

**LEGISLATIVE COUNCIL****Tuesday, 19 March 2024**

**The PRESIDENT (Hon. T.J. Stephens)** took the chair at 14:16 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***PAPERS**

The following papers were laid on the table:

By the President—

Report of the Auditor-General, Report 4 2024, the Consolidated Financial Report Review  
Report of the Auditor-General, Report 5 2024, Education Management System Project

By the Minister for Aboriginal Affairs (Hon. K.J. Maher)—

Regulations under Acts—  
National Parks and Wildlife Act 1972—Wildlife—Protected Animals  
Public Finance and Audit Act 1987—Public Authority  
Report summary on the 2023 VAILO Adelaide 500 Event

By the Minister for Aboriginal Affairs (Hon. K.J. Maher) on behalf of the Minister for Primary Industries and Regional Development (Hon. C.M. Scriven)—

Government Response to the Environment, Resources and Development Committee's  
Urban Forest Interim Report  
Regulations under Acts—  
Disability Inclusion Act 2018—Exclusions  
National Energy Retail Law (South Australia) Act 2011—Local Provisions

*Parliamentary Committees***SELECT COMMITTEE ON PROHIBITION OF NEO-NAZI SYMBOLS**

**The Hon. S.L. GAME (14:18):** I bring up the report of the select committee.

Report received and ordered to be published.

*Parliamentary Procedure***ANSWERS TABLED**

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

*Parliamentary Committees***PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION**

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:27):** By leave, I move:

That pursuant to section 21(3) of the Parliamentary Committees Act 1991 the Hon. B.R. Hood be appointed to the committee in place of the Hon. H.M. Girolamo (resigned).

Motion carried.

*Question Time***AMBULANCE RAMPING**

**The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:27):** I seek leave to make a brief explanation before asking a question of the Leader of the Government in this place regarding the safety of South Australians.

Leave granted.

**The Hon. J.S. LEE:** It has been two years since the Malinauskas government was elected on the back of a promise to fix ramping, yet Labor has delivered the worst ramping in the state's history, where 4,285 hours were lost in one single month, being November 2023. A total of over 82,000 hours were lost on the ramp before this government's two-year anniversary, more than the accumulated hours of the entire four-year term of the former government, which was during a global pandemic. My question therefore is—a very simple question to the Leader of the Government—is the government still committed to fixing ramping like it promised the people of South Australia at the last election?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:28):** The government is committed to all of the things that we outlined in the lead-up to the election.

**AMBULANCE RAMPING**

**The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:28):** Supplementary: from his answer, can the government now concede that they can't fulfil their election promise to fix ramping?

**The PRESIDENT:** That is not a supplementary question arising from the original answer.

*Members interjecting:*

**The PRESIDENT:** The supplementary question has to arise from the original answer.

**UNITED FIREFIGHTERS UNION**

**The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:29):** I seek leave to make a brief explanation prior to addressing a question to the Minister for Industrial Relations and Public Sector regarding airport firefighters.

Leave granted.

**The Hon. J.S. LEE:** It was reported today that airport firefighters have been threatening to take strike action over the Easter long weekend after accusing their employer, Airservices Australia, of refusing to address concerns of staff shortages and fatigue. The action would have potentially jeopardised the travel plans of thousands of South Australians and visitors over the holiday period. Although eastern United Firefighters Union branch secretary Wes Garrett confirmed there would not be any action taken during the Easter period, he would not rule it out in the future. Mr Garrett informed *The Advertiser*, and I quote:

Even though...there won't be any disruptions or work stoppages over the Easter holidays, of course, anything after that period is still on the agenda...This isn't our preferred course of action, but unfortunately, this is what's required to bring Airservices to the table.

My questions to the minister are:

1. Has the minister met with representatives from the United Firefighters Union in relation to its concerns with staff shortages and fatigue and, if so, when did that meeting take place?
2. What action has the minister taken to ensure both the safety and wellbeing of airport firefighters and the prevention of air travel disruptions for South Australians and other visitors?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:31):** I thank the honourable member for her question. I regularly meet with many involved in the employment sector, whether it be business representatives, such as the Australian Industry Group, the Master Builders Association, the Housing

Industry Association and Business SA, as well as many others. I also regularly meet with many groups that represent the interests of employees, those being trade unions.

The last meeting I had with the United Firefighters Union would have been in the last fortnight, if my memory serves me correctly, and if that's not right I will correct that. I had a discussion on a range of issues, but airport firefighters was not one that was raised with me at that meeting. In relation to the firefighters at the airport, of course we all want anyone who is employed, and the employment they undertake, to make all of us as safe as possible. The industrial relations system for private sector employees, which airport firefighters may well fall into I suspect, is governed by the federal system. Since the referral of powers to the commonwealth, the state government and the state jurisdiction plays no role in these sorts of disputes or negotiations.

As I think the honourable member outlined in her question, I think I saw a report this morning that mooted industrial action during the Easter break has been postponed. I think we are all thankful for that, as we know that Easter is a very busy time for travelling. I think the honourable member has outlined the fact that there is common sense prevailing from both sides in this negotiation to try to have as little disruption as possible.

### CRIME RATES

**The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:32):** I seek leave to make a brief explanation before asking the Attorney-General a question about the state's crime crisis.

Leave granted.

**The Hon. T.A. FRANKS:** Point of order: is not the term 'crime crisis' for a topic, opinion and contrary to the standing orders? Is *Hansard* really going to write 'crime crisis' like 'time crisis' but—

*Members interjecting:*

**The PRESIDENT:** Order! You might want to rephrase that and ask your question without using the word 'crisis', because that is perhaps an opinion. Just rephrase your question to the Attorney.

**The Hon. J.S. LEE:** I would like to ask a question about crime statistics. Media reports have shown that the state's crime concerns continue to grow. South Australia experienced the highest rate of officers abandoning the force in the past six years. The most recent crime data for December 2023 was published publicly mid-January of this year. These statistics highlight the severity of South Australia's crime crisis, with 11,443 extra offences being reported in the past 12 months when compared to the year prior. These include police officer assaults, up 40 per cent; receiving or handling proceeds of crime, up 39 per cent; shop theft, up 31 per cent; aggravated robbery, up 19 per cent; family and domestic violence, up 12 per cent; threatening behaviour, up 14 per cent; home invasions, up 10 per cent; and serious assault resulting in injury, up 9 per cent.

Our community is very concerned about continuing violent crimes, including recently a daytime robbery on a CBD shoe store by two men with an axe. Monthly crime statistics are usually released in the middle of the following month; however, January 2024's crime statistics are yet to be publicly released. My questions to the Attorney-General are:

1. Can the Attorney-General outline any potential law reform, including strengthening existing laws, to address crime?
2. Will the Malinauskas Labor government make a commitment to conduct a review of penalties to address crime statistics in South Australia?
3. What proactive measures have been taken, and will the government consider competitive incentives to attract and retain police officers and keep South Australian communities safe?
4. When will the Malinauskas Labor government publish timely crime statistics?
5. Can the Attorney-General explain the unusual and prolonged delay in the release of data?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:36):** I thank the honourable member for her question, and particularly for talking about police officers and the number of police officers in South Australia. I would be most pleased to inform the honourable member, because she has obviously missed the latest Report on Government Services earlier this year. I believe the stat was that South Australia has the highest number of sworn police officers per capita of anywhere in Australia.

I thank the honourable member for what would usually be a government question, where I can talk about the investment that we are making in keeping South Australia safe. That is an extraordinary result that was published in the statistics.

*Members interjecting:*

**The Hon. K.J. MAHER:** They can't take it, sir.

**The Hon. D.G.E. HOOD:** Point of order: the honourable member asked about crime statistics, not numbers of police officers.

**The Hon. K.J. MAHER:** No, she did: question No. 2.

**The PRESIDENT:** There is no point of order. Answer the question and keep it within the acceptable parameters.

**The Hon. K.J. MAHER:** Thank you, sir. It was certainly referred to in the question. I think actually the second of the two questions that were asked was specifically about the number of police officers. I might reiterate for the honourable member the Report on Government Services released earlier this year. I think the actual statistic was that the number of sworn police officers in South Australia was higher than anywhere else in the whole country. That is a remarkable achievement, and I thank the honourable member for allowing me to remind the chamber of the remarkable effort that this government is undertaking to keep South Australians safe.

In early February, the Australian Bureau of Statistics released some statistics on offending in South Australia. It had an increase of 1.91 per cent from the previous year in terms of offences recorded by the police. Certainly, from month to month and even from year to year, in very specific categories, particularly ones that don't have a huge number of offences recorded, you will see statistics go up and you will see statistics go down. In those categories where there are many fewer offences recorded, sometimes just a few offences can make quite a big difference in percentage terms, so I am not going to provide a running commentary on a particular subset of statistics that has gone up or down.

The other thing to bear in mind as well—and I will double-check this—is that I think the same Report on Government Services had the rate of recidivism in South Australia the lowest of anywhere in the country, which again is quite a remarkable achievement in keeping South Australia safe. Certainly, we have regularly introduced new offences. We have significantly increased penalties for other offences from our two years in government, and we will keep doing this.

The shadow attorney-general, Josh Teague, in another place talked recently about serious criminal trespass and the need for a review to look at increasing the penalty for the offence, which is life imprisonment. I am not exactly sure what the member for Heysen was going to suggest the possible—

*The Hon. T.A. Franks interjecting:*

**The PRESIDENT:** The Hon. Ms Franks, don't interject.

**The Hon. K.J. MAHER:** What penalty we would have above life imprisonment I am not sure, but I can't wait for the shadow attorney-general or the leader, David Speirs, to outline the new category of punishment that goes above life imprisonment. I wasn't sure who said it—whether it was today or another day—but membership of the Liberal Party would be a significant punishment as well.

### SOUTH AUSTRALIA POLICE

**The Hon. F. PANGALLO (14:39):** Supplementary to the Attorney-General's mention of the number of officers that SAPOL has: can the Attorney-General or the minister provide details covering the amounts of overtime that has been paid to South Australian police officers for the period from January 2022 to February 2024 to cover deficiencies in personnel and resources at various events?

**The PRESIDENT:** The Attorney did touch on police officers.

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:40):** I am happy to take that on notice and refer it to my colleague the Minister for Police in another place to the extent that it can be answered. I will see if it can be answered. Of course, any overtime pay would be applied to quite a large cohort of people, given we have more sworn police officers, according to the Report on Government Services, per capita than any place in Australia.

### INDUSTRIAL RELATIONS

**The Hon. M. EL DANNAWI (14:40):** My question is to the Minister for Industrial Relations and Public Sector. Will the minister inform the council about the government's achievements in the industrial relations portfolio since the 2022 state election?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:41):** I thank the honourable member for her question and her interest in the area of industrial relations. This week marks two years since the election of the Malinauskas Labor government back in 2022, and in those two short years the government has been very pleased to work with both business groups and trade unions.

As I mentioned in an answer to a question from the Deputy Leader of the Opposition, we have been very pleased to deliver real improvements in the lives of South Australian workers. It was no easy feat finding a balance, but we stabilised the finances of the Return to Work scheme after the former Liberal government had a policy of letting the return to work levy go up potentially by hundreds of billions of dollars by leaving a ticking time bomb in terms of the unfunded liabilities of the scheme.

We have introduced legislation to permanently restore representation to the board of ReturnToWorkSA to ensure the voices of the workers are always heard when important decisions are made in this area. We have repealed the second edition of the Impairment Assessment Guidelines, made without proper consultation by the former industrial relations minister in the Rob Lucas-Steven Marshall Liberal government, and ensured that future guidelines are subject to disallowance by this parliament.

We have commenced significant consultation on the development of new guidelines, which has included input from workers, insurers and medical professionals. We are consulting on legislation to reform section 18 of the Return to Work Act to improve the operation of the system in terms of return to work and to improve the operation of the system for people suffering from dust diseases in particular.

We have undertaken the most significant reform to shop trading hours that we have seen for many years, providing sensible compromises that provide a balance for businesses and workers. We brought South Australia into line with every other mainland state by making Easter Sunday a public holiday, and we have also ensured Christmas Day is a public holiday regardless of the day of the week on which it falls.

We have introduced new regulations to increase penalties on people who assault frontline retail workers. We have conducted a review into the practices and the processes of the South Australian Employment Tribunal, and last month we introduced legislation to improve the operations of this tribunal. We have legislated for 15 days of paid family and domestic violence leave for every public sector and local government worker in South Australia. We have added to the Fair Work Act a new provision to make gender equality an object.

We are currently in the final stages of legislation to deliver on our election commitment to expand portable long service leave to workers in the community services sector. We have introduced

regulations to ban the uncontrolled dry cutting of engineered tabletop stone and last year committed to a national agreement to ban the use of engineered stone in Australia.

We have made new regulations on the management of psychosocial health and safety risks. We have committed to fix secrecy rules which keep injured workers and their families with less information than is desirable in investigations being undertaken by SafeWork SA, and after seven attempts over the last couple of decades we have passed legislation to make industrial manslaughter a crime in this state in an attempt to deliver justice to the victims of workplace deaths.

This is a small sample of the work the government has undertaken in industrial relations in just two short years, and we look forward to progressing and continuing on our reform agendas.

### NATIVE BIRD HUNTING

**The Hon. T.A. FRANKS (14:44):** I seek leave to make a brief explanation before addressing a question to the Minister for Aboriginal Affairs, representing the Minister for Climate, Environment and Water, on the topic of the native bird hunting season.

Leave granted.

**The Hon. T.A. FRANKS:** This weekend was the first weekend of the 2024 declared native bird hunting season in this state. On Saturday at Lake George, footage captured by animal advocates showed children windmilling injured ducks and a variety of other cruel behaviours. Another video showed dead ducks left unretrieved, and also the RSPCA has stated that they have seen footage that shows shooters consuming alcohol while hunting.

