LEGISLATIVE COUNCIL

Thursday, 9 June 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:16 and read prayers.

Parliamentary Procedure

PAPERS

The following paper was laid on the table:

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Department for Education and Child Development—Report, 2015

Ministerial Statement

WHYALLA STEELWORKS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:17): I table a copy of a ministerial statement made by the Premier in the other place entitled Request for Bipartisan Whyalla Support.

Parliament House Matters

CHAMBER PHOTOGRAPHY

The PRESIDENT (14:17): Before we continue, I have given permission for our friend up there in the gallery to take a photo for a member's book on parliament. In case you are wondering, he is here and works for a member of parliament.

The Hon. D.W. Ridgway: I would have thought you would have had a brighter tie on today.

The PRESIDENT: He only caught me half an hour ago, otherwise I would have had a new tie on.

Ministerial Statement

ASBESTOS CONTAINING MATERIALS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:18): I table a copy of ministerial statement on the importation of asbestos containing materials from the Deputy Premier in another place.

Question Time

FORESTRY INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a question about innovation in the forestry industry.

Leave granted.

The Hon. D.W. RIDGWAY: In 2013, the state government committed $1.13 million to the Cellulose Fibre Chain Study. This was announced under the innovation portfolio by the then minister, Mr Tom Kenyon.

The fibre chain study was intended to develop more sustainable and higher-value products from the Limestone Coast forestry resources. This study was, of course, undertaken by Göran Roos'

company, the VTT Technical Research Centre of Finland. Previously in this place I have asked the minister what outcomes had been achieved from this study and what the benefit was for the people of the South-East, and I am still waiting for the minister to bring back a response to the chamber.

As I am sure the minister is aware, last week the federal government announced it would invest $4 million for a National Institute for Forest Products Innovation. This funding is to be matched by industry to the tune of $4 million, which requires $2 million of funding from the Tasmanian and South Australian governments. The institute will operate as a dispersed network model with one hub in Launceston and the other based in Mount Gambier in South Australia.

The Tasmanian government immediately committed the $2 million funding required. My question to the minister is: will the government commit the required $2 million in funding for the National Institute for Forest Products Innovation hub to be located at Mount Gambier through the innovation portfolio, as it did with the fibre chain study?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:20): I thank the honourable member for his question. The honourable member would likely be aware that this particular question falls squarely within the portfolio responsibilities of the Minister for Forests, the Hon. Leon Bignell, in another place.

What I can say is that I was in Mount Gambier last week when this announcement was made, and there was a lot of embarrassment for the local federal member, Tony Pasin, for him coming out and making an announcement with no consultation with the state government and then, out of the blue, calling on the state government to do something. He was left red faced—I understand he hid from the media for 24 hours after becoming so embarrassed about his mistake—and I thank the Hon. David Ridgway for highlighting the ineptitude and mistakes of his colleague from the South-East.

I also note that the local federal member is increasingly embarrassed, increasingly isolated, with his views and how he conducts himself. I have to say that I do have a degree of sympathy for the local state member for Mount Gambier who, I understand, gets an increasing number of people coming to see him who are disaffected with the local federal member.

In terms of state government funding, that is a matter for the Minister for Forests in another place. However, I can say that the member for Barker was left very, very embarrassed and looking very, very silly, looking like a bit of a dill last week, and had to hide from the media.

FORESTRY INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): A supplementary: is the minister ruling out any state government funding—

The Hon. K.J. Maher: No, I'm not; I'm just referring it to the Minister for Forests.

Members interjecting:

The Hon. D.W. RIDGWAY: I am asking the question. I am not asking you, I am not asking you; I am asking you.

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Will the Leader of the Government cool down for a second? Will you ask your supplementary—

The Hon. D.W. RIDGWAY: I am asking a supplementary.

The PRESIDENT: Well, ask your supplementary.

The Hon. D.W. RIDGWAY: Will you—

Members interjecting:

The PRESIDENT: Order! Let the Leader of the Opposition ask his question.

The Hon. D.W. RIDGWAY: A young man was here taking photos; they will say it is the circus.

The Hon. K.J. Maher: I am trying to save him from himself.

The PRESIDENT: The Leader of the Government will contain himself. The Hon. Mr Ridgway.

The Hon. D.W. RIDGWAY: Will the minister rule out this state government putting in the $2 million funding that is required for this program? Given that the Minister for Forests has ruled it out, will you also rule out this state government putting any funding into—

Members interjecting:

The Hon. D.W. RIDGWAY: I am not asking you; I am asking him.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:23): I do acknowledge that the Hon. David Ridgway does not have any experience in ministerial responsibility. We do have some sympathy for him, being elected to this place and having to sit on that side the whole time. Current evidence suggests that while it may be unlikely, there might be some day in the future when he does have ministerial responsibility.

In fact, when you add up the whole of the ministerial experience of the team on the other side it falls to the Hon. Rob Lucas; he is the sum total of ministerial experience of every single shadow minister. I will refer that to the responsible minister—

Members interjecting:

The Hon. K.J. MAHER: I will answer: yes, I will refer that to the minister responsible.

