2023, where those preschools have been told to reduce their enrolment cap for the first half of the year to enable space to be left for mid-year enrolments?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Education, Training and Skills has advised:

No preschool staffing is being reduced in term 1 due to the mid-year intake.

Staffing allocation for the start of term 1, 2023 was based on the department's preschool staffing formula and predicted enrolments. This process occurs annually the year prior to children starting preschool.

ENTREPRENEURIAL EDUCATION STRATEGY

205 The Hon. N.J. CENTOFANTI (Leader of the Opposition) (1 December 2022).

1. Will the government continue to support the Department for Education's Entrepreneurial Education program in Seaton, Heathfield, Banksia Park, Murray Bridge and Mount Gambier?'

2. What extra funding is provided to the five entrepreneurial specialist schools on an annual basis in 2022 and 2023, to enable them to deliver their extra programs, and will that full amount continue to be provided to those schools in 2024 and beyond?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Education, Training and Skills has advised:

Funding has been committed to the Entrepreneurial Learning Strategy in 2022-23. The five schools are working together to ensure there is an ongoing focus on entrepreneurial learning in government schools by providing the following resources and support which will be accessible by all government schools:

- Development of curriculum materials and resources to support any school to implement and embed entrepreneurial learning in sites.
- Development and delivery of a professional development series that will be promoted to all schools so they can implement entrepreneurial learning and sustain it in their school.

Consideration of future expenditure is done when it is applicable and within the established budget process.

TEENAGE GAMBLING

In reply to **the Hon. C. BONAROS** (19 October 2022).

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Human Services has advised:

1. The Department for Human Services' (DHS) Office for Problem Gambling (OPG) has not conducted recent studies into the local prevalence of teenage problem gambling but Victorian research from 2017 found 1.4 per cent of 12 to 17 year olds met the criteria for problem gambling.

OPG-funded research, released in 2021, surveyed 2,030 South Australian adults about their attitudes, beliefs, and behaviours towards sports betting and results included that a majority: are concerned by how much sports betting advertising children are exposed to (78 per cent); believe advertising makes children think betting on sport is normal (84 per cent); and encourages children to want to gamble (76 per cent).

2. DHS funds the Unplugged Program to deliver free workshops to parents and young people about the links between gambling and gaming. The workshop is being delivered to schools, youth-focused organisations and professionals across metropolitan Adelaide and some regional locations. An evaluation by Flinders University found Unplugged was well received by participants and significantly increased awareness and understanding of all types of gambling.

After the workshop, participants were more likely to view gambling as risky and less profitable.

Unplugged was expanded in 2022 to include a small number of workshops for professionals seeking to better understand terminology and risks associated with gaming and gambling.

DHS has also partnered with Adelaide United Football Club (AUFC) and Adelaide Giants baseball club to implement the Here for the Game (HFTG) campaign, an initiative which aims to disrupt the normalisation of betting in sport. HFTG launched in November 2021 and includes a communications campaign and educational website (www.hereforthegame.com.au) that has resources and support for carers to speak with young people about gambling harm.

The HFTG campaign achieved over nine million impressions during its 27-week run. A review of social media engagement and survey of AUFC fans revealed overwhelmingly positive sentiment towards the campaign in the community.

Phase two of HFTG will support amateur sporting clubs to raise awareness and take action to prevent and minimise gambling harm in their local community.

Gambling Help Service staff also provide information about gambling harm and case management support to schools and community groups. Examples include making professional connections with school staff and leaders, participating in youth camps and school events, and presenting at school assemblies (e.g. lived experience speakers), group sessions and the development of educational tools.

3. Gambling Help Services funded by the Gamblers Rehabilitation Fund are available to people of all ages and young people are also able to access a range of other gambling support including the Unplugged Program.

4. The Unplugged Program, noted above, has received $265,000 in funding from the Gamblers Rehabilitation Fund over 2020-21 to 2022-23.

URGENT MENTAL HEALTH CARE CENTRE

In reply to **the Hon. S.L. GAME** (20 October 2022).

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Health and Wellbeing has been advised:

1. The Urgent Mental Health Care Centre is advertised at a state level through the contracted provider Neami National and information is also disseminated via SA Health platforms and networks.

2. Safe Haven is funded by the Northern Adelaide Local Health Network (NALHN) and the Adelaide Primary Health Network (Adelaide PHN) and operated by not-for-profit mental health provider Sonder in collaboration with NALHN.

Safe Haven is open on Thursdays and Fridays from 5pm to 9pm at St John's Anglican Church, 10 Church Street, Salisbury, and will expand to open Tuesday to Friday (5pm to 9pm) from February 2023.

3. As outlined in the commonwealth and state bi-lateral agreement on mental health and suicide prevention, a new Crisis Stabilisation Unit and Head to Health Centre is planned for Northern Adelaide, a new Head to Health Centre is planned for Mount Barker, a Satellite Head to Health Centre is planned for Mount Gambier, in addition to a Kids Head to Health hub.

POKER MACHINES

In reply to **the Hon. C. BONAROS** (1 November 2022).

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Minister for Consumer and Business Affairs has advised:

In December 2018, the Liquor and Gambling Commissioner (commissioner) became the sole regulator for all gambling industries following the abolition of the Independent Gambling Authority by the state government. Since then, the commissioner has overseen an extensive review of all gambling legislation, resulting in significant gambling reforms which took effect on 3 December 2020. These reforms provide increased protections for South Australians affected by gambling harm.