Conservation and Hunting Alliance SA Vice President Rob West's response to this was that most of this behaviour was 'quite acceptable', but that there was 'still some education to do' around certain practices. He went on to say, 'Windmilling is a practice that has been quite traditional for duck hunters over the years,' but that 'the video just shows there's still a little bit of work to do'.

The recent inquiry into duck hunting in this state should have put duck hunters on notice that windmilling is contrary to the Animal Welfare Act, that they were being observed last Saturday and Sunday out on Lake George and elsewhere, and that this behaviour of potentially drinking alcohol while hunting native animals does run contrary to the Animal Welfare Act. My questions to the minister therefore are:

1. Can she clarify whether alcohol can be consumed while duck hunting?
2. Is windmilling ever appropriate and in accordance with the Animal Welfare Act?
3. What will she do to give voice to the many people who responded to the Malinauskas government's Animal Welfare Act review, the overwhelming number of whom called for the end to duck hunting in this state?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:47):** I thank the honourable member for her question, and I certainly will pass those questions on to the minister responsible in another place and bring back an answer for the honourable member.

### LOBBYISTS

**The Hon. J.M.A. LENSINK (14:47):** I seek leave to make a brief explanation before directing a question to the Attorney-General regarding the Lobbyists Act.

Leave granted.

**The Hon. J.M.A. LENSINK:** There are several freedom of information documents published by various media relating to the Labor candidate for Dunstan. The media articles and reports regarding those documents call into question a conflict of interest between her prior position as a staff member or adviser of a sitting member of the Legislative Council and her co-current position as an associate director of a defence company owned by her husband, who sought meetings with ministers.

My question for the Attorney-General is: is he confident that all of his government's ministers have complied in full with their responsibilities under the South Australian Lobbyists Act?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:48):** I am not aware that any have not.

#### LEGAL SERVICES COMMISSION

**The Hon. R.P. WORTLEY (14:48):** My question is to the Attorney-General. Will the minister update the council about the recent announcement regarding the leadership of the Legal Services Commission?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:48):** I thank the honourable member for his question. The Director of the Legal Services Commission, Ms Gabrielle Canny, has announced her retirement after more than a decade in the role. A graduate of the University of Adelaide, Ms Canny has worked throughout Australia and overseas. She spent eight years at the Legal Services Commission before being appointed deputy director, a role which she held for three years before ultimately being appointed as director in 2012. She has been an exemplary leader.

Under Ms Canny's careful guidance, the commission has developed its physical presence across the state, with offices expanding and refurbishing over many areas of this state. Her careful management and direction of resources towards the areas of greatest legal need has meant that our most vulnerable citizens get better access to legal assistance when they need it most.

These endeavours have reflected Ms Canny's push to modernise our Legal Services Commission, which has delivered four million legal assistance services to South Australians since it began operations way back in 1979. I have been most fortunate to attend the commission's premises at a number of places, including Noarlunga, Elizabeth, Port Adelaide and of course here in the CBD, and have met many of the committed staff at these offices.

In response to community demand to help resolve family law disputes, under Ms Canny's guidance South Australia found itself at the forefront of a groundbreaking national service combining artificial intelligence and family law, as the amica project took off. As I have previously advised this council, amica is a secure digital service developed by National Legal Aid and legal aid commissions, including the Legal Services Commission of South Australia, and funded by the commonwealth Attorney-General's Department.

Amica is a mobile-first tool that helps guide separating couples through parenting arrangements and property settlements, empowering those who use it to resolve their own disputes and seek information, education and assistance where needed. It can then generate documents to record any agreed decisions. Ms Canny was a leader in this initiative, which has resulted in an enormous benefit being delivered to Australians who have empowered themselves with this new online tool.

The appointment of Gabrielle Canny as Director of the Legal Services Commission was announced on 30 September 2012. In that same year, the Hon. Chris Kourakis was appointed as Chief Justice of the Supreme Court and Adam Kimber was appointed Director of Public Prosecutions. The then chair of the Legal Services Commission noted that, with the appointment of Ms Canny, the commission was, and I will quote:

...embarking upon a period of change and a fresh perspective required to respond to recommendations expected from the current review of State funded legal aid services in South Australia and the Commonwealth Government national review of legal assistance services across Australia...

It is noteworthy that the commission faces a similar time of change for our next Director of the South Australian Legal Services Commission, with the report of the review of the National Legal Assistance Partnership program expected to be handed down sometime later this year.

I want to place on record my very big thanks to Gabrielle Canny for her 23 years of service to the people of South Australia at the Legal Services Commission and her more than a decade of exemplary leadership of the commission as its director. I wish her all the best in her well-earned retirement.

## VAPING

**The Hon. S.L. GAME (14:52):** I seek leave to make a brief explanation before directing a question to the Attorney-General, representing the Minister for Health, regarding the vape prescription model in South Australia.

Leave granted.

**The Hon. S.L. GAME:** A recent poll of 1,500 people commissioned by the Australian Association of Convenience Stores found that only 7 per cent of respondents believe the government is doing a 'good' or 'very good' job managing the regulation of vapes. Overall, 84 per cent of voters agreed that 'nicotine vaping products should only be available through licensed retail outlets to adults, the same as alcohol and tobacco products'.

We remain the only Western country operating under the prescription model, instead of regulating nicotine vapes to be able to be legally sold from licensed retail premises to adults, especially those wishing to quit. Tulipwood Economics has released new data indicating that the federal government would raise more than \$9 billion if the ban on vapes was scrapped, allowing products to be regulated and taxed in the same way as tobacco.

In 2022, I introduced the Controlled Substances (Nicotine) Amendment Bill, which would help stop the illegal supply of nicotine vapes to children who are accessing this dangerous product, often with devastating health outcomes, while allowing regulated nicotine vapes to be sold to adults for the purpose of assisting smoking cessation.

This is a matter of public health. My question to the minister is: why is the state government persisting with a flawed model that is allowing cigarettes to be more available than regulated nicotine vapes designed to help people quit smoking?

**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 question and will pass the question on to the minister in another place and bring back a reply.

## FIRST NATIONS VOICE ELECTIONS

**The Hon. H.M. GIROLAMO (14:53):** I seek leave to provide a brief explanation before asking a question of the Minister for Aboriginal Affairs regarding the recent State Voice elections.

Leave granted.

**The Hon. H.M. GIROLAMO:** In part 6, section 14 of the First Nations Voice Act 2023, it states:

14—Provisional declarations

When the result of the election becomes apparent, the returning officer must make a provisional declaration of the result.

The Electoral Commission of South Australia, without explanation, has delayed the count and therefore the declaration to not occur until after the vote count commences on Monday 25 March 2024, more than a week after the polls have closed. My question to the Attorney is: why hasn't the Electoral Commissioner explained why the results wouldn't be known until well after 25 March, given, as the minister himself noted, that a smaller turnout is expected for the first vote?

**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. As I previously noted in this place, I think it can be expected, as regularly happens the first time you do something new, that there will be a turnout that I suspect will be smaller for the first election and will be built on in future elections. I note that was the case the last time Aboriginal and Torres Strait Islander South Australians had a body to vote for in South Australia during the 1990s. I think it was about 1990 that we had the first election for ATSIC, with four elections and the final one being in either 1998 or 1999.

In those elections—and I don't have the figures in front of me—I think the first election had a fraction over 2,000 people voting, and it gradually built to somewhere in the mid to high 2,000s with



each of those ATSiC elections. I suspect that fatigue and disappointment from the referendum we had in October will also play a part in some Aboriginal and Torres Strait Islander people not yet engaging in this process, but I am sure they will in future years. I don't have final figures, but I am sure they will be published once they are known in terms of voter turnout.

I think the requirement is for, if my memory serves me correctly, 10 days after the election for the declaration of those who have been elected, which I think takes it up to about 26 March. The substance of the honourable member's question is: why don't we know the results already? I believe—and I am happy to check to see if I am wrong—the very simple answer to that is that postal votes are still coming in. The postal votes that were applied for have been sent off.

Again, I will check, but I think postal votes can be received until the end of this week. I believe the Electoral Commissioner is waiting to receive those postal votes before making the final count. On what won't be huge numbers, on ATSiC standards from last time we had these sorts of elections, a couple of thousand votes—to purport to complete a vote before you have all votes in I am sure the honourable member wouldn't agree with.

### FIRST NATIONS VOICE ELECTIONS

**The Hon. H.M. GIROLAMO (14:57):** Supplementary: is the minister saying that the voting now will commence on 25 March, and by 26 March he is indicating that we will have results?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:57):** I am not indicating that at all. I think that is completely misunderstood. If my memory serves me correctly, I think the legislation provides for a declaration up to 10 days after the voting, so that would take it, I think, up to about 26 March. I am not exactly sure, but I suspect that, if the Electoral Commissioner is in a position to announce votes before then, he will do that.

Of course, the Electoral Commissioner can't really even start counting until the number of all votes are known, and with postal votes still coming in you can't do that. The system for voting is a PR-type voting system, similar to that used in the Legislative Council and the Senate. It would be foolish to start counting because you would need the number of votes to work out what is a quota.

I am sure the honourable member wouldn't want the Electoral Commissioner to start counting in a faulty way and make a faulty vote count, but as soon as the close-off time for postal votes occurs and they are counted—because I know the honourable member will be very interested and many members of her own party have said they look forward to supporting the Voice and making sure it is a success—I look forward to working with the honourable member to make sure that the South Australian First Nations Voice is the success that it deserves to be.

### SOUTH AUSTRALIAN ABORIGINAL ACHIEVEMENT AWARD

**The Hon. R.B. MARTIN (14:58):** My question is to the Minister for Aboriginal Affairs. Will the minister please inform the chamber about the Department of Human Services SA Aboriginal Achievement Award 2024 finalists for the 7News Young Achiever Awards?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:58):** I thank the honourable member for his question. I would be delighted to inform him about the Department of Human Services SA Aboriginal Achievement Award finalists. For several years now the South Australian Young Achiever Awards have recognised the achievement of young people under the age of 30 across our state, whilst giving them a platform to highlight their efforts and successes.

I am informed 303 young South Australians were nominated across 10 categories. These young South Australians get to showcase the achievements of the next generation over many different categories. I want to take time to highlight the four finalists in the Aboriginal Achievement Award. Annually, this award has seen young Aboriginal people make a name for themselves and be recognised for their outstanding efforts and contributions to our community.

This year in particular, the four finalists for the Aboriginal Achievement Award are from four very different areas, each as inspiring as the next. Cooper Plummer is a 14 year old from Campbelltown who has been making a name for himself across the country for his contributions to

the drag racing community. Most recently, Cooper was the junior dragster point leader, winning his first Gold Christmas Tree at the Western Nationals in Perth, the biggest field he had won in and his second first place for his first racing season.

Cooper's public Facebook page is filled with his achievements and it is no surprise why he was nominated for this award. Not only has he shown he is a talented racer, his promotion of the sport and his sportsmanship is commendable, but I know many people will be keeping an eye out for his name in the future.

The next finalist is Nathan May, a 29-year-old Arabana man who is no stranger to the 7News Young Achiever Awards, previously winning the Carclew Creative Achievement Award back in 2022. Nathan is a musician, a writer and youth mentor, using his story to inspire and influence his art. I am sure some in this chamber will have heard Nathan perform at many community events around Adelaide and South Australia.

In no small way we have the former President of the United States, Barack Obama, to thank for Nathan's career, as Nathan met President Obama in 2011 and was personally encouraged to pursue a career in full-time music. Nathan very often gives back to his community and the wider Aboriginal community through developing and delivering youth mentorship programs through the Culture is Life suicide prevention program in particular, Generation Change through Relationships South Australia, and school holiday music programs.

Shahna Smith is the next finalist, a remarkable Ngarrindjeri woman who has an extensive CV at such a young age with impressive titles such as founder and CEO, entrepreneur and make-up artist. Like Nathan, Shahna has been recognised previously for her achievements in the 7News Young Achiever Awards, winning the Leadership Award in 2023. Shahna grew up in Broken Hill, where she left after the passing of her mother to pursue her dreams of being a make-up artist in Melbourne.

Shahna recently relocated to Adelaide where she began her own make-up business, SSmith Artistry, which has garnered international publicity. Shahna also launched one of the first Indigenous-owned cosmetic brands in the world, Amplified Beauty, and continues to promote diversity, inclusion and empowerment amongst young women throughout the globe.

Finally, Tiahni Adamson, a wildlife conservation biologist. Graduating from the University of Adelaide with a Bachelor of Science, specialising in wildlife conservation biology, at just 28 years old she has already achieved more in her short career than many would in their lifetime. She has trained under Al Gore as a Climate Reality Leader in 2019, worked with the CSIRO on Indigenous education programs, joined Seed (Australia's only First Nations-led youth climate justice group), was a youth dialogue member for the Uluru Statement from the Heart, was recognised as one of Science and Technology Australia's superstars of STEM, and was named one of InDaily South Australia's 40 under 40 for 2023.

Most recently, earlier this year, she was named as the 2024 Young Australian of the Year for South Australia. Her passion has seen her soar from one achievement to the next and I am sure she will continue to achieve great things. I want to congratulate all four finalists for their incredible achievements so far and look forward to hearing about the winners of each category when they are announced in May.

### **PARLIAMENTARY EXECUTIVE SALARY INCREASES**

**The Hon. C. BONAROS (15:03):** I seek leave to ask you a question regarding processes for remuneration determinations.

**The PRESIDENT:** Leave is granted, but I will have to point out to you that you haven't followed the convention of prior notice for a question, so you ask your question and I will take it on notice.