FORESTRY INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): Can the minister guarantee the council that this government has had no discussions with the shadow minister Joel Fitzgibbon about withholding funding until after the federal election?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:24): I guarantee that I will refer those questions to the appropriate minister, and I am prepared to aid the honourable member's misunderstanding of how government works. I am happy to sit down with him, I am very happy to sit down with him and talk about portfolio responsibilities and how they work to give him a bit of an idea, because I know he has had no ministerial experience, and may well not. I do sympathise, and the rumours are that many people—

The PRESIDENT: Okay, the minister can now sit down. You've given your answer. Lovely to see you again, the Hon. Ms Lensink.

DOMESTIC VIOLENCE

The Hon. J.M.A. LENSINK (14:24): Thank you, Mr President. You don't expect these welcomes every day. I seek leave to make a brief explanation before directing a question to the Minister for Police on the subject of domestic—

Members interjecting:

The PRESIDENT: It is very disrespectful to be talking when a person is asking a question during question time. The Hon. Ms Lensink.

The Hon. J.M.A. LENSINK: Thank you, Mr President. I assume the minister heard most of that.

The Hon. P. Malinauskas: No, I didn't.

The Hon. J.M.A. LENSINK: I will start again. I seek leave to make a brief explanation before directing a question to the Minister for Police on the subject of domestic violence statistics.

Leave granted.

The Hon. J.M.A. LENSINK: Having read *Hansard* from yesterday, my honourable colleagues on this side of the house asked the minister some questions about domestic violence statistics and a database. *The Advertiser* of 3 June clearly indicated that a report has been prepared by his agency, SAPOL, which it states has been provided to the Attorney-General and to the police minister. My questions are:

1. Is that correct? Has he actually received a report?

2. Has it been presented to cabinet for approval?

3. Can he advise the nature of the statistics that are contained in it, and whether it has information regarding domestic violence assaults and other offences or whether it just pertains to domestic violence deaths in South Australia?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:26): I thank the Hon. Ms Lensink for her important question. What I am in a position to share with the chamber is that of course if information is brought before the cabinet then it is subject to cabinet confidence. Of course we will work collaboratively with police and any other agency that takes an interest in this matter to ensure that if it is appropriate for information to be made public then we will gladly assist in that process where it's appropriate to do so.

What I am not in a position to do now is, of course, to talk to any matters that may or may not be currently before the cabinet. Having said that, I am in a position to be able to share some basic statistics which are rather disconcerting generally regarding domestic violence within this state. I am advised that at least seven South Australians have died as a result of domestic violence so far this financial year, and six in the last financial year. I am also advised that it has been revealed that abusers are breaching conditions meant to protect their victims more than 40 times a week, which is a rather disconcerting statistic and one that of course is subject to an enormous amount of attention and effort on behalf of SAPOL.

As I said earlier this week, domestic violence is an incredibly sobering subject when you read statistics along the lines of the one that I have just read out, and it gives us a great moment of pause to realise that this does represent a very substantial ongoing public policy challenge and it represents an ongoing policing challenge, but it is one that I think this government is up to. I referred yesterday to a number of different initiatives that the government has put in place to try and take on the issue of domestic violence, and the one that I think is probably the most outstanding is of course the Multi-Agency Protection Service, which is aimed very much at across-government collaborative approach towards the issue of domestic violence, and it is delivering results.

But there is more that needs to be done. We're only just starting to learn of the severity and depth of the impact that domestic violence has within our community. The police commissioner earlier this week on the radio referred to the fact that reports that come through that are related to domestic violence appear to have gone up quite substantially in recent times, and I think we would be deluding ourselves, and I have already said this earlier this week, to suggest that this somehow represents a spike in behaviour. I think, rather, it is evidence of the fact that we're only just starting to unravel and reveal the depth of this scourge within our community. We need to do everything we can. Of course transparency has to be a part of that, and that is something that is always under active consideration, but the honourable member would appreciate that matters that are subject to cabinet in confidence need to remain that way.

DOMESTIC VIOLENCE

The Hon. J.M.A. LENSINK (14:29): I appreciate the minister's response. However, the statistics he has provided are already available on the public record. Can he advise whether there are other domestic violence offences statistics that are being kept and how and why the reporting of this data differs from data provided publicly through OCSAR?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:30): Again, I thank the honourable member for her supplementary question. Clearly, it would be a reasonable thing to say that SAPOL collates a whole range of different statistics on a range of different areas, and they vary in terms of their depth and analysis. We want to make sure, as I referred to earlier in the week, that whenever we release information publicly it is done in a way that we can ensure accuracy, and that sometimes takes analysis work to be able to do that. Collating statistics is not always an easy science; it does take work, and before we go about releasing stats publicly this government will always be making sure we have a commitment to accuracy. This is not about seeking to circumvent an effort around transparency, not at all, but we have to make sure that we go through a process to ensure accuracy and make sure that we are only releasing statistics that are appropriate to do so.