Furthermore, the Gaming Machines Gambling Code of Practice (the code) has also recently been reviewed and follows the introduction of new codes of practice for wagering and lottery providers. The code was varied by the commissioner on 31 July 2022 and includes an extensive number of changes, as previously advised the honourable member.

A number of regulatory based harm minimisation measures are already in place (some of which are unique to South Australia) to combat gambling harm. These specifically target gambling providers and includes:

- facilitated self and third-party initiated barring from land-based and digital gaming platforms and the promotion of gambling help services
- transactional limits on gaming machines fitted with banknote acceptors
- automated risk monitoring of each session of play on a gaming machine
- in an Australian-first, mandating the operation of facial recognition technology to enable gaming staff to identify persons who have undertaken to be self-barred from the gaming area of licensed premises
- limiting access to cash from EFTPOS on licensed premises with gaming machines to $250 per card over a 24-hour period
- extending the prohibition on television gambling advertising to 6am to 8.30am and 4pm to 7.30pm on any day, and
- prohibition of gambling advertising at cinemas when films rated G, PG, M or MA (15+) are showing.

The state government is continuing to work with the commissioner, the Gambling Advisory Council, social welfare organisations and other stakeholders to help reduce the harm caused by gambling and provide support to problem gamblers.

I am pleased to advise that only last month, the Gambling Regulation Strategic Plan was released by the commissioner, which details a clear path over the next three years towards ensuring measures are in place to minimise the harmful impact of gambling in South Australia.

The Gamblers Rehabilitation Fund (GRF), which is funded from voluntary and prescribed contributions from government and industry and administered by the Office for Problem Gambling through the Department of Human Services, remains a core feature of the government's gambling harm prevention strategy.

The GRF provides vital funds to support gambling help services and targeted services across the state, including access to the 24hr Gambling Helpline, Gambling Help Online, face to face counselling and therapeutic services. Within these services exists a subset of assistance which targets at risk populations (i.e., culturally and linguistically diverse groups, Aboriginal and Torres Strait Islander people, and individuals involved in the criminal justice system) and an intensive gambling help service.

The GRF has also funded a number of initiatives and activities that seek to prevent and minimise gambling harm in the community.

In response to the honourable member's question about reforms introduced in NSW and Tasmania, recent reforms introduced into South Australia have provided increased protections for South Australians affected by gambling harm.

While the decision to allow new technology gaming machines to be introduced in South Australia received bipartisan support from the government when we were in opposition, amendments moved by us and subsequently passed by the parliament ensure that players are not allowed to insert more than $100 into a gaming machine at a time and are prohibited from using $100 banknotes.

This is in stark contrast to NSW which has announced plans to introduce mandatory cashless gaming cards for gaming machines in that state not as a harm response measure but rather to combat the proceeds of crime flowing through gaming machines where a player is allowed to insert up to $5,000 into a gaming machine at any one time.

While a limited trial is currently being undertaken in a NSW gaming venue, a formal time frame for implementation is yet to be announced.

The government is closely monitoring the development of these proposals. Any relevant findings will inform the Liquor and Gambling Commissioner's advice to the government.

GOVERNMENT CONTRACTS, BANKING SERVICES

In reply to **the Hon. F. PANGALLO** (1 December 2022).

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector): The Treasurer has advised:

1. The procurement for government-wide banking services was conducted in line with the South Australian government (SA government) procurement protocols and Treasurer's Instruction 18: Procurement. The procurement process was overseen by the Procurement Governance Committee, a steering committee and the Chief Executive of the Department of Treasury and Finance. The 'Invitation to Supply' was advertised as an open invitation on the SA Tenders and Contracts website for suppliers that met the minimum mandatory requirements to be eligible to provide banking services to the SA government.

2. The Invitation to Supply was issued to the market on 16 July 2021 and closed on 13 September 2021. This includes additional time which was granted for responses to be submitted given the prevailing COVID lockdown conditions at that time.

3. The existing contracts for banking services had exhausted all the options available for extensions, with the expiry date for the contracts being 10 November 2022 at that time. In view of this fact, it was deemed prudent to allow sufficient time to approach the market, advertise/issue the 'Invitation to Supply', assess responses and undertake negotiations with shortlisted suppliers prior to the contract expiry (of 10 November 2022) to ensure that the SA government would continue to receive the best of market service and price for its continuing banking requirements.

4. The new government-wide banking contracts document the agreed information technology (IT) security clauses requiring the bank to notify the Treasurer, contract administrator and Office of the Chief Information Officer of any cyber event, and work with SA government over the course of the event. The supplier is directly reportable to the Australian Prudential Regulation Authority (APRA) for its prudential requirements, its governance and its licencing requirements to conduct its business. The supplier has appended its business-wide 'Information Security Standards' document to the contract for SA government banking services and there is an obligation by the supplier to annually attest to the SA government that it fulfils/satisfies the requirements outlined in this document. The cyber and IT security clauses documented in the contract were reviewed by the Department of the Premier and Cabinet information and communications technology (ICT) team during the contract negotiation phase of the procurement. The contracts were negotiated with the successful supplier in conjunction with Crown Solicitor's Office to provide the best commercial position for both the SA government and successful supplier.

5. There are no financial penalties incorporated in the contract in the event of a cyber attack.