**The Hon. C. BONAROS:** I refer to media comments in recent days regarding the review of remuneration and pay increases to clerks of both chambers of this parliament after the tabling of an Auditor-General's report. My questions to you as President are:

1. Can you outline for the benefit of all members in this chamber how that decision was made and by whom in each respective chamber?
2. Can you indicate what role, if any at all, the JPSC had in those determinations?
3. Do you consider it appropriate for this chamber to find out about the pay increases months after the fact and only as a result of the tabling of that Auditor-General's report and despite there being reporting mechanisms available to presiding officers for such reporting?
4. Will you and your counterpart, the Speaker, now be reporting to members of this place on the process undertaken in respect of this matter, including details of any reviews and the decisions that those determinations were based on?

**The PRESIDENT (15:05):** As I said, I will take it on notice.

#### **FIRST NATIONS VOICE ELECTIONS**

**The Hon. L.A. HENDERSON (15:05):** I seek leave to make a brief explanation before asking a question of the Attorney-General and Minister for Aboriginal Affairs regarding the First Nations Voice elections.

Leave granted.

**The Hon. L.A. HENDERSON:** Anecdotally, the opposition has heard that there was a low voter turnout in some booths on Saturday for the First Nations Voice elections. Can the minister advise how many voters polled at each booth on Saturday, and what the predicted voter turnout was?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:05):** I thank the honourable member for her question. I don't have that information yet, but when it becomes available I am sure what can be made available will be.

#### **HARMONY WEEK**

**The Hon. T.T. NGO (15:06):** My question is to the Attorney-General. Can the minister tell the council about the national celebration of Harmony Week?

**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. I know it is one of his favourite weeks of the year. Between 18 and 24 March, Harmony Week is observed as the national annual celebration that acknowledges the rich diversity within Australia and promoting strengthened inclusion of that multiculturalism. The dates of Harmony Week include 21 March, which is fittingly also the United Nations International Day for the Elimination of Racial Discrimination.

Both Australia and South Australia are enriched by the many migrants who live here and have contributed over the years in so many ways to our rich multicultural community. These new shared cultures build on the existing vibrancy and remarkable cultural history of the world's oldest living culture, with Aboriginal people having continuously engaged in cultural practices for tens of thousands of years on this land.

Harmony Week is centred around inclusiveness, respect and belonging for everyone, regardless of cultural or linguistic background. The commonwealth Department of Home Affairs for many years has led the national celebration, which is made up of a series of diversity and inclusion activities right across Australia, including state and local governments in events. Since 1999, more than 80,000 Harmony Week events have been held across the country in areas as diverse as schools, community groups, churches and businesses, and have been facilitated by all levels of government.

Some local events held in South Australia this year have included introduction to Aboriginal art classes run by a Kaurna business and Southern Cultural Immersion in the Burnside library. For anyone wanting to join events in this year's Harmony Week you can head along to, for instance, the City of Salisbury's event on Friday and join in the celebrations of cultural diversity with live music,

dance, market stalls and a parade. A panel discussion is also being held on 28 March to discuss the importance of peace in 2024, focusing on the ideals of peace and hope for further generations. More information about events for Harmony Week can be found at the Department of Home Affairs' website.

It is also very fitting that as we start Harmony Week we welcomed to South Australia Little Amal last week, who was a feature of the recent Adelaide Festival, representing human rights and the importance of supporting refugees. The striking 3½-metre tall puppet, Little Amal, made its debut at the Adelaide Festival last week thanks to additional funding that was invested by the Malinauskas Labor government in the state's premier arts festival.

Since 2001, Little Amal has travelled to 15 countries, visited 19 cities and has been welcomed by millions of people on the street. I am sure any members here or in the other place who saw Little Amal at the various events over the weekend would have been struck by the connection that people made with Little Amal. I would like to take this opportunity to wish everyone a happy Harmony Week and, as we continue to celebrate Australia's rich cultural tapestry, not just this week but every day.

### REMOVAL OF ABORIGINAL CHILDREN

**The Hon. T.A. FRANKS (15:09):** I seek leave to make a brief explanation before asking the minister representing the Minister for Child Protection a question about the forcible removal of Aboriginal children.

Leave granted.

**The Hon. T.A. FRANKS:** An ABC article published on 18 March 2024 details quite concerning and possibly unjust practices of forcibly removing newborn Aboriginal children by the Department for Child Protection. Mothers were accused of being unfit to parent, living in inappropriate housing, or not showing up to antenatal appointments.

This has been described by South Australia's Commissioner for Aboriginal Children and Young People April Lawrie as of some concern and she has been quoted in the media as saying that these mothers and their families were 'unaware of the actions of the department in planning a removal throughout the duration of the pregnancy' and then further 'were "denied" opportunities to be involved in planning for their babies' care', often left without needed supports.

Statistics provided by the DCP indicate that a quarter of newborns who were removed within 31 days of birth in 2023 were Aboriginal, even though only 5.5 per cent of the state's total child population is Aboriginal. My questions are:

1. Has the minister ensured that there has been a family conference in each and every one of the cases where a child has been removed at birth?
2. Is the minister concerned that there is a lack of trust—that would rightfully be placed in the healthcare system—if Aboriginal mothers are having their children taken away from them in hospitals, left with letters on hospital beds or, indeed, having the delivery room entered, and for such supposed misdemeanours as not turning up to antenatal appointments?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:11):** I thank the honourable member for her question and I will certainly refer them to the Minister for Child Protection and bring back an answer.

### SENTENCING

**The Hon. D.G.E. HOOD (15:11):** I seek leave to make a brief explanation before asking the Attorney-General questions regarding licensing laws and sentencing in South Australia.

Leave granted.

**The Hon. D.G.E. HOOD:** Christopher Bennett was charged with aggravated driving without due care and driving disqualified due to an accident that killed Mr Brad Thompson, a husband and father of two, who passed away in front of family members at the scene of the crash last November. Bennett was jailed for just three months for killing Brad Thompson, as he was given six months, due

to his early guilty plea, with the remainder suspended on a two-year, \$100,000 good behaviour bond. The maximum penalty for the offence and being found guilty was 12 months at the time of his offending, but since that time this parliament has increased that maximum penalty to seven years.

Bennett had previously had his licence disqualified at least 11 times prior to the fatal accident he caused, despite being only 29 years of age. It is understood that Bennett had been disqualified from driving just eight days before this fatal accident occurred. My questions to the Attorney-General are:

1. If the circumstances in this case do not justify the maximum penalty, what on earth does?
2. Is this justice for the absolutely devastated Thompson family?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:13):** I thank the honourable member for his question, it is a very good question, and certainly all of our condolences go out to the family of Brad Thompson, a loving husband and father of five, for this tragic incident that should never have happened.

As the honourable member pointed out, at the time this offence occurred in November last year, the maximum penalty we, as a parliament, had set down for the court to impose was 12 months. With the availability of entering an early guilty plea—which is there for very good reasons, to encourage people to enter guilty pleas and not put victims through the trauma of a trial on many occasions—I understand the sentence was down from six months to three months. He was ordered to serve three months' imprisonment, with the remainder suspended on a two-year good behaviour bond.

I don't have all the details of all the circumstances that would have been presented to the magistrate by both sides in the prosecution and defence of this case, but one can easily understand why many people in the community think that the outcomes we see in these sorts of situations ought to carry the possibility of not just more than 12 months but more than what was received.

What was received was because of the maximum of 12 months. That is why, as the honourable member has indicated, if that offence had occurred from, I think, 1 January this year, when new laws came into effect that this parliament had passed particularly in response to the tragic death of Sophia Naismith, the maximum penalty for an aggravated offence, which I am pretty sure would have been the case, given what we know about the facts—although we don't know all the facts in this case—would have been seven years.

Given that the maximum range has gone from just 12 months to seven years, there is no doubt this would have attracted a more severe penalty had it been prosecuted under laws which have been passed now. That is exactly why we brought these in, because there was that missing mid-level offence that was not on our statutes before that now is.

#### TEEN PARLIAMENT

**The Hon. J.E. HANSON (15:15):** My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about his recent attendance at *The Advertiser's* Teen Parliament program?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:15):** I would be most pleased to inform the member about my recent attendance at the Adelaide Teen Parliament program, and I thank the honourable member for his question and his interest in this area. It was a great pleasure to be invited, along with a wonderful group of children and other members of this place and the other place, to the South Australian school students who took part in *The Advertiser's* Teen Parliament program very recently.

*The Advertiser's* initiative has been a huge success since its inception, bringing passionate young people from across the state together to share their diverse ideas and to give them a taste of the parliamentary process. I was able to get along and see some of the students take to the floor to share their excellent ideas. It was particularly pleasing to speak to some of the students during the morning break about their proposals and what they had put forward.

It was great to see, as I said, a number of other members of parliament there on the day, including the Minister for Education, the Hon. Blair Boyer; the member for Waite, Catherine Hutchesson MP; the honourable member who asked the question, Justin Hanson MLC; as well as the Speaker of the House of Assembly, the member for Kavel.

It particularly inspired me to see a number of Aboriginal students representing their schools, speaking about issues that affect their communities. It was a great pleasure again to spend time with Keira Trevorow, whom I met with last year at Mount Barker High School during the local country cabinet that was held. Keira was certainly impressive with her insights and intellect beyond her years, and her skills were once again on display in parliament, where she spoke about the Ngarrindjeri practice of basket weaving as a means of reconnecting with culture following substance abuse.

Shayla Holloway, representing the Tjindu Foundation, informed people in the chamber about the prevalence of pancreatitis in Aboriginal people and sought to raise awareness of this serious health matter and its symptoms and to assist with early detection and better outcomes.

I had the opportunity to speak with St Aloysius student and Tjindu Foundation representative Tatum McLean in the chamber about her local experience on a school trip to the APY lands and her subsequent proposal to introduce culturally sensitive transition programs for those who are coming down from the lands to attend school in Adelaide.

The speech of Kurna Plains student Peyton Turner has received much acclaim. Peyton moved the chamber when she addressed the group partly in her Kurna language before explaining her vision of Kurna language being taught at all schools on Kurna Yerta.

I think everyone who met with or saw the members of *The Advertiser's* Teen Parliament in action agreed that if Teen Parliament is anything to go by the future of our state is in good hands with students like these at the helm. I look forward to seeing the heights that many of these students rise to and to seeing what the Teen Parliament produces next year.

### GENDER DYSPHORIA

**The Hon. F. PANGALLO (15:18):** I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Health and Wellbeing in another place, a question about gender dysphoria treatments.

Leave granted.

**The Hon. F. PANGALLO:** Last week, the United Kingdom's national public health system, the NHS, announced it was banning children under 18 years of age from being prescribed puberty blockers, irreversible medication that pauses the physical changes of puberty, such as breast development or facial hair, a decision that was welcomed by the UK government. That decision followed the international publication of a damning investigative report containing hundreds of explosive leaked files from the World Professional Association for Transgender Health (WPATH).

WPATH is considered the world's leading scientific and medical authority on gender medicine, with its standards of care shaping policies and practices of governments, including in Australia and South Australia, medical associations, public health systems and private clinics. The report revealed how clinicians who determine how gender medicine is regulated and practised around the world consistently violate medical ethics and informed consent.

I seek leave to now table that disturbing report, entitled 'The WPATH files: Pseudoscientific surgical and hormonal experiments on children, adolescents, and vulnerable adults'.

Leave granted.

**The Hon. F. PANGALLO:** Following the NHS's decision, I called for our own federal and state governments to introduce similar bans here but was met with silence, and as people in this place know the silence followed the Labor government voting not to support my proposed inquiry to examine—

**The Hon. T.A. FRANKS:** Point of order: the member is misleading the chamber. There was no vote on that inquiry.

**The Hon. F. PANGALLO:** I am not—

**The PRESIDENT:** The Hon. Mr Pangallo, just get to the point with your question.

**The Hon. F. PANGALLO:** I am getting to the point, and I dispute that. The Premier made it quite clear—

*The Hon. T.A. Franks interjecting:*

**The PRESIDENT:** Order!

**The Hon. F. PANGALLO:** I am not going to argue the point. In opposing my inquiry, the Premier said he had concerns the inquiry would only seek to perpetuate the culture wars. He said, and I quote:

I would much rather any sort of examination of this to be done in a methodical policy-based way based on the science and best available medical advice.

My questions to the minister are therefore:

1. Does the government intend to conduct an inquiry into gender dysphoria in South Australia along the lines preferred by the Premier?
2. If so, when?
3. If not, why not?
4. Can the minister provide data on the number of children under the age of 18 undergoing treatment using puberty blockers and hormones in South Australia?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:21):** I am happy to pass those on to the minister in another place and see if there is an answer that can be brought back on them.

#### **PUBERTY BLOCKERS**

**The Hon. T.A. FRANKS (15:22):** Supplementary.

**The PRESIDENT:** I will listen to your supplementary.

**The Hon. T.A. FRANKS:** Listen to it and entertain it. How many decades have puberty blockers been used quite safely for precocious puberty in this country?

**The PRESIDENT:** The Hon. Ms Franks, I can't get a supplementary question out of the original answer.

#### **SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**The Hon. B.R. HOOD (15:22):** I seek leave to make a brief explanation before asking a question of the Attorney-General on SACAT.

Leave granted.

**The Hon. B.R. HOOD:** Recently, *The Advertiser* reported concerns regarding deeply personal details of another person's records being sent in error. These included confidential medical and legal documents and deeply personal psychiatric records, as well as sexual and medical history sent to a total stranger. My questions to the Attorney-General are:

1. What has SACAT done to rectify this error and ensure that it does not happen in the future?
2. What contact has the Attorney had with SACAT to discuss this error?
3. Does the Attorney have any concerns about the confidentiality and security of South Australian private information?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:23):** I thank the honourable member for his question in relation to the South Australian Civil and Administrative Tribunal. SACAT, as it's known by its

acronym, helps people resolve issues within specific areas of law either through agreement at a conference, conciliation or mediation, or through a decision of the tribunal at a formal hearing. I know that SACAT, as all of our similar bodies in South Australia do, takes its responsibilities seriously in terms of maintaining confidentiality, and I know that SACAT was very concerned to learn that information was inadvertently sent to a wrong party recently.