DOMESTIC VIOLENCE

The Hon. J.M.A. LENSINK (14:31): Further supplementary: can the minister advise whether the Coroner's office, and in particular the research officer appointed there, has access to SAPOL statistics, and whether that is something that the government, if they do not have access, would consider allowing?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:31): I thank the honourable member again for another supplementary question. I understand that there is a very good working relationship between the police commissioner and the Coroner's office. I understand that there is a ready supply and flow of information between those two offices, specifically in respect of domestic violence. I will have to get a bit of additional information to work out precisely what information is shared between the two of them. But, as I understand it—and having followed this issue in recent days—information I have received indicates that there is a productive working relationship between the police commissioner and the Coroner's office, and that is something I think all South Australians would reasonably expect.

DOMESTIC VIOLENCE

The Hon. A.L. McLACHLAN (14:32): Supplementary, Mr President: can the minister advise the chamber, arising out of his answer, whether the statistics he has referred to, and generally SAPOL statistics, are independently audited?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:32): What I am in a position to be able to explain to the honourable member is that SAPOL, I think, do an outstanding job in ensuring the accuracy of their work. SAPOL collate data across their agency on a whole range of different issues. My experience in the relatively short time I have been Minister for Police is that, with the information they have provided us, they have always placed an emphasis an accuracy, and that is entirely appropriate. I have never seen any suggestion by anyone, or any evidence that suggests, that data that comes out of SAPOL is not accurate.

In respect of whether or not there is an independent audit, I will have to take that on notice, but I do believe, I do understand and am advised, that SAPOL have systems in place to ensure that the data they release is accurate.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:33): My question is to the Minister for Correctional Services. Can the minister update the council on the Department for Correctional Services' trials of domestic violence perpetrator rehabilitation programs, both in prisons and in community corrections, including the number of participants and the rate of successful completion?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:34): I thank the honourable member for his important question. The Department for Correctional Services is always looking to be innovative when it comes to the type of rehabilitation programs that they put in place amongst the people they find within their custody, and of course there are ongoing efforts, works and programs in

place that specifically look at the question of domestic violence. In respect to specific numbers, I am more than happy to get that information and share that with the honourable member.

I am advised that there are programs in place that do specifically deal with domestic violence. This is something that, of course, is necessary and there is a growing need for, because there is a growing representation within our prison system of those people who do find themselves either having been charged, or found guilty of, an offence relating to domestic violence. I have also been advised that of South Australia's remand prison population, which is substantial, somewhere in the order of 40 per cent of the South Australian prison population is indeed on remand, but of that, one of the contributing factors to that large percentage on remand is those people who find themselves in custody as a result of being charged with a domestic violence-related offence.

So this is an area that Corrections is regularly turning their mind to. It is important that, when people find themselves in the custody of the state through incarceration, they are not just sitting in cells, watching time go by, but, rather, are trying to rehabilitate themselves, particularly where we know that putting appropriate programs in place can deliver outcomes. I understand that domestic violence is a good example of this.

In that context, I just want to put on the record my support and admiration for the fact that the Department for Correctional Services has gone out of its way to be extremely proactive in respect of campaigning against domestic violence. I am advised that the department works closely with the White Ribbon ambassador program to get accreditation, including many of their male staff becoming White Ribbon ambassadors themselves.

I think that is a program that is incredibly important when it comes to getting the message out within the community that domestic violence, in all forms, is not acceptable. It is a scourge within our community. It has taken too long and too many victims before we started to realise the depth of this scourge, but now that it is coming to light it deserves every effort that is possible, and the Department for Correctional Services certainly don't see themselves as being immune from that effort. I applaud them on being as proactive as they are in this particular endeavour.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:34): I have a supplementary question, Mr President. I thank the minister for taking the question on notice. Coming out of the minister's answer, he rightly highlighted the issue of prisoners on remand who might have been charged with a domestic violence offence. Considering the high remand rate in South Australia, and the prospect that the period the person might serve following their charge or their conviction might be shorter than the period they spend on remand, would the minister, in terms of the information he is seeking, clarify whether domestic violence perpetrator rehabilitation is available on a voluntary basis for people on remand?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:37): That is an outstanding question and one I have asked of the department myself. I am in the process of getting information back from the Department for Correctional Services regarding the exact question that you asked, because it is a really good one. Often, as I understand it, people will come into the prison system on remand as a result of being charged with a domestic violence offence. I understand that there is a presumption against bail for people in those situations, which in many instances is entirely appropriate to protect victims from their perpetrators.

But one of the challenges is that when those people are on remand, we should not work under the assumption that they may not get back out. Many of those people, once they are found guilty, as I understand it, get sentences that are time served, and then they get released back into the community. We need to be trying to put efforts in place to ensure that we are providing services to those people, even though they are on remand and have not yet been found guilty, which is why I have asked for information already, along the lines that the Hon. Mr Wade has asked for, and as I get that information I will be more than happy to share it with the honourable member.

WEST COAST ABORIGINAL COMMUNITIES

The Hon. J.M. GAZZOLA (14:39): My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister inform the chamber about his recent visit to Aboriginal communities and services on the West Coast?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:39): I thank the honourable member for his important question and his interest in these matters. At the end of last month, I travelled to the Far West Coast of South Australia. While there are certainly some challenges over in that regional place, there are also some remarkable and impressive organisations and communities on the Far West Coast.