SACAT has confirmed that on 5 January this year documents were accidentally bundled with other documents being sent to another SACAT participant, who became the recipient of those documents. Unfortunately, the recipient did not contact SACAT and did not identify themselves when they contacted a medical professional named in the documents. SACAT has requested, if possible, that the individual concerned return or destroy the documents.

I am informed that on 22 January this year the medical professional who was contacted by the incorrect recipient reported to SACAT that an unknown person had contacted them saying they had received information about another person. The medical professional advised the person to return the documents to SACAT or destroy them, I am informed.

I can inform the honourable member that, as I have said earlier, SACAT takes its responsibilities very seriously in terms of confidentiality, as we would expect them properly to and I think as people would expect to happen. Unfortunately, human error, although rare—given the number of reports we have of this sort of thing happening in a jurisdiction like SACAT—does occur, but I am informed that an investigation is now underway to determine exactly how the error occurred and whether procedures need to be changed in response to this error occurring.

Standard protocols include identifying the person who has been affected and notifying them the incident has occurred, and confirming that the person who received them has been directed to destroy the documents or return them to SACAT if such an incident should happen.

I am informed that SACAT has been in contact with the family of the person whose information had been sent in error and, as is entirely appropriate, apologised for the error. I am informed also that SACAT is reporting the privacy breach to the privacy committee. I am also informed that staff have been reminded of their responsibilities in this very important area.

#### **FIRST NATIONS DISASTER RISK REDUCTION PROJECTS**

**The Hon. M. EL DANNAWI (15:26):** My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about the recent funding announced for First Nations disaster risk reduction projects?

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:26):** I would love to inform the chamber about the recently announced funding for First Nations disaster risk reduction, as the honourable member has asked. I have been glad to share with the council on many occasions in the past the incredible benefits that flow from listening to and learning from the traditional knowledge held by First Nations communities, particularly in relation to the management of our natural environment.

The Riverland Rangers are one such example of this, where the dedicated First Nations ranger team utilises ancient traditional knowledge to carefully manage the river ecosystem. I am always glad to see updates about their work, having personally witnessed it just below Swan Reach recently.

Last week, it was announced that the Malinauskas Labor government, together with the Albanese federal Labor government, will jointly invest nearly \$2 million in measures that will help South Australians reduce their disaster risk in the future. This includes significant funding for a number of projects that specifically enhance disaster preparedness, response and recovery for First Nations communities, led by First Nations communities. Some of the projects are:

- funding to employ a dedicated Anangu fire officer in the APY lands to improve community engagement and integrate traditional knowledge and practices into disaster management planning;



- funding for Burrendies Aboriginal Corporation's First Nations Roadside Management Program that will integrate First Nations knowledge and practices to develop a Limestone Coast roadside management strategy;
- funding for South Australian Native Title Services to assist with the Nukunu Fire Stewardship workshops, where trained Nukunu fire practitioners, together with the Firesticks Alliance Indigenous Corporation, will provide workshops with the tools, knowledge and resources to understand the role of fire in the landscape and to engage in cultural fire burning practices;
- funding for mapping Aboriginal heritage and disaster risk reduction, a project led by the state department of Aboriginal affairs, along with my Attorney-General's Department, to develop a heritage mapping tool that balances the need for heritage protection with the necessary confidentiality requirements; and
- funding for the Ceduna Aboriginal Corporation to develop a fire risk and mitigation strategy for the Ceduna Aboriginal homelands.

In announcing the funding for these and other projects, federal Minister for Emergency Management, Senator Murray Watt, underlined the value of the millennia of knowledge held and preserved by First Nations communities and the importance of integrating this knowledge into the modern management of our environment and disaster planning. I congratulate all those involved for it and look forward to positive outcomes as a result.

#### *Bills*

### **ASSISTED REPRODUCTIVE TREATMENT (POSTHUMOUS USE OF MATERIAL AND DONOR CONCEPTION REGISTER) AMENDMENT BILL**

#### *Second Reading*

Adjourned debate on second reading.

(Continued from 22 February 2024.)

**The Hon. J.M.A. LENSINK (15:29):** I rise to indicate support for this piece of legislation, which is one of a range of reforms that have taken place in this policy space over several years. In doing so, I would like to acknowledge the Hon. Connie Bonaros, particularly for her role in the establishment of the Donor Conception Register, and former reports that have been done under previous governments and work that has taken place. Sometimes these things are a long time in coming, but this legislation certainly is consistent with some that other jurisdictions have introduced as well.

There are four main policy considerations in the bill, which reflect the United Nations Convention on the Rights of the Child as being the major consideration. These are, firstly, to bring into the law, if you like, the posthumous use of an ovum or embryo, which is already available for the posthumous use of sperm in that the law currently prohibits the use of embryos or gametes after a woman's death. Stored gametes or embryos, created using the ovum of a deceased woman, are currently required to be destroyed upon the woman's death. One amendment will establish the circumstances in which the human reproductive material can be used posthumously.

Amendments to the Surrogacy Act will enable an embryo of a woman who is deceased to be used under a lawful surrogacy agreement for the benefit of the surviving domestic partner, whether the agreement was in place before or after the deceased partner passed away. The woman who provided the ovum or embryo will be considered the co-parent of the child despite her death occurring prior to the child's birth.

Secondly, this bill expands on the work that took place under the former Marshall Liberal government by allowing donor-conceived people to access certain information about their donor and by compelling registered fertility clinics to maintain suitable records and provide information for inclusion on the Donor Conception Register.

The shadow minister responsible for this area, Ashton Hurn, member for Schubert, has sought feedback from a range of stakeholders. Feedback from the South Australian fertility clinics

has been supportive of the fines that are in place in the bill. If a donor provides a clinic with false or misleading information and the clinic provides that information to the register in good faith, the clinic will not be liable.

Thirdly, the bill is changing the historical anonymity of donors. Prior to 2004, donations of human reproductive material, the majority of which were sperm, were done on an anonymous basis, there being no other option available at the time. The National Health and Medical Research Council's guidelines, implemented in 2005, removed the capacity for a sperm donor to remain anonymous in every Australian state except Victoria.

SA Health have indicated that they have information relating to approximately 1,000 individuals who made donations prior to 2004. This does not give a very specific indication of how many donor-conceived children this information would be relevant to, given many historical records have been lost and those that remain often contain limited information.

There is no formal process under this bill for any donor who provided human reproductive material prior to 2004 to object to the disclosure of their personal information. Under the current Donor Conception Register, donors may set a contact preference which outlines the extent to which the donor wishes to be contacted by any donor-conceived person born as a result of their donation. This relates to pre and post-2004 donors.

At this point in time, there is no obligation for parents to advise their children that they are donor conceived. SA Health estimates that some 80 per cent of donor-conceived children are not aware of their conception status. This bill will not change the requirement of parents to tell their existing children that they are donor conceived. An 18 year old who is aware that they are donor conceived would be able to apply to the register to find information about their donor. A matched donor would then have an opportunity to receive counselling and set a contact preference before any information about them is released to the child.

Fourthly, amendments to the Births, Deaths and Marriages Registration Act enable the inclusion of donor details on a birth certificate. Donor-conceived children born after the passage of the bill will automatically have the fact that they are donor conceived listed on their birth certificate. Children born prior to the passage of the act can apply for donor information to be included on their birth certificate once they turn 18. Children under the age of 18 will require the consent of their parents or legal guardians to have the fact that they are donor conceived and any information about the donor included on their birth certificate.

Donor gametes, which includes both ovum and sperm, can be imported into Australia for use but not on an anonymous basis. The donor information would still be uploaded to the register and the donor conception status would be on the child's birth certificate. By way of background, according to SA Health and representatives from Donor Conceived Australia, donor-conceived people are finding their parents and family members, such as half-siblings and the like, by DNA testing, Ancestry.com and other hereditary-type services and apps.

The Donor Conception Register provides a way to ensure accurate information (where it is available) is provided to the right people under the right conditions and with the right supports in place. Information is only provided to the donor child and the donor and is not accessible to the broader community.

I might address the Liberal Party's amendment in my second reading speech. There are some retrospective elements of the bill. We have had an amendment drafted and filed which will allow donors of human reproductive material from pre-2004 to have an opportunity to opt out of providing personal identifying information to a donor-conceived person via the Donor Conception Register.

Medical information would still be disclosed to the donor-conceived person. This is just to preserve for a small cohort of individuals the anonymous conditions under which they had provided that material with their consent prior to 2004, whilst still allowing for medical information to be shared. With those comments, I support the bill.

**The Hon. S.L. GAME (15:37):** I rise briefly to support the bill. The Assisted Reproductive Treatment (Posthumous Use of Material and Donor Conception Register) Amendment Bill 2023 aims

to significantly reform various aspects related to assisted reproductive treatment in South Australia. It allows the use of reproductive material from a deceased person for assisted reproductive treatment if they consented before their death and the recipient was their domestic partner.

It specifies that the assisted reproductive treatment procedure must be performed for the benefit of the surviving partner and not through surrogacy. It establishes a Donor Conception Register to hold information about donors and individuals born through donor conception. Individuals born through donor conception will have greater access to information about their donor upon request, subject to privacy limitations and the donor's consent. The register will be confidential and not subject to freedom of information requests.

The bill mandates recording information about donor conception on birth certificates for individuals born after the legislation commences. For individuals born before the legislation commences, birth certificate amendments to include information about the donor require consent from the individual and/or legal guardians. It clarifies that being listed as a donor on a birth certificate does not establish parental rights or responsibilities.

Overall, this legislation aims to provide greater transparency in respect of individuals involved in donor conception, while also ensuring responsible use of posthumous reproductive material and protecting the privacy of all parties involved. I am concerned about the retrospective changes that will affect some donors, specifically the donors who provided reproductive material for assisted reproductive treatment on the basis that their identity would not be disclosed to any child born because of the treatment or to any parent or guardian of such a child without donor consent. However, ultimately I believe that children have a right to know who their parent is for their psychological wellbeing.

**The Hon. C. BONAROS (15:38):** I rise to speak wholeheartedly in support of the Assisted Reproductive Treatment (Posthumous Use of Material and Donor Conception Register) Amendment Bill 2023. The bill encapsulates two objectives: first, enabling the posthumous use of an ovum or embryo; and, secondly, granting donor-conceived individuals access to their genetic information.

The genesis of the Donor Conception Register traces back to the recommendations of Associate Professor Sonia Allan OAM from Deakin University, whose independent review of the Assisted Reproductive Treatment Act 1988, as tabled by the former Labor government in 2017, laid the groundwork for its establishment. I take a great deal of pride in the establishment of the Donor Conception Register, an initiative that was realised through amendments that I moved to the Assisted Reproductive Treatment Act 1988, through the Surrogacy Act, in what I would, and probably could, only describe as an opportunistic but much warranted move.

I acknowledge the support of honourable members from across the political spectrum in relation to those changes that were moved at the time and their support for the establishment of that register. The register represents more than just a database, it holds very important pieces of the puzzle for many donor-conceived people who up until now have been unable to access important information about their genetic history. Every individual has the right to know their story and claim their identity, and the passing of this bill is a testament to the tireless efforts of advocates and allies who have fought for the rights of donor-conceived individuals.

In particular, I would like to acknowledge, and they are present here today, Damian Adams and his mum, Elizabeth, Katherine (Kat) Dawson, Reece Trevenen, the Donor Conceived Australia national director, Aimee Shackleton, and also members from the other place, the member for Light, the Hon. Tony Piccolo, and the member for Davenport, the Hon. Erin Thompson, for her support. In particular, I would like to acknowledge the hard work and effort of the Minister for Health and Wellbeing, Chris Picton, who I know has remained committed to this since his time in opposition. It has been a long, long journey but one that we are all pleased to have finally reached in this place.

I acknowledge the work of the opposition in terms of supporting this bill. I acknowledge that the Hon. Michelle Lensink has filed amendments identical to those filed in the other place to retain the secrecy of pre-2004 donors, which I cannot lend my support to, and I think the honourable member acknowledges the reasons for that. This is a balancing exercise but the paramount importance of the welfare of a donor-conceived child is a fundamental principle of the ART Act and

it would be unfair for a person conceived as a result of a donation prior to 2004 to be treated differently to donations made after that date. It goes against the grain of that review that we spoke of.

There are safeguards enshrined in this bill such as the provisions for donor participants to specify their contact preferences. Drawing inspiration from the successful implementation of similar measures in Victoria since 2017, the bill also mandates a three-month buffer period post identification to facilitate access to support services, so we have built in those supports to deal with those concerns that have been raised.

I can say this: it is impossible to spend five minutes with Damian or with Kat or with Reece and not be convinced of the need for these changes because their stories are touching beyond measure, but also their resilience and their determination is a testament to them and everything that we are doing here today.

We all talk about our own identity and we know that our genes form such a vital part of our identity and who we are. I cannot think of the number of times we have come into this place and spoken about our family backgrounds and histories and everything, and who we are as people and where we came from. There is no question that donor conception has made possible the dreams of countless families in terms of having children, not just here but across the world, but in many of those cases it has resulted in a lifetime of questions and endless quests for piecing together pieces of one's identity, questions and answers we all take for granted.

I always use the example of the questions put to me. Imagine walking into the doctor's surgery, sitting down and the doctor says, 'What is your family medical history? Is there a history of heart disease? Is there a history of cancer? Is there a history of diabetes?', and simply not knowing the answer to those questions. I do not think that is something many of us think of in the broader context but, certainly speaking to individuals who have advocated for this, it is a daily thing that we deal with.

We have also spoken in this place about not knowing, potentially, whether you have other siblings out there, and there are some stories that will shock you in terms of the potential number of siblings that people have as a result of historical events and they simply do not know. That makes the most basic thing like dating, meeting someone, a huge question for individuals who do not know, and it is only fair and right and reasonable that we address that.

Our own ethnicity—not knowing what your ethnic background is—there are so many questions; it is endless. Not having answers to those is something beyond my comprehension, and I am sure that of many others in here, but we do know that these are the very things that define each and every one of us, and for some they will remain forever questions that will go unanswered. We are trying our level best here to address that as far as possible.

So, Damian, Kat and Reece, I have no words. In fact, I have nothing but admiration for everything that you have done. Elizabeth, I cannot begin to imagine how much this means to you for your son and how exceptionally proud you must be of him for the advocacy and work that he has put into this issue on behalf of all donor-conceived children. All I can say is well done to all of you. This has been a truly humbling and heartwarming experience to be a part of and an amazing journey to have shared with you. I know it is not a silver bullet. I know it will not address every single question people have left, but I cannot commend you enough for getting us, as a parliament, to this place today.

As I said, this legislation will offer a path towards healing and understanding for donor-conceived individuals, and indeed their families, and I commend each and every one of them for ensuring that we extend the most basic right to know one's identity to each and every donor-conceived South Australian. With those words, I support the bill.

**The Hon. T.A. FRANKS (15:47):** I rise on behalf of the Greens to support the Assisted Reproductive Treatment (Posthumous Use of Material and Donor Conception Register) Amendment Bill 2023. I do so noting that my colleague the Hon. Rob Simms carries this portfolio and, indeed, carries a commitment to ensuring that we, as parliamentarians, do the best we can in this particular area. It is an emerging area that affects many tens of thousands of people in our nation. It is estimated that there are between 20,000 and 60,000 people in Australia who are donor conceived, and the

corollary of that is families and loved ones and potential relationships and so on, so the number affected by this legislation is far greater than that.

This bill legalises the posthumous use of ovum or embryos, as is already done with sperm. It allows donor-conceived children to access certain types of donor information. Genetic testing has, of course, changed the landscape when it comes to anonymous donor information, given that people can often identify their biological parent through online platforms after undergoing DNA testing in this day and age.

It actually does reflect in this bill that the government has committed to making counselling and intermediary support services available to any donors prior to 2004 who did believe that they would remain anonymous, and it allows for an option to have donor conception status or donor information added to birth certificates.

This bill speaks to the rights of the child and it is in line with changes that have been made in Victoria as far back as 2017. My understanding is that this has come from the call for access to donor information because people do have a right to know. They have a right to know their medical information, their genetic heritage, who their siblings are—especially when forming romantic relationships—and they have a right to know their true identity.

Donor Conceived Australia believes that the vast majority of adults who were donor conceived from the 1970s onwards still have not been told that they are, and many are now actually finding out by accident when undertaking DNA testing using home kits.

The Greens will support the passage of this legislation today. We note the work of the many contributors to this piece of legislation, including the minister, and the Hon. Connie Bonaros' words that certainly reflect the depth and breadth of the efforts that have gone into this and the impact that this will have on the community.

The Greens, similarly, will not be supporting the Liberal amendments today. I think the Hon. Connie Bonaros, when she referred to the balance that has been sought here, goes some way as well to the Greens' motivation for our position on that, and we look forward to the passage of the bill this afternoon.

**The Hon. E.S. BOURKE (15:51):** One of the most common human urges is to know where we have come from and to know our heritage and our ancestry. It gives us our sense of identity and helps us to understand our place in the world, but donor-conceived people have not always had this opportunity and so this bill seeks to enhance the operation of the Donor Conception Register by expanding access to donor information.

There is a broad range of reasons, which have been highlighted by many today, why it may be important for donor-conceived people to have the opportunity to access certain information about their genetic parents. One very obvious reason is the ability to know one's inherited medical history. If there are any conditions that a donor-conceived person may have inherited from one of their genetic parents it is more than simply useful for them to be aware of it. It can be life-altering and even life-saving to know about it and, therefore, to have some forewarning of what the future might have in store for one's health.

In the past when a person made the decision to become an anonymous donor of reproductive material, generally speaking they would most likely have been a reasonably young and reasonably healthy individual. Medical histories that were taken at the time of donation did not necessarily reflect the medical realities that may have come about later in life, or indeed inherited conditions that may not have been known at the time of the donation.

When it comes to the health and welfare of donor-conceived people in our community they should have the right to access information relevant to their genetic medical history. This bill aims to modernise our laws and bring them into line with the community's expectations in terms of the rights of people who access assisted reproductive treatment, as well as those who have gone through this process.

In 2017, Professor Sonia Allan conducted the state government's review of the Assisted Reproductive Treatment Act. Her recommendations following the review included the establishment

of the Donor Conception Register in South Australia, as well as to provide donor-conceived people with the right to access identifying information about their donor upon reaching legal adulthood.

Recognising that public expectations have evolved, especially as donor-conceived people across the world are demonstrating through experience that there can be very significant risks in not knowing about their medical history, our state established a Donor Conception Register in November 2021, and I would like to acknowledge the significant role, as many have today, of the Hon. Connie Bonaros in bringing these changes about. It has been lovely to hear the true commitment that she has had to this and to be able to share this with the people who have been advocating for it today in the chamber as well.

The Donor Conception Register holds information on donors, the parents and also the donor-conceived person. This bill seeks to enable the register to function and to enable access to information that has been held prior to 2004, as we have heard. It is understood that historical donors who chose to donate prior to 2004 made their choice with the understanding that they would remain anonymous. The rise of home DNA kits, however, has meant that donor-conceived people have been able to find out the identity of their donor, but in an uncontrolled and unregulated way.

In developing this legislation, the government has undertaken extensive consultation with subject matter experts as well as the communities of people that this legislation will impact. The outcome of the government's consultation assisted in ensuring that the model we propose to adopt for South Australia functions efficiently and provides for the disclosure of personal information to occur in an ethical, respectful and safe way.

The changes proposed by this bill are reasonable. The bill enjoys broad support from advocates, from experts and from members across the political divide. I think the support that this legislation enjoys is a clear testament to the fact that its time has come. It is the Malinauskas government's position that this bill strikes a good balance between promoting a person's health and welfare and ensuring the respectful and regulated disclosure of donor identities. I support this motion and this bill coming to the chamber.

**The Hon. M. EL DANNAWI (15:55):** I would also like to rise to speak in support of the Assisted Reproductive Treatment (Posthumous Use of Material and Donor Conception Register) Amendment Bill. This bill will continue the process of modernising South Australia's assisted reproductive legislation. Assisted reproductive technology continues to advance, and as it does so our acceptance and expectations as a society change as well. Through this bill, we will bring legislation more into harmony with community expectations, empower individuals and extend access to vital information and technology.

As many will know, in 2017 Professor Sonia Allan conducted the state government's review of the Assisted Reproductive Treatment Act. Professor Allan's recommendations include the establishment of a Donor Conception Register in South Australia and providing donor-conceived people aged 18 years and over the right to access identifying information about their donors.

This register was established in 2021 in accordance with amendments to the Assisted Reproductive Treatment Act, as moved by the Hon. Connie Bonaros MLC in 2019. The register currently holds information about donors, the recipient parents of the donated human reproductive materials and any person born as a result of the donated material.

This bill will enable the Donor Conception Register to function retrospectively and enable safe and supported access to the information it holds. This will bring us into line with other jurisdictions, including Victoria, New South Wales and Western Australia, which all have donor conception registers available to donor-conceived people. We will also join Victoria in ensuring the retrospective disclosure of a donor's identifying information for a donor prior to 2004.

The early days of IVF in the 1970s were poorly regulated. Many sperm donors only donated under conditions of anonymity up until the 2000s. Record keeping was a matter for the clinicians and doctors, and there was no uniform method for collecting and maintaining information. Finding answers for many donor-conceived people in this generation can be tough.

A 2011 federal Senate inquiry reported that there were 20,000, and likely upwards of 60,000, donor-conceived people in Australia. This number will only have increased since then. The desire to

know who we are and where we come from is deeply human. Access to available information about yourself, which has the potential to shape and change your life, is a human right. As Professor Sonia Allan said:

Reasons people wish to obtain information range from issues concerning identity, medical information, fear and risks of forming relationships with people they might be related to, concerns for each other's wellbeing and a desire for openness, honesty and equality.

This bill will allow donor-conceived people to access information about their donor, regardless of when they were born, as long as the information is available and verified.

As I have stated, many historical donations were made on a condition of anonymity. Though it is a matter of equality, fairness and common sense that donor-conceived people should have a right to access information, the rights of the donor must also be respected. This bill places no requirement on any donor to have contact with their donor-conceived offspring, regardless of any identifying information disclosed. The government gave careful consideration before legislating a retrospective Donor Conception Register. Extensive consultation was undertaken with those who will be directly impacted, including the donor conception community.

This consultation, which included the SA donor conception reference group and the national advocacy group Donor Conceived Australia, supported the development of this bill. They helped to ensure the model proposed for South Australia is workable and allows disclosure in a safe, respectful and ethical way that preserves the rights of all parties. We acknowledge the potential impact this bill may have on donors prior to 2004. The government will make important counselling and support services available to this group.

This amendment bill also deals with the posthumous use of human reproductive material. There are already very strict conditions on the use of human reproductive material after death. The deceased party must have already consented to the use of their material prior to their death, and the partner seeking to use the deceased's material must have lived in a genuine domestic relationship with them prior to their passing.

As it stands, the Assisted Reproductive Treatment Act only allows for the use of sperm after death. The amendment within this bill would allow equitable treatment for men whose female partner has died and same-sex couples where one partner has died. Combined, the proposed amendments within this bill will ensure the effective operation of the Donor Conception Register, providing donor-conceived people with options for the inclusion of donor information on birth certificates and access to information about their genetic parents once they turn 18, and will provide gender equity in the use of human reproductive material after death.

Access to donor conception and assisted reproductive technology is still relatively new. It is incredibly important that all donor-conceived people have access to information about their genetic heritage. It is not only sensible, as it enables access to important medical and genetic information, but is a matter of wellbeing. It is our belief that this bill strikes the correct balance between safe and respectful disclosure of donor identities with upholding the right to know information about yourself and respecting the essential human desire to understand your own identity.

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:01):** I would like to thank all members for their contributions. Today, in closing this second reading debate, I would also like to take the opportunity to make a few acknowledgements. I know the Hon. Connie Bonaros has campaigned long and hard, and I thank her for her support and her legislative amendments that have helped in a big way to lead to the creation of what we are seeing today. As the Hon. Connie Bonaros mentioned, the member for Light, Tony Piccolo, in another place, has long supported the concept of a donor conception register and has supported the donor-conceived community in pursuit of this change over a number of years.

I would like to acknowledge all the members of the reference group that have contributed and helped support the development of this bill, including Donor Conceived Australia for their advocacy for this change and their ongoing support of the donor-conceived community. Specifically from Donor Conceived Australia, I would like to acknowledge Damian, Katherine and Reece from South Australia and also Aimee at a national level, who have all been passionate drivers for this

change over a number of years. I thank you and all other members of the donor conceived reference group for their contributions and input in developing this bill.

Bill read a second time.

*Committee Stage*

In committee.

Clauses 1 to 4 passed.

Clause 5.

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

Amendment No 1 [Lensink-1]—

Page 4, after line 26 [clause 5(4)]—After inserted subsection (4d) insert:

- (4e) Despite any other provision of this section, if—
- (a) a donor provided human reproductive material for the purposes of assisted reproductive treatment on the basis that their identity would not be disclosed to any child born as a consequence of the treatment, or to any parent or guardian of such a child, without the donor's consent; and
  - (b) the donor—
    - (i) has given written notice to the Minister that they do not consent to having their identity so disclosed; or
    - (ii) has not received information from the Minister about the effect of this section and had a period of at least 3 months to consider whether or not to give the Minister such a notice; or
    - (iii) has died before receiving information from the Minister about the effect of this section,

the Minister must ensure that access is not provided to identifying information about the donor contained in the donor conception register.

Note—

Access may still be provided to information about the donor in the register (such as, for example, medical information) but the identifying information must be redacted or otherwise excluded.

I will be brief, given I can read that there will not be support for this particular amendment. I appreciate that, as honourable members have pointed out in their second reading contributions, it is a balancing act in terms of determining where these things are. The principle on which this amendment has been drafted is the matter of retrospectivity, and I appreciate that it is very unlikely to pass this afternoon.

**The Hon. K.J. MAHER:** I will not speak for long. I have copious notes to read out about the government's view in not supporting the honourable member's amendment. A lot of those have been ventilated and agitated when this went through the other chamber. Whilst we can understand the motivation for the honourable member's amendments, we think it goes against the intentions of the bill and would treat people very differently based on an arbitrary line in the sand.

The bill is more than about providing donor-conceived people with just medical information about their donor. As members have talked about here, that very essence of knowing their identity—who they are and where they fit in in the world—is a really important aspect of this. We think integrity is achieved by the bill itself and is lessened by the amendments.

**The Hon. C. BONAROS:** As indicated in my second reading, I rise to indicate that I will not be supporting the amendments for similar reasons just outlined by the Attorney. As the Hon. Tammy Franks pointed out—we both did during our second readings—I think we have the balance right here in terms of those safeguards that have been adopted and incorporated into this bill to address the concerns that have been raised by the opposition, and that is not to discount the work that the opposition has done on this in the past.



I do note that initially we had done some work together while in government, but I think the consensus is that not only is this going against the grain and the intent of the bill itself but the amendments do not have the support of the individuals who have been advocating so tirelessly in relation to this bill.