One of those very impressive communities is Scotdesco, an Aboriginal homeland about an hour's drive west of Ceduna. I know that very recently members of the Natural Resources Committee—some of whom sit in this chamber—visited that community. I think some of those have shared with me their impressions and how impressed they were at some of the aspects of that Aboriginal community.

The Hon. J.S.L. Dawkins: You're an expert sheep person.

The Hon. K.J. MAHER: I'll get there. Around 55 people live at Scotdesco. I was inspired by just how forward-looking and diversified the business activities at Scotdesco were. They run sheep. The community has accommodation for school students and conferences. There is an art gallery and the cafe with a very swanky new coffee machine that was completely wasted on me. I will have a cup of tea, or if I am going all out may be a hot chocolate, but I am afraid I let them down by not having a coffee out there.

The Hon. T.J. Stephens interjecting:

The Hon. K.J. MAHER: I do enjoy a Milo, as the Hon. Terry Stephens suggests. A Milo and some Golden North ice cream would be one of my favourite evening attractions. I was particularly impressed to hear about their plans to commercially crop saltbush on marginal land and turn it into value-added products through a new high-tech milling process, products like protein powders and high-protein flours. This technology is cutting edge and the market is potentially massive and I will be very interested to see how they go with this project.

The whole community is on rainwater and I had the opportunity to look at their rainwater storage system. It has a channel that holds about 250 kilolitres and a bladder-like tank that holds something like 1,500 kilometres over a massive area that is a few acres that the channels do not hold.

Scotdesco is also home to the big wombat, yet another one of South Australia's great iconic big things and one that I had previously not had the fortune to visit. I thought I might have been served wombat for lunch, but I understand it is not mid wombat season at the moment, so I had to delicious lamb roast, fresh off the Scotdesco farm, instead.

The sheep that are farmed at Scotdesco are Wiltipolls, which I understand are Wiltshire Horn crosses with Poll Dorset, Poll Merino, Border Leicester and Perendale genetics infused. The Hon. John Dawkins, if he knows nothing else, knows sheep. If I have got this at all wrong, he will no doubt correct me. I have been out at the Gawler Show a few years ago, watching the Hon. John Dawkins judging sheep, so I know that he knows sheep.

Members interjecting:

The Hon. K.J. MAHER: I am proud that I am, like the Hon. John Dawkins, an agricultural and horticultural show judge as well. For the last couple of years, I have judged pastries at the Royal Adelaide Show. The sheep are quite remarkable sheep. They shed their fleeces and don't require shearing. Scotdesco owns about 25,000 acres of land, and with this sheep breed, numbers have increased to around 3,000 head of sheep. I would like to pay tribute to the leadership at Scotdesco, particularly Robert Larkin, who showed me around and took the time to make me feel welcome at the homeland.

I also met in Ceduna the community heads group and spoke about the implementation of the cashless debit card. From that group, the community heads group, the initial feedback is supportive. There have been implementation problems, but they have been working through these problems and there has been a commonwealth officer based at most of the communities west of Ceduna to help with the implementation.

I was told that there has been an increase in fresh food purchases at butchers and supermarkets and a decrease in gambling. The implementation seems to be going in the right direction, but obviously we will need to look at how the reform is working once it has been in operation for more time and the trial has been evaluated. I also had the opportunity to visit the Head of Bight, where in addition to the unique geography and whale watching—I think there were three or four whales there at the end of last month at the very start of the season—there are some spots of remarkable history and significance.

For example, we were taken down to a hidden waterhole behind the sand dunes at the Head of Bight beach that Aboriginal people, we were told, have used for thousands of years. Flinders missed it when he made camp right near the area, but Eyre was shown to it by the local Aboriginal people to refresh his water supplies when he made that crossing across southern Australia. It is a remarkable tourism destination. The ALT does a great job in making it a destination that many people who are coming through that part of the world across the Nullarbor visit.

The Hon. J.S.L. Dawkins: It was the ALT you said, wasn't it?

The Hon. K.J. MAHER: The ALT.

The Hon. J.S.L. Dawkins: I thought you said the ALP.

The Hon. K.J. MAHER: The ALT, Mr President. I know the ALP does remarkable things, but that is not one of the things it can claim credit for. That evening I stayed out at Yalata and bought kangaroo spaghetti bolognese for dinner, that was to help raise funds for football players to travel to Adelaide for the Don McSweeney Cup, which is coming up in mid-July. It is the football game of the representative Maralinga Tjarutja team against the Anangu Pitjantjatjara Yankunytjatjara team. I cannot remember exactly the date, it is before an AFL game at Adelaide Oval. I know that many members here avail themselves of the fantastic Adelaide Oval and will be at that game. If they go a bit earlier that would definitely be one to watch.

I also called in, as I had done last year, to the Koonibba community— it is about 40 kilometres north-west of Ceduna—and I was grateful to Corey and the chair of the community council who, on a Sunday afternoon, took time to meet with me and to take me around the community. I would like to thank everyone from those Far West-Coast communities and organisations who gave up time last month, and particularly much weekend time, in order to show me their communities and to talk about the issues that concern them.