**The CHAIR:** The Hon. Ms Lensink, your second amendment was consequential, so we will not be putting that.

Amendment negated; clause passed.

Remaining clauses (6 to 9) and title passed.

Bill reported without amendment

*Third Reading*

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:07):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

### **SUMMARY OFFENCES (NAZI SALUTE AND SYMBOLS PROHIBITION) AMENDMENT BILL**

*Second Reading*

Adjourned debate on second reading.

(Continued from 30 November 2023.)

**The Hon. J.S. LEE (Deputy Leader of the Opposition) (16:08):** I rise to speak about the Summary Offences (Nazi Salute and Symbols Prohibition) Amendment Bill 2023 and indicate the support of the Liberal opposition. This bill has been introduced as a result of the Select Committee on Prohibition of Neo-Nazi Symbols, on which I had the privilege to serve with other members of the Legislative Council. The Select Committee on Prohibition of Neo-Nazi Symbols was formed to consider whether legislation such as this to ban Neo-Nazi symbols is required to address the increasing trend of antisemitism and far-right extremism and what form of legislation it should take.

It is important that any law does not improperly impinge upon legitimate displays of Nazi symbols for educational and academic purposes, nor upon the cultural or religious use of symbols that may be mistaken for Nazi symbols. On that basis, I think it is really important that I highlight the distinction between the swastika and the Hakenkreuz.

Religions such as Hinduism, Buddhism, Jainism and Odinism have used the swastika for thousands of years as an ancient and auspicious symbol of purity, love, peace and good fortune. The committee heard that the swastika was used in Eurasia as early as 7,000 years ago and also appeared in early Christian art. The swastika has been dated by archaeologists in Ukraine to not long after the last Ice Age. The symbol has also been used in Africa and North America.

The image of the swastika has been used extensively by Hindus to adorn their homes and temples in festivals such as Diwali and Navratri. The committee heard that the swastika is a Sanskrit word meaning will bring good luck and wellbeing or good fortune. The Multicultural Communities Council of South Australia advise that the swastika has more than 10,000 years of positive association behind it, continuing actively to this day, and more than a billion people continue this tradition. The History Trust of South Australia stresses the importance of ensuring that this symbol can continue to be used in this context to protect South Australia's cultural and linguistic diversity.

I just want to highlight, however, the misappropriation of the swastika by Adolf Hitler and the National Socialist German Workers' Party. The Nazis modified the swastika and created the Hakenkreuz as a symbol of Nazi Germany. That distinction and clarification shows respect for the fact that, with this bill, we need to consider all factors when imposing on our multicultural communities and ensure that the banning of this Nazi salute or symbol does not apply to those religious and multicultural communities.

Evidence heard by the committee showed strong support for the banning of Neo-Nazi symbols. I want to highlight some of it. We did not really have the opportunity to finish the select committee's gathering of other evidence due to many delays of meetings and also the postponement and rescheduling of meetings, so therefore I think it is really important to highlight some of the evidence we heard. Those in full support included the History Trust of South Australia. In their submission, they mentioned that:

[Legislation] to prohibit the display of such symbols [is] one way to work towards a South Australia that truly celebrates cultural diversity, rejects racism and antisemitism and is a welcoming and safe society for all.

The German Bund der Bayern group say:

I strongly agree with a prohibition of Nazi symbols, in support of a cohesive, multicultural society, in which Nazi-ideology must not be tolerated.

The Jewish Community Council of South Australia and Vishva Hindu Parishad of Australia made a joint submission, so a Jewish community group as well as a Hindu organisation made a submission, which stated:

Use of the Hakenkreuz outside of education and other limited purposes is culturally abhorrent, harkening back to the Holocaust, simultaneously bringing hurt to Jews as well as desecrating a symbol holy to Hindu, Jain and Buddhist people.

Some evidence supported the banning of the Nazi symbols but expressed the view that it may have little impact on the hate and antisemitism experienced by Jewish people and other minority groups. The Islamic Society of South Australia, for example, made a submission and they said:

We submit that while prohibiting Neo-Nazi symbols is a worthy proposal, that it will not improve the experience of the majority of individuals, families and communities that are targeted by hate incidents and crime, whether online or offline. It will not disrupt dehumanising and violent-inducing conspiracy theories, such as Great Replacement theory online, and it will not protect victims of street harassment and public acts of hatred.

The Australian Jewish Association said:

[The Australian Jewish Association] supports prohibiting the public display of Nazi symbols, although with reservations about its effectiveness...By narrowly focusing on countering one form of historic antisemitism, the more pressing instances of antisemitism if left unaddressed, will grow.

The Jewish Community Council of South Australia said:

The contemporary antisemitism experienced by Jewish Australians is broader than those arising from Nazi, Neo-Nazi and far-right ideologies.

The Adjunct Associate Professor Matthew Goode, Faculty of Law at the University of Adelaide, said:

I do not think it is possible, as with anything, to eradicate something by passing a law against it...[but] I think the effort is worth making; it is a statement of what the parliament and the government believes. It discourages people...It will encourage police to collect information about extremist organisations...

Some evidence was collected from historians and collectors. They showed concern that their activities would be prohibited by the legislation, and I quote the Military Arms Preservation Society, which:

...certainly agrees with the intent of the Draft Bill. However, MAPS is concerned that in its current form and thus enacted, could be open to misinterpretation, which may lead to persons putting on legitimate historical displays being prosecuted.

Of course, that later is addressed by the bill. A few submissions were completely opposed to the ban. I put on the record the level of diverse views that were expressed by different witnesses when they came in to present. Michael Swan said:

Australia holds its place in the world as a society of tolerance and diversity but in this particular act it shows complete and utter disregard for education and tries to hide abuse of the Hakenkreuz/Swastika by removing the symbol in its entirety. If other religious icons become offensive, then here is the precedent to allow abuse of the law to remove them also if this legislation is enacted...

I am pleased that the work of the select committee, through this evidence, was able to inform the government to later draft the bill in its current form and to take into consideration all the evidence that we have heard. I believe that this bill now includes a prohibition of the Nazi salute or an image of a Nazi salute in addition to the symbol. In addition to the Hakenkreuz, it prohibits any other symbol

associated with the Nazis or the Nazi ideology, and includes the prohibition of publishing a Nazi symbol on a website or social media platform.

Due to the growing concerns about the rise in public activities by the self-professed Neo-Nazi groups, involving unacceptable display of Nazi symbols and the salute, these symbols are definitely associated with racial hatred, violence and intolerance. The threat of racial and religious hatred, violence and intolerance will seriously destabilise our diverse and accepting society and therefore the banning of them needs to be taken into consideration and it is timely for this bill to finally be introduced.

The clauses and intent of this bill are in line with strong support, which I mentioned before through the evidence I quoted earlier. I want to turn my attention to look at three sections that this bill will insert into the Summary Offences Act 1953. Firstly, new section 32A defines the terms and is fairly self-explanatory. The important aspect to note here is that in defining the Nazi salute or the Hakenkreuz and other Nazi symbols, it captures gestures that so nearly resemble a salute that it is likely to be mistaken for that salute, and symbols that so nearly resemble a Nazi symbol that they are likely to be mistaken for such a symbol.

The definition is really important because it captures all acts and uses of symbols that are harmful, particularly as Neo-Nazi groups may continuously modify Nazi symbols for the purpose of secrecy or in an attempt to skirt around the regulations. This allows for law enforcement officers to execute the parameters of their job without obstruction or confusion.

New section 32C allows a police officer to give a direction to a person to remove from display a Nazi symbol, if a police officer reasonably believes the display constitutes an offence. Given the definitions in section 32A, a police officer could reasonably believe that an individual has used a Nazi salute or symbol, even if it is a similar or modified gesture or symbol, and could act swiftly to protect others without any ambiguity on their part.

The bill has an additional separate offence for failing to comply with a police direction to remove the prohibited symbol to ensure that the offending material is promptly removed from public display. Creating these offences in this bill will also ensure that police have the necessary powers to direct anyone publicly displaying the Nazi symbol in breach of legislation to move on and to cease the offending conduct.

Finally, new section 32B allows for a defence against a prohibited act if the act was engaged in for a legitimate public purpose. I mentioned earlier the distinction that many multicultural groups and religious groups use a similar symbol called the swastika, and this would be accepted and not considered as an offence. This includes genuine academic, artistic, religious or scientific purposes, and genuine cultural or educational purposes, and the making or publishing of a fair and accurate report of any event or matter of public interest is acceptable.

What the stipulations do allow is that this bill does not restrict the freedom of speech and political communication that we are all guaranteed. The bill ensures that sufficiently broad defences are available for innocent displays of Nazi symbols including for religious, academic, artistic, educational, cultural, scientific, law enforcement or journalistic purposes. As the shadow minister for multicultural South Australia, it is really important to protect the multifaith society and provide that reassurance that Buddhists, Hindu and Jain faith communities potentially using some of the symbols or recognising the symbols as a way toward love, peace and wellbeing can be protected.

I am very pleased that this bill also provides definitions within the legislation in line with other jurisdictions that have put forward similar legislation, including Victoria, New South Wales, Queensland, the Australian Capital Territory and Tasmania. These definitions are, in fact, the same as the Victorian Summary Offences Amendment (Nazi Symbol Prohibition) Act 2022. That particular legislation has been supported by the Adelaide Holocaust Museum and the Andrew Steiner Education Centre, and the History Trust of South Australia in their submissions to the committee, some of which I have already quoted in my contribution.

In my closing remarks, I would once again like to thank all the stakeholders who came forward to provide evidence, their experience and case studies to fully inform the committee and help the development of this particular bill for government. I want to place my thanks on the public record

for their contributions and also to thank the other honourable members who participated on the select committee. With those words, I support the passage of the bill.

**The Hon. T.A. FRANKS (16:25):** I rise to speak on behalf of the Greens in strong support of this bill, the Summary Offences (Nazi Salute and Symbols Prohibition) Amendment Bill 2023. I do so because the symbols of the Nazi regime continue to represent the ideology of racial supremacy that fuelled the Holocaust and continue to cause harm, especially to the Jewish community.

We know that far-right extremism is on the rise as they try to capitalise on people's fear and uncertainty, particularly during times such as the pandemic or growing inequality. That is why it is so important that we follow our Eastern States counterparts in banning the public display of Nazi symbols and recognise that this is just the first of many steps that can be taken to combat Nazis or Neo-Nazis, white supremacists and far-right extremism.

I would like to acknowledge the work on this of my interstate colleagues from the Greens, in particular the Hon. Samantha Ratnam in Victoria and the Hon. Abigail Boyd in New South Wales. Their efforts have been vital to both Victoria and New South Wales banning the public display of Nazi symbols, and I am proud to see that South Australia is now following suit.

The symbols of the Nazi regime that carried out undeniable atrocities continue to represent the ideology of racial supremacy that fuelled the Holocaust and causes harm. I note that we are now debating this because of concerns about extreme far-right activity across the world and here in Australia. As somebody who was a student in the 1990s, some three decades ago next week, Adelaide was the centre of Neo-Nazi activity in this nation, something that has since been disclosed in the ASIO files that have been released through various cabinet documents federally and at state level.

On 26 March 1994, we saw 20 Neo-Nazis goose step single file down Adelaide's Rundle Mall shouting 'Sieg Heil' and 'Heil Hitler' as they beat people up, kicked and punched them—one Asian man particularly being amongst the 15 injured. That day there were four arrests, only four arrests, of those 20 Neo-Nazis, who certainly disturbed the peace and disrupted the fabric of our society in Adelaide, South Australia.

I was a student at the time, active in the progressive student movement, a faction known as the independents, but I was known as a progressive member of that. I studied at The Levels Campus after Salisbury was closed down. In my class were two Neo-Nazis. They would turn up to class and they would wear swastika T-shirts, they would chant 'Sieg Heil' and 'Heil Hitler'. They would disrupt our classes. I had to be escorted by friends on and off campus. I was subject to stalking by some of them, and I was not alone.

I can rattle off the names of friends who were beaten up, who were harassed, who were stalked, who were persecuted by that Michael Brander led group, where Adelaide was the centre of far-right extremism in our country back in the 1990s. I am glad to see that those days have gone, and I hope that Adelaide never again has such a shameful experience. I believe that this bill will go some way to making sure we do not enter and go down that path again.

Of course, over the past few years we have seen an increase in hate crimes by self-identified Neo-Nazis perpetrated against Jewish people, Asian people, First Nations people and people of colour. Mainstream politicians and media outlets have embraced their harmful fringe ideology for votes and clickbait, without a care for the fact that in flirting with the far-right they do stoke the flames of hate in this nation. Normalising or even encouraging the growth of these ideologies continues to inflict harm on the most vulnerable and marginalised people in our community and it inflicts harm on our community itself.

This bill will ban the intentional display of Nazi symbols and will help us tackle the increasingly public displays of hate that we are seeing from extreme far-right and Neo-Nazi groups. The new offence applies to people in South Australia who broadcast a Nazi symbol to the public audience beyond our borders, such as on social media. People will still be able to publicly display swastikas for legitimate reasons, such as people of Jain, Buddhist and Hindu faiths, teachers, artists and protestors. I put on record something that I raised in the briefing to this bill. I do seek assurances

from the government that this will not be used to stop artists or legitimate protest and will not be used more broadly than has been outlined in this second reading contribution and debate so far.

Images and words have meaning, symbols are powerful, and the new offence sends a strong message that the South Australian parliament and the community will not tolerate the public display of symbols intended to incite such hatred. We do need to recognise that the weaponisation of these symbols and the power that they have as recruitment tools can do real harm to real people. All acts of discrimination based on race, religion or ethnicity are disgraceful, and the International Covenant on Civil and Political Rights and the Racial Discrimination Act 1975 both bear testament to this.

Governments have a unique responsibility to set the tone, the laws and the expectations that create social cohesion in this country. I note that we are coming up to Harmony Week, but Harmony Week was, indeed, the watering down of the day for elimination of racial discrimination. While we all celebrate harmony we should remember that it comes because we need to eliminate racial discrimination.

In those duties being taken very seriously, today we balance the right to free expression with the right to be free from discrimination, and we can and we must work to stop the slow creep of fascism, of hate, of racism and of discrimination in our society so that we never again see the days that we have seen before, whether they were decades ago or a century ago. With that, I look forward to the passage of the bill today, and I will have some questions at clause 1.

**The Hon. F. PANGALLO (16:33):** I rise, scratching my head, to speak on this bill and ask why it is even necessary, apart from trying to appease the member who introduced it and the Jewish community which, rightly, must speak up loudly when antisemitism is, sadly, reaching boiling point in our community. I will address that disturbing aspect which is going unchecked and fuelled by the politics in Gaza and which has spread in an ugly, divisive form in our country.

Only today in Perth, Friends of Palestine activists angrily confronted Dr Anne Aly, the only Muslim woman in federal parliament, and attempted to shame her. Much of what is in this bill has already been addressed in commonwealth legislation, which was passed in December, thereby overriding any similar state legislation. It is duplication. The Attorney's advisers said that they did not think theirs was inconsistent with what was proposed at the commonwealth level. It is already enacted and there are inconsistencies. The state bill does not just fill any gaps, it duplicates them.

Victoria does have this legislation already too, and one person has been charged under pre-commonwealth law. The commonwealth laws prohibit the sale of symbols and items, as well as the public display of them, even if the state legislation did not prohibit the sale or display for historical, cultural or educational purposes. There are very few exemptions in the commonwealth legislation, so in theory the traders in militaria are already banned from trading or exhibiting their collections both here and outside the jurisdiction.

I have absolutely no sympathy for the Nazi cause, the Italian fascist movement or anything that resembles the murderous tyranny, cruelty and absolute authoritarianism these evil political zealots had followed. Germany obviously needed to rid itself of the horrible reminders of Hitler's Nazis and the Holocaust, and rightly has outlawed the display of anything that resembles that time in its history.

Italy, which was Germany's Axis partner during World War II, has also tried to wipe aside the memories of their dictator, Benito Mussolini. I am unsure why this legislation did not also include the fasces symbol of power and authority taken from ancient Roman times, which features a bundle of wooden rods and an axe bound together by leather straps.

The other Axis ally under the Tripartite Pact in 1940 was Japan, now a close and valued friend, an ASEAN Plus Three member and one of our biggest trading partners. Feelings were somewhat different 84 years ago, when our brave and courageous diggers were put to the sword and were on the receiving end of brutal treatment in their POW camps in Burma, Borneo and Singapore.

The Japanese also attacked our shores, yet we are not banning the rising sun flag or other symbols from Hirohito's emperorship. This is because the passing of time has since healed those war wounds. Germany, Italy and Japan are now global economic powerhouses that do big business

with us and we with them. Italy, in particular, has been the source of hundreds of thousands of postwar migrants who have helped build this country of ours.

Austria, Poland, Hungary and France have followed Germany's lead in bans on Nazi symbols and propaganda associated with the Third Reich, and understandably so, because they were invaded by the Nazis. The Hungarians have even outlawed the hammer and sickle used by Communist Russia and the red five-pointed star worn on caps and uniforms by communists in China and Russia.

There are exemptions, of course, in the legislation for artistic, scientific and educational purposes, but these may be subject to interpretation as well. Throughout history, many nations have had chequered political histories and their share of sadistic autocratic regimes. They are not all wiped from memory, because we do need to learn lessons from our histories so that we do not repeat the terrible mistakes from our past.

That is why I am a little perplexed at moves like this to totally whitewash the history of some of these more notorious regimes. Let's be frank here: this also can amount to a form of censorship that hinders freedom of speech and is another type of regulatory overreach by governments, which can eventually lead to other forms of prohibition. It can also lead to unintended consequences and inconsistencies in the interpretation of antidiscrimination laws.

I still have a fascination for military history going back to ancient times. I have advocated for returned servicemen from various conflicts and will continue to do so. However, laws like this have only been generated to quash the mindless actions of a minority of extremists labelled as Neo-Nazis and who may borrow visual elements from history, like versions of the swastika or the salute of an outstretched arm with the palm pointing downwards. This legislation will stop that, but again there may be unintended consequences for some.

As I pointed out to the Attorney's advisers, the salute's origins go back to ancient Rome, where it was used to greet emperors. The Nazis pinched the custom. They also pinched and modified from ancient Greece key decorative borders to design the swastika. Just take a look at the borders featured on the woodwork in this room. They come from the country that gave us democracy.

Hindus, Buddhists and Jainists have a form of swastika. The symbol for Odinism, a religious organisation named after the Norwegian god Odin, also comes from symbols in Greek mythology and resembles a wheel or disc and a three-pronged trident. It is associated with the hammer-wielding god of thunder, Thor. It was depicted in Marvel comic books and the Thor movies that followed. There is also a modified form used as the logo by Adobe Acrobat, again thanks to the Greeks. So there are exemptions.

As for the salute, I can see that creating legal headaches already, with unintended consequences. The Black Power salute is a form of that salute but with a clenched fist. Soccer/football fans the world over use a form of that salute in raucous support of their teams, although former Socceroo goalkeeper Mark Bosnich came to regret using the Sieg Heil in defiance of the hostility shown by Tottenham Hotspur fans in 1996 while playing for Aston Villa.

Despite his racist gesture to fans of a London club that has a strong Jewish support base, Bosnich only received a token fine and escaped a misconduct charge. We will see those penalties certainly not being applied here—they will be much stronger here. Will South Australian police charge Melbourne Victory supporters who use the extended arm gesture not in a racist way but in a show of enthusiastic support for their team during A-League matches? Probably not, and I hope not, but an overzealous police officer might do so one day.

As this bill was making its way back here, I was contacted by a constituent, who I will call Aldo, who is concerned and upset that his large collection of militaria, probably worth around \$3 million, would now be rendered valueless because of the federal and state laws. I visited Aldo and viewed his extraordinary collection, and as far as I am aware no other MP he contacted bothered to give him the time of day.

The collection includes Nazi and Italian military uniforms in pristine condition; officers' hats; helmets from famous theatres of war, like Tobruk; and service medals and badges, including Iron Crosses and SS symbols—by the way, those SS symbols of the two lightning bolts were something

else pinched from the ancient Greeks. Aldo also had weapons and other wartime memorabilia from all sides in conflicts that he has collected.

He has meticulously recorded the history and provenance of each item in his collection, many brought back to Australia by diggers who served in Europe, North Africa and Asia. He is not a Nazi or fascist sympathiser. He is a military historian. The items in his collection present an accurate presentation of the designs that could be copied or viewed for genuine cultural, educational, academic or artistic purposes—for instance, in the costume design for films or stage presentations.

But now, the collection that he has spent decades building and had hoped would fund his retirement and that he thereafter would leave for his children is next to worthless. He cannot sell it. He cannot advertise it. He cannot display it. The national war museum in Canberra is not interested in it or other collections because it has more than it needs. No other museum, apart from one maybe dedicated to militaria, could ever contemplate displaying any items like that. No RSL would dare exhibit these items. The history and educational value of his collection is all but lost. Virtually overnight, Aldo's multimillion dollar collection and others like it are worthless. That is simply not fair.

I also know that there are many others with militaria collections including larger items, such as tanks, armoured vehicles, trucks and weapons, which are used in large-scale re-enactments of famous battles. Why were collectors such as Aldo not given a set period of time by the federal and/or state governments to sell off their prized collections before the new laws came into force? Surely, that would have been the right thing to do.

I do realise that the intention of this bill is to quash antisemitism in our community, and I fully endorse this aspect because, among other things, I have become alarmed and disturbed at the rise of this insidious racism in our country since the war in Gaza started on 7 October. It continues with pro-Palestinian supporters chanting messages of hate against Israel and Jews in rowdy demonstrations across the country, including in this city. It is making Jewish people fearful of reprisals and violence against them and their businesses.

It seems quite ironic that Labor is such a strong supporter of this bill when its own members both state and federally have not shown such a strong level of support for Israel and the Jewish community as they have for the Palestinian cause.

I was quite disturbed to learn that at least two Jewish academics from one of our biggest universities have been pushed out of their senior positions because of antisemitic sentiment not just from some of their left-leaning faculty colleagues but also from student activists and associated academic institutions. It disappoints me to say that the University of Adelaide, based on discussions I have had with members of the Jewish community, is now a hotbed of racist, antisemitic attitudes to such an extent that many Jewish students are staying away from attending the campus and lectures fearing reprisals. Some are even fearing identifying as Jews. This is disgraceful and it cannot be tolerated, yet it is.

I do not see the Malinauskas government coming out strongly condemning this conduct and moving to do something about it. I do not see much united action coming from the administration of our universities in denouncing this antisemitism and hate that is rife. I do not see much movement from the Albanese government. It is too busy cosying up to China and avoiding any political rhetoric that might inflame Palestinians. They have even committed to resuming funding of UNRWA, the United Nations Relief and Works Agency for Palestine refugees, an organisation the Americans and Israelis declared had members who took part in the terrorist attacks on 7 October.

I fully support Israel's right to defend itself and I would like to one day see a two-state solution in this troubled part of the world, but I am not optimistic that this will ever happen in our lifetimes. I know this legislation is so important to members of Australia's Jewish community and, although as a civil libertarian I do have some reservations about some aspects, I will give it my support.

**The Hon. R.P. WORTLEY (16:48):** The government is introducing a bill to prohibit the public display of both Nazi symbols and the Nazi salute. This proposed bill, the Summary Offences (Nazi Salute and Symbols Prohibition) Amendment Bill 2023, would amend the Summary Offences Act 1953 to insert a new part 6A summary offence of public use of a Nazi symbol or Nazi salute, with a maximum penalty of \$20,000 or 12 months' imprisonment.

You might want to know what is banned. The bill defines 'Nazi symbol' as including but not limited to the Hakenkreuz or other prescribed Nazi symbols. The Nazi Hakenkreuz symbol was used by the Nazi Party in the Third Reich in Germany in the early 20<sup>th</sup> century. Hakenkreuz means 'twisted or hooked cross' in German and became the symbol of the Nazi Party. The Nazi Party, as we all know, committed heinous crimes against humanity and particularly against the Jewish people.

As well as the Nazi salute, the definition in the bill includes a symbol that so nearly resembles such a symbol that it is likely to be mistaken for such a symbol. This is similar to the approach in New South Wales and Tasmania in allowing any Nazi symbol to be within the scope of the offence, and unlike the former draft bill of the Hon. Sarah Game MLC which was very narrow and prescriptive. The definition of 'public act' intentionally encompasses communication on social media and other forms of broadcasting of the symbol. The bill also includes an offence for failing to comply with a police direction to remove a Nazi symbol.

As in equivalent interstate legislation, the bill necessarily includes comprehensive defences for innocent uses of Nazi symbols, including in good faith for academic, artistic, religious, scientific, cultural, educational, law enforcement and news reporting purposes—for example, the similar religious symbol of peace used by the Buddhist, Hindu and Jain faiths, and the use of Nazi symbols for educational purposes in the Holocaust Museum on Flinders Street.

In relation to the contribution by the Hon. Frank Pangallo regarding Aldo and his military collection, I really do not know whether this would actually have an effect and cause Aldo's collection to be worthless. To some extent, you could believe that legislation like this could actually make it more valuable.

In recent times, concerns have been growing about an observed rise in public activities by self-professed Neo-Nazi groups involving unacceptable displays of the Nazi Hakenkreuz symbol and the Nazi salute, which are widely recognised as symbols of hate, violence and intolerance. This has led other states and territories and, most recently, the commonwealth government to pass or introduce legislation to prohibit public displays of Nazi symbols and Nazi salutes.

On 8 January 2024, the commonwealth government's Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023 commenced operation, which includes a ban on the public Nazi salute. There is currently no discrepancy between the federal act and the proposed South Australian act regarding the interaction of the federal legislation with this proposed state prohibition. As is common practice for jurisdiction crossover, the commonwealth has indicated that the commonwealth act is not intended to interfere with or overrule state laws, and SAPOL will enforce SA's legislation.

Victoria, New South Wales, Queensland, Tasmania and the ACT have all enacted legislation to prohibit Nazi symbols, although the laws in Queensland and Tasmania have not yet commenced operation. The commonwealth government also passed and commenced legislation to prohibit public displays of Nazi symbols. The proposed SA bill takes a slightly different stance from other jurisdiction models, such as how a Nazi symbol is described.

There has been extensive consultation in developing this bill. This proposal has been developed after considering the 28 published written submissions to the select committee from individuals and organisations, which include:

- Adelaide Holocaust Museum and Andrew Steiner Education Centre;
- History Trust of South Australia;
- Multicultural Communities Council of South Australia;
- Islamic Society of South Australia;
- Buddhist society of South Australia;
- Vishva Hindu Parishad of South Australia Incorporated, which is the World Hindu Council of Australia, South Australian branch;
- several organisations representing the Jewish community;



- Australian Federation of Ukrainian Organisations;
- Victor Harbor RSL sub-branch;
- various groups representing business and hobbyist dealers and collectors of war memorabilia; and
- Australasian Living History Federation (stage historical re-enactment activities).

South Australia currently has criminal and civil prohibitions against racial vilification under the Racial Vilification Act 1996. It is already a criminal offence for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group on the ground of race by threatening physical harm to the person or group or to their property, or inciting others to threaten such harm. The maximum penalty for a person who commits such an offence is \$5,000 or three years' imprisonment.