WEST COAST ABORIGINAL COMMUNITIES

The Hon. T.A. FRANKS (14:46): Supplementary question, Mr President: while the minister was in Ceduna, did he meet with the groups opposed to the cashless welfare card?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:46): I thank the honourable member for her question. Certainly, the community heads group, whom I met with, were largely positive about the card. I heard opposing views. With any reform, I think it is fair to say there are views on all sides, and certainly there were views put to me that did not support the cashless debit card.

As I said, I will reserve judgement until it has had some time in operation and it has had a proper evaluation. Even people who have overall support for the card talked about some of the implementation problems, but were pleased with how they are being worked through. There were alternative views put. We will obviously reserve judgement until it has had a chance to operate over a period of time and be reviewed.

STREET LIGHTING

The Hon. M.C. PARNELL (14:47): I seek leave to make a brief explanation before asking a question of the Minister for Climate Change about street lighting.

Leave granted.

The Hon. M.C. PARNELL: Members may have seen the article in InDaily yesterday which was around a dispute between the Local Government Association and SA Power Networks about the rollout of energy-efficient LED street lighting. According to the article, the Local Government Association chief executive Matt Pinnegar has complained that SA Power Networks' new tariffs to replace old streetlights with LEDs did not represent value for money and that it would be prudent for councils to delay taking up the offer. The quote attributed in the article to Mr Pinnegar is:

> We caution council members about entering into agreements with SA Power Networks that are not value for money and that continue the unsatisfactory monopoly arrangements for street lighting.

The relevance of this to the climate change portfolio is that these new LED lights achieve energy savings of up to 70 per cent on conventional globes, and according to the article there are nearly a quarter of a million streetlights in South Australia. The bulk of them, 203,000, are controlled by local councils, and 36,000 are controlled by the state government. My questions of the minister are:

1. In relation to the state government's 36,000 streetlights, how many of those have now been converted to low energy LED globes?

2. As Minister for Climate Change, what are you doing to broker a deal or to impose a solution so that South Australia can benefit from these new efficient technologies that reduce our carbon footprint?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:49): I thank the honourable member for his most important question. Of course, as most honourable members will be aware, if they are following the media reports on this, there is a bit of to-and-fro, at least according to the reports, between local governments, the LGA and SAPN, in regard to their negotiations for replacement of lightbulbs. I am also aware of some splendid programs, I think financed by the CEFC, the Clean Energy Finance Corporation, with the Geelong council, where they have entered into a relationship to replace their street lighting with more energy-efficient and less carbon-intense globes as well.

In general, I think it is a jolly good idea. I will not be imposing myself or interpolating myself between a commercial relationship between local government and their streetlight providers (in this case South Australian Power Networks). However, I will advise the council at this stage that the government is talking to the Adelaide City Council, in the first instance, about how we can work together on our streetlight program within the city, but this question more generally, of course, should be directed to minister Mullighan in the other place.

I will say this: it is important, if we are going to achieve some of the goals that we have set for ourselves as a city and as a state in terms of carbon neutrality, that we address the issues where they are created and they are created, of course, in energy consumption in the city and also in the built environment in terms of the energy that our buildings utilise in construction, but also in their everyday maintenance. These are the issues we need to confront. About 40 per cent of our emissions (within the City of Adelaide at least) are from that energy component. The other large chunk (around about 40 per cent, again) comes from transport issues.

The differential ownership of the streetlights is a bit problematic for us in this state. As the honourable member said in his opening remarks, some of these streetlights are owned by councils, some are owned by government, but some of the councils have a relationship with South Australian Power Networks, who actually own it or lease those facilities out to council and charge them a significant amount to do so.

I am aware, through discussions on a range of topics with the LGA recently, that this topic came up and they broached with me, in particular, their dissatisfaction with their commercial relationship with South Australian Power Networks over this. This is a matter for councils and the

LGA may well feel that, as a peak body representing councils in this state, it is in their interests to pursue that with South Australian Power Networks, so I wish them well in that. In regard to what we are doing in terms of light globes, I will just say to the honourable member: watch this space.

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

The Hon. A.L. McLACHLAN (14:52): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a question.

Leave granted.

The Hon. A.L. McLACHLAN: It was recently reported in the media (I think last month or the month before) that 800 people had registered for the Automotive Workers in Transition Program and that 474 workers had been supported with career advice. Can the minister advise the chamber, firstly, confirming that those figures are correct that have appeared in the media, and whether the remaining 326 workers were assisted through the program in some other manner or whether they are going to be provided with career advice in the near future, and within what time frames?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:53): I thank the honourable member for his questions and his interest in this matter—his very, very good questions, in fact. It is on topic, it is succinct and it is no wonder he is often talked about as a future (in the not too distant future) leader of this chamber for the Liberal Party.

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

The Hon. K.J. MAHER: I hear the Hon. Michelle Lensink interject, 'It doesn't take much to be leader,' and she is quite right. I think that's why the Hon. Andrew McLachlan is touted so frequently as being leader of the Liberal Party in this chamber. I don't have the exact figures in front of me. They do sound about correct, but if they are not correct or if it is essentially different I will bring back an answer for the honourable member. There is a process: people register for the scheme and then they talk to those providing the career counselling and training about a future program and the skills recognition for that training program. There will be those who have initially registered.