Some people will oppose this legislation because they say it is an attack on freedom of speech. I am a great supporter of freedom of speech; I believe it is an important part of our democracy. But it is not appropriate and we should totally reject any person or organisation who hides behind freedom of speech to spread hate. We should reject that and as such I support this legislation.

**The Hon. J.E. HANSON (16:55):** After listening to the speech of Russell Wortley, people may wonder what there is left to say. From time to time we do feel this way when speaking last. I feel compelled to rise to speak because this is a very significant bill. In relation to a few matters raised in debate, Mr Pangallo raised a head-scratching issue on why you need to have state legislation if you already have federal legislation seeking to be put into place, which to some extent mirrors that.

As is commonplace for jurisdiction crossover, as the Hon. Mr Wortley went to some lengths to outline, the commonwealth will indicate that it does not intend to interfere or overrule state laws, so it behoves us in these circumstances to make sure that we put in place something which recognises the significance of the kind of problem we are facing.

This move would ensure that South Australia remains the kind of inclusive place in which I think we all want to live. I know that is the case because I think everybody who has spoken in this debate has felt the need to underline that. It is important that everybody within our community feels like it remains a safe and inclusive place, and that includes our Jewish community. There is a rise of extremist and hateful behaviour in this country, indeed internationally. The very rich diversity and cohesion of what we value in South Australia, which is our multicultural society, is not only one of our greatest strengths but also something that is under attack. We need to be careful and vigilant in protecting that.

This sort of hatred and division we have seen in our state. I am aware that in the other place the member for Playford, Mr Fulbrook, has outlined that he has seen very large signs placed in his community saying that multiculturalism is white genocide. That was placed over a very prominent highway running through his community. That sign was taken down and another one was put up after that. So to say or deny that there is an issue that needs to be addressed in our society, I think, would be stretching credulity.

Data collected by the Executive Council of Australian Jewry has shown that there was a 591 per cent increase in reported incidences of antisemitism last year—591 per cent. Greg Adams, the chair of the Adelaide Holocaust Museum, has gone on record as saying that his staff have been extremely concerned for their safety after a number of recent antisemitic incidents, including people performing Nazi salutes outside that building. This is very concerning stuff.

I do reject somewhat the points raised by Mr Pangallo that somehow Labor does not support the Jewish community. I have personally attended many events organised by the local Jewish community in South Australia. Norman Schueler has remained a contact of mine for some years now. Indeed, I saw him, sadly, at many rallies last year. I say 'sadly' because I should not need to be there. We should not need to have rallies supporting our Jewish community. Our Jewish community should be supported without the need for rallies where we have to condemn antisemitic behaviour in our community.

So I have to say I really reject what was put by Mr Pangallo in that regard. I know I am not the only Labor member who supports our Jewish community, and I know I am not the only Labor member who has attended events supporting our Jewish community, so I find it a little bit rough from Mr Pangallo in that regard, and maybe he could reflect on those comments a bit. In regard to what we have in this bill, as I have said, the Hon. Mr Wortley has already gone to the substantive aspects of it and I think strongly regarding the consultation surrounding this bill.

I note that there was some point made by the Liberals that it is all based on the select committee which has informed the draft bill. I think it was tabled last year, and the report of that committee was tabled today. If so, that committee must have been very influential and very wide reaching to inform what we have here today. It is good that a great deal of the evidence provided to that select committee—which I monitored what I could from the distance I was at—indicated that the rise of far-right nationalism is something that affects not only the Jewish community but indeed many aspects of other religions and faiths in our community. Indeed, instances of anti-Muslim abuse reported to the Islamophobia Register in Australia have increased thirteenfold in recent times.

I think that, if we are looking at why we need legislation like we are seeing here, we need to protect the multicultural society that we have. In terms of aspects of this legislation, it does still allow the use of the Nazi symbol in good faith for instances such as educational ones. I agree with the Hon. Mr Wortley in regard to the Hon. Mr Pangallo's raising of Aldo, I think it was, and his collection. Perhaps I think that it still has great value. That may not be a financial one, but it certainly has great educational value and this bill continues to protect aspects of it, just as Mr Pangallo said, so I do not think there has been any great loss there. With that, and noting that I agree with absolutely everything that the Hon. Mr Wortley had to say, I support this bill.

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (17:03):** I thank members who have contributed and for their indications of support for this important bill. Certainly, the hatred, violence and intolerance that the display of Nazi symbols, including the Nazi salute, promotes has to be stamped out. Everyone has said here that there is no place for it in our society today. There is no place for it, whether it be at rallies, whether it be on the steps of parliament, or whether it be at sporting events. The hatred and intolerance that these sorts of symbols are designed to incite, I think we can all agree ought to be criminalised as this bill proposes.

There were a number of contributions about commonwealth and state law. It is not uncommon that there are similar areas traversed by both areas of law: drug offences and terrorism offences, to name a few. I think it is useful to have an offence on our state statute books that can be properly investigated and prosecuted by the state as a state offence when the prosecutorial authorities see fit.

I think it is also helpful that there are similar, although not the same, offences at a federal level, and the commonwealth could take this up where there are significant implications, as the commonwealth does in terrorism or drug areas where it is of concern to them. I know prosecutorial authorities have in the past and will continue to liaise where there are offences where a course of conduct might traverse both state and federal jurisdictions. With that, I commend the bill to the chamber and look forward to the second reading stage.

Bill read a second time.

*Committee Stage*

In committee.

Clause 1.

**The Hon. T.A. FRANKS:** I just wanted to establish with the minister that, for example, Banksy has recently done a piece of art that has appeared on various streets where the swastika is used in that artwork. Would artwork like that be banned within the remit of this particular legislation?

**The Hon. K.J. MAHER:** I will not be giving a view about a very specific example, but what I can say is that artistic depiction is certainly something we have taken into account in this bill. In terms of artwork that depicts prohibited Nazi symbols or performances of art that involve performing things

like the Nazi salute, the bill provides a defence for where this occurs for genuine artistic purposes. The court will need to be satisfied that the particular circumstance of the depiction was for a genuine artistic purpose. The bill further provides, apropos section 32B(4), that:

...an act will be taken not to be for a legitimate public purpose where the act is for a purpose that a reasonable person would understand to be directly or indirectly encouraging, glorifying, promoting or condoning fascism, Nazism, neo-Nazism or other related ideologies.

I say that as guidance. Of course, we recognise genuine depictions in artwork are provided for; there is a defence for it within this legislation.

**The Hon. J.S. LEE:** I have a supplementary to the Hon. Tammy Franks' question. I note that the minister has provided some guidance if you like to new section 32B in relation to subsection (3), but is it possible for the minister to perhaps provide some clarification in terms of maybe a description of a scenario of what the government considers as a genuine academic, artistic or religious use? For the purpose of clarification, could he provide a scenario?

**The Hon. K.J. MAHER:** I am not going to provide a very specific example. That will be up to the courts to interpret but, as I have said just before, for the art exemption, for example, it is for performances that involve the Nazi salute or the Nazi symbol if it occurs for genuine artistic purposes. The court, as I have said, will need to take into account the particular circumstances of that performance or that artwork. It is where there is that genuine reason that includes not just artistic but academic, religious, educational, cultural, scientific or law enforcement, or journalistic purposes.

I know the Hon. Jing Lee has in her contributions talked about the use of the swastika—as it has been for thousands of years—as a symbol of peace, as a religious symbol in the Buddhist, Hindu and Jain faiths. The bill specifically contemplates their use in those sorts of religious contexts, where for thousands of years it has had a distinctly opposite meaning and connotation to what has been appropriated with the Hakenkreuz in Nazi ideology.

**The Hon. F. PANGALLO:** Can I ask the Attorney-General about exemptions: who will issue them when applications are made?

**The Hon. K.J. MAHER:** I think the honourable member has misunderstood how this works and how many of these areas of the criminal law work. No-one applies for an exemption and is issued with an exemption, it acts as a defence to the offence that is created by this legislation.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment.

*Third Reading*

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (17:10):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

#### **AYERS HOUSE BILL**

*Second Reading*

**The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (17:11):** I move:

That this bill be now read a second time.

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

Leave granted.

Today I introduce the *Ayers House Bill 2023*.

One of this government's election commitments is to introduce legislation to grant ongoing rights in relation to Ayers House to the National Trust of South Australia, including its use for commercial operations to generate revenue for the National Trust.

The National Trust has worked tirelessly to protect and promote heritage in South Australia since 1955.

The National Trust has over 1,000 registered volunteers and over 5,000 members. Over the years, the National Trust and their volunteers have contributed the equivalent of millions of dollars for work supporting heritage conservation and heritage education.

The National Trust was first asked to assist in managing Ayers House in 1971. In 1970 the then Premier, Don Dunstan, invited the National Trust to contribute to his plan to restore, furnish and present the house to the public as a museum, restaurant and function centre.

This Act expands upon the vision of the former Premier by granting Ayers House to the National Trust as a permanent home.

The Ayers House Act will ensure that this location is safe from a future Minister evicting the National Trust on a whim. It will:

- Maintain the Minister as the registered owner of Ayers House on the certificate of title.
- Give the National Trust permanent care, control and management of Ayers House.
- Allow the National Trust to generate income to support its operations through leases, licenses and other activities
  - within Ayers House.
- Ensure public access to Ayers House.
- Render the National Trust liable for all claims related to Ayers House.
- Exempt Ayers House from council rates.
- Include transitional provisions to:
  - allow the National Trust to carry out its traditional activities without it being considered a change of use under the Planning, Development and Infrastructure Act 2016.
  - assign to the National Trust leases and licenses that, until the passing of the Act, were held by the Crown.

The government supports this bill and commends it to the house.

#### Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

4—Objects

This clause sets out the objects of the measure.

5—Ayers House vested in Minister

Ayers House is vested in the Minister but the clause contains restrictions on the Minister's entitlement to grant rights of interests in the property.

6—Care, control and management vested in National Trust

Care, control and management of Ayers House vests in the National Trust subject to the rights of public access and any other requirements set out in notices under the provision.

7—Liability

The National Trust will bear the liability for any claims arising in respect of Ayers House or any use of Ayers House.

8—Exemption from council rates

No council rates are payable in respect of Ayers House.

## 9—Regulations

This clause is a regulation making power.

## Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *National Trust of South Australia Act 1955*

## 1—Amendment of section 5—Objects of Trust

This clause makes a consequential amendment to the *National Trust of South Australia Act 1955*.

## Part 2—Transitional provisions

## 2—No change in use of land

This clause clarifies that the resumed use of Ayers House by the National Trust will not constitute a change in use for the purposes of the *Planning, Development and Infrastructure Act 2016*.

## 3—Assignment of leases and licences to National Trust

Existing leases and licences with respect to Ayers House are to be assigned to the National Trust.

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

**INTERVENTION ORDERS (PREVENTION OF ABUSE) (SECTION 31 OFFENCES)  
AMENDMENT BILL**

*Final Stages*

The House of Assembly agreed to the bill without any amendment.

**CHILD SEX OFFENDERS REGISTRATION (CHILD-RELATED WORK) AMENDMENT BILL**

*Final Stages*

The House of Assembly agreed to the bill without any amendment.

At 17:13 the council adjourned until Wednesday 20 March 2024 at 14:15.

*Answers to Questions***IMMIGRATION POLICY**

In reply to **the Hon. J.M.A. LENSINK** (6 February 2024).

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

Six detainees are presently in South Australia. All are being monitored, either in custody or electronically.

One detainee has been arrested for an offence and the matter is currently before the courts.

Housing arrangements for detainees are managed by Australian Border Force.

**SKYCITY ADELAIDE**

In reply to **the Hon. F. PANGALLO** (7 February 2024).

**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:

As the member is aware, on 1 February 2024, SkyCity Entertainment Group Limited (NZ), the parent company of SkyCity Adelaide, announced that SkyCity Adelaide and AUSTRAC have jointly informed the Federal Court that the parties have come to an agreement in relation to the contraventions that SkyCity Adelaide will admit in the proceedings and the amount of a civil penalty they will jointly propose to the court, subject to finalisation of a Statement of Agreed Facts and Admissions.

The market announcement disclosed that the resolution of the matter will involve SkyCity Adelaide admitting serious breaches of anti-money laundering laws and the imposition by the court of a material civil penalty.

I am advised that the court has set down a timetable to allow AUSTRAC and SkyCity to seek to finalise this process. If agreement is reached, it is however a matter for the Federal Court to determine the appropriate penalty in the proceedings.

I am further advised that the Liquor and Gambling Commissioner will consider when to resume the investigation by the Hon. Brian Marin KC into the suitability of SkyCity Adelaide Pty Ltd to hold the South Australian Casino Licence and SkyCity Entertainment Group Limited (NZ) to be a close associate, once the AUSTRAC proceedings have been resolved and the Statement of Agreed Facts and Admissions are available.

Importantly, I note that the material provided to the commissioner by Mr Martin to date reflects his preliminary views, not a definitive finding. Furthermore, it is my understanding that in accordance with statutory confidentiality provisions, the commissioner is prevented from disclosing information obtained in the course of carrying out his official functions other than in prescribed circumstances.

In the meantime, the commissioner has appointed internationally respected risk and financial consultancy firm Kroll Australia (Kroll) to review a program of work developed by SkyCity Adelaide to enable it to demonstrate that it is meeting its AML/CTF capability and gambling related harm minimisation regulatory obligations.

Once the commissioner has approved this program of work, Kroll will monitor its implementation. Kroll is also required to report to the commissioner on SkyCity Adelaide's compliance with its ongoing regulatory obligations with respect to AML/CTF and addressing gambling related harm.

This important work is being carried out alongside CBS' regular inspectorial functions at the Adelaide Casino.

**IMMIGRANT DETENTION**

In reply to **the Hon. H.M. GIROLAMO** (20 February 2024).

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

Six detainees are presently in South Australia.

Housing arrangements for detainees are managed by Australian Border Force.