Having been out to quite a number of the auto supply chain firms over the last 12 months, I know that quite a number of people are registering but are not taking up the career services just yet. They are deciding what it is that they want to do, exactly what it might be that they are looking to do, but want to register for the scheme now to make sure that they are in the system and can avail themselves of that later on. I think the numbers sound correct but, if it is substantially different, I will bring back a reply to let the honourable member know or, if there has been a change in those numbers in the last few months, I will also let the honourable member know.

RENEWABLE ENERGY INITIATIVES

The Hon. T.T. NGO (14:54): I have a question for the Minister for Climate Change. Can the minister update the house about South Australia's climate change achievements?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:55): I thank the honourable member for his most important question. Tackling global warming is a key priority for this government. As we know, it creates additionally—

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: Tackling global warming is a key priority for this government. As we also know, it creates jobs and investment. As the recent Climate Change Council report states:

> Renewable energy is a job creator, providing various employment opportunities in planning, construction, manufacturing, and operation and maintenance.

Around the globe, I am advised, almost 7.7 million people are employed in the renewable energy sector. The government wants to ensure that South Australia remains a national leader in tackling

global warming so that we can make the most of these economic opportunities for our state. Our state's international clean and green image, for example, is a major driver of our food and wine industries as well as our tourism sectors, and tackling global warming will be pivotal to the continued growth in these important industries.

Our leadership on climate change is vital in this endeavour. We were the first jurisdiction in Australia, for example, to introduce specific climate change legislation in 2007. We were the first to introduce container deposit legislation and the first to introduce a premium solar feed-in tariff. We were also the founding co-chair of The Climate Group—States and Regions Alliance. We were the first jurisdiction in the country to sign the Under 2 MOU, a global commitment by states and regions to limit global warming to 2° or less. We were the first in Australia to sign the Regions Adapt, an international initiative on best practice for climate adaptation.

Last year, we became the first jurisdiction in Australia to set a zero net emissions target by 2050. This target was recommended by the Low Carbon Economy Experts Panel and is consistent with what scientists advise is required if global warming is to be limited to 2° or less. Each of these initiatives builds on our international reputation as leaders in tackling global warming. At the same time, they have helped us reduce our emissions by 8 per cent (just over 8 per cent) compared to 1990 levels, while growing our economy by over 60 per cent over the same period, and that is great work that has been recognised both nationally and internationally.

Our Climate Change Adaptation Framework, for example, has won awards both in Australia and overseas. Adelaide has been named by the Carbon Disclosure Project as one of the top 10 cities globally for reporting on emissions. A recent report by the Climate Change Council named South Australia as the top Australian state for renewable energy. That report also showed South Australia had the joint number one postcode in the nation for rooftop solar. In the postcode of Angle Vale in the electorates of Light and Taylor, almost seven in 10 homes have rooftop solar, that is 65 per cent of houses—an amazing achievement.

I have also recently met with Professor Don Henry who told me that former United States vice-president Mr Al Gore talks highly of South Australia's achievements when he travels the world talking about the importance of tackling global warming. I am also advised a senior president of IKEA said to world business leaders at a forum in Paris in December that:

> …to build low-carbon growth and jobs we need common sense, long-term policy-making like that in South Australia.

As with other great South Australian initiatives like our container deposit legislation, which I mentioned earlier, other states are now jumping on board. We know that Northern Territory copied that initiative a couple of years ago; now New South Wales, and I hear the ACT also is looking at adopting that program. Again, this is another example of South Australia's leadership—way ahead of its time.

I also welcome Victoria's announcement that they will join South Australia in adopting a zero net emissions target. They have a long way to go, of course, but what they now recognise is that the low-carbon economy is the future. It is the responsibility of every government to ensure that everyone can benefit from these opportunities. That is why we, South Australia, will lead on renewable energy, on global warming initiatives and will drive—

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: The minister has the floor.

The Hon. I.K. HUNTER: —the debate on renewable energy and climate change in this country because we have, sadly, a federal government presently which is unable or will not enter into such a debate. We will gladly join with our sister states—lead as a state ourselves, but lead other states together on the renewable energy targets that we can set until we see a new Labor government elected to the commonwealth parliament.

PRIVATE HOSPITAL ADMISSIONS

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Health, questions relating to the use of private hospitals.

Leave granted.

The Hon. J.A. DARLEY: I was recently contacted by a constituent who raised issues of public hospital patients being admitted into a private hospital. I was advised that, due to a lack of beds, public patients were being admitted to private hospitals, with the government paying the private hospitals for these admissions. Can the minister advise if this practice occurs and, if so, can the minister advise how many cases in the past year this has occurred and the total cost to the government?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:01): I thank the Hon. John Darley for his most important question directed to the Minister for Health in the other place. I undertake to take that question to the Minister for Health and bring back a response on his behalf.

PRIVATE HOSPITAL ADMISSIONS

The Hon. K.L. VINCENT (15:01): I have a supplementary question. Can the minister also advise, if the patients were taken to a private hospital, how they were transported there from the public hospital and if they were supervised during that trip?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:01): Mr President, it is probably for you to determine, but I am not sure that you can make a supplementary out of my answer. It probably would more appropriately be a new question, Mr President.

Members interjecting:

The PRESIDENT: Excuse me; wait a moment, minister. I am the President and I will make the determination.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: In the usual fashion of—

Members interjecting:

The PRESIDENT: Would the honourable minister Maher please allow the—

The Hon. I.K. HUNTER: In the usual fashion of trying to help—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: In the usual fashion of trying to help honourable members, I will take that on notice as well and seek a response for the honourable member.

LEIGH CREEK

The Hon. J.S.L. DAWKINS (15:02): My question is to the Minister for Manufacturing and Innovation. I refer to the minister's ministerial statement in this house on Tuesday regarding the future of Leigh Creek. Will the minister advise what additional resources will be provided to the Outback Communities Authority (OCA) to manage the Leigh Creek community, and what level of local OCA staffing will be based in Leigh Creek?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:02): I thank the honourable member for his question. Of new funding over the next four years, there will be $18 million towards

Leigh Creek and continuing not just the town services that Alinta has previously provided, the maintenance of things like the swimming pool, the parks, the sporting facilities, but also for refurbishment of housing for Leigh Creek. As I mentioned earlier in the week, part of the housing will be refurbished and part of it will be kept for potential future use. There will be a three-year program to demolish housing that is no longer required, but there will be a review after each year to see what the future needs are. The Outback Communities Authority, which I met with at Leigh Creek when I was there on Monday, will be provided similar funding to what it cost Alinta to run those town services.

We want to make sure that we give Leigh Creek every opportunity to prosper. We recognise that it is relied on, as I said earlier in the week, not just by those 200 or so who are still living in the town of Leigh Creek but about another 500 from surrounding communities: Copley, Lyndhurst, Nepabunna and Iga Warta areas. One thing we wanted to avoid as best as possible are services running down and people leaving and then more services running down, and that just spiralling and not giving it a chance to be the most that the community possibly can be.

Last year, we made a decision that we would guarantee the government services—that is the ones the government provided—that is, the police, the hospital and the school services until 2018, which is when Alinta had responsibilities to keep providing the town services. As I outlined earlier this week, we are in negotiations with Alinta looking to take over that earlier than mid-2018, and have the OCA run those services. They will be provided with funding to do that. We recognise that there are, I think, somewhere above 30 localities that the OCA has responsibility for; they do a good job in areas where it is difficult to provide these sorts of municipal services.

We recognise that there is that need for funding to keep those services going in Leigh Creek, to make sure that in the medium term Leigh Creek has every opportunity to continue to look to some of the opportunities that are there: education opportunities, opportunities to use the airstrip, tourism opportunities in those months that tourism occurs and, of course, the opportunities that are there as a regional service centre.

LEIGH CREEK

The Hon. J.S.L. DAWKINS (15:05): A supplementary: first, could the minister clarify what proportion of the $18 million is actually going to OCA, and, secondly, could he answer my original question about the level of local OCA staffing in Leigh Creek?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:05): I have the overall figure of about $18 million. Regarding the exact amount being spent in the different areas, I am happy to go away and have a look at that and bring back a response. However, as I outlined, it is intended that the services that have been running will continue to run, so it will be commensurate with what it costs Alinta at the moment to provide the services and of course commensurate also with the number of people there. Of course it will change depending on the population, but I will certainly go away and see if there is more detail on projections over the next few years for the honourable member.

LEIGH CREEK

The Hon. J.S.L. DAWKINS (15:06): Thank you. I have another supplementary. I just want to clarify this: the minister refers to $18 million, but I gather that there is not $18 million going to OCA. That is what I am trying to find out, what the funding is to OCA.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:06): It is $18 million over the next four years for Leigh Creek. Certainly, part of that will be for those town services, the municipal services, that will be managed by OCA, and part of that will be for refurbishing of housing stock in the community. In terms of the exact split between those, or as best as can be ascertained, because we do not know what the population is going to be over the next four years, I will go back and look at what those estimates are and bring back an answer for the honourable member.

The Hon. J.S.L. Dawkins: And local staffing levels?

The Hon. K.J. MAHER: It will be commensurate with what is needed to provide those services. I know that the state government will be putting a transition manager into the town, but for the fine-grained details of what we have got I will bring back an answer for the honourable member.

LEIGH CREEK

The Hon. J.S.L. DAWKINS (15:07): A final supplementary: will the transition manager be employed by OCA or by some other agency of government?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:07): That will be a state government employee in addition to whatever is required for the OCA.

CADELL TRAINING CENTRE

The Hon. G.E. GAGO (15:07): My question is to the Minister for Correctional Services. Can the minister advise the council about the driving school program that runs at the Cadell Training Centre?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:08): I thank the honourable member for her important question. The Cadell Training Centre is an incredibly important one with regard to correctional services in this state. It is located about 180 kilometres north-east of Adelaide on the River Murray, about 10 kilometres from Morgan. It is situated on approximately 1,600 hectares, and was opened back in 1960. Cadell accommodates low security prisoners in cell block, cottage and dormitory-style accommodation. Prisoners at Cadell are either undertaking education or employed within the Prison Industries program, which boasts industries in dairy, citrus and olive growing.

A program I was very happy to hear about recently—which was of particular interest to me in my capacity as Minister for Road Safety—was the driving school program, which is run by prisoners for prisoners with the oversight of an education coordinator. The driving school program began back in the 1980s, when a social worker instigated the program with the donation of an old HR Holden sedan from Offenders Aid and Rehabilitation Services, otherwise known as OARS.

Prisoners were able to sit their theory test and obtain their car licence. A prisoner would tutor the prisoners to learn to drive and a SAPOL officer would assess the trainee prisoner for both theory and car licence. The program today has evolved to provide prisoners the opportunity to obtain their car licence (their C class licence), their truck licence, their high-risk licence (like a forklift licence) or a backhoe licence (LB class) in conjunction with Regional Transport Training Services. Cadell now has a fleet car designated for the driving school program with a left-hand brake fitted. The car is currently being used for approximately 40 hours per week for driver training lessons with prisoners.

The program also assists prisoners to work through any barriers they may experience when obtaining a licence. Barriers which often exist within the offender prisoner population include the requirement to consider fines and disqualifications with the Fines Enforcement and Recovery Unit and the Department of Planning, Transport and Infrastructure. We often take little things for granted and barriers such as identification have to be considered when obtaining your licence. Quite often the education coordinator will have to start the process of obtaining a birth certificate and Medicare card for prisoners so they can commence the program.

The program aims to work through such barriers with prisoners. The program assists prisoners through the theory component of testing and also the practical driver training. Prisoners drive a car with a licensed instructor for up to 60 hours, and 15 hours of night driving on some 1,600 hectares, that I referred to earlier. Prisoners are able to progress to a truck licence if they have a full licence for two years. Currently, two prisoners per month go through this program. The forklift licence program is highly successful, with up to seven prisoners each month engaged in the program. An assessor from Regional Transport Training Services comes in to conduct the forklift training and assessment.

The backhoe licence program is very popular and runs in conjunction with the Prison Industries irrigation work. Since October last year, there have been 60 successful theory licence

tests, four car assessments for C class licences, nine backhoe (LB) licences, 17 high-risk forklift licences, three perception tests and five truck (MR) licences obtained. What this all amounts to is an example of the incredible work that DCS is doing in regard to providing those people who find themselves in the state's custody with skills that they can then use once they get out.

This is all about giving people an opportunity so that, once they have served their time, once they've done justice to those who have been wronged through being in prison, and that once they do get out they can make a positive contribution toward society rather than a negative one. We want to give these people basic skills, we want to reduce their likelihood of reoffending so that we have a safer community and, of course, we can save the taxpayer money in the process, but we are also giving these people an opportunity which they may not have otherwise had prior to coming into the correctional services system, which is an important element of the social justice commitment that this government has towards giving people a second chance.

EMPLOYMENT FIGURES

The Hon. R.L. BROKENSHIRE (15:12): I seek leave to make a brief explanation before asking the Minister for Employment a question regarding jobs and future jobs.

Leave granted.

The Hon. R.L. BROKENSHIRE: This week in my mail at home I received what always is a very well-researched document called *Trends* that is sponsored by BankSA. It is a bulletin of economic development in South Australia. It is very alarming and concerning as a South Australian member of parliament and, indeed, a South Australian citizen, to look at chart 10 which talks about trend unemployment rate.

When you have a look at the trend unemployment rate in South Australia compared to the national average for Australia, since at least February 2013 we have been well above the national average, and in fact as recently as February 2016 it shows South Australia sitting at about 7.25 per cent to the national average of about 5.7 per cent. Finally, in the commentary of this trend unemployment rate it says:

> The South Australian economy continues to suffer from the earlier strength in Australian interest rates and exchange rates. It has therefore benefited less than state economies with a similar sectoral make up—such as Victoria.

It says, that said, that the big phase of weaknesses in the local economy was probably in the first half of 2015, and acknowledges a slight pick up at around that time. But, the concerning factor is that it now says, subsequent to that, it is again easing. My question to the minister is: does the minister acknowledge that his government has failed South Australians looking for employment for successive years, going back to at least 2013, and will the minister guarantee that those high unemployment figures in South Australia will improve in the future year or two to give some confidence to those desperately seeking a job?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:15): I thank the honourable member for his question and his interest in matters relating to the South Australian economy. I will have to rely on his word that he is quoting the figures correctly from there. The trend unemployment rate for South Australia , reported in April (the last month—these figures are released monthly on the third Thursday of every month), was 7.0 per cent. That has been steady for quite some time at around that mark. The often quoted unemployment rate is the seasonally adjusted or headline unemployment rate. After that same month it was at 6.8 per cent.

That headline unemployment rate in South Australia declined that month from 7.1 per cent to 6.8 per cent. That is pleasing, and I note that in that month it was the second strongest decline of any of the mainland states. The headline unemployment rate has declined by 1.1 per cent over the course of the current financial year. While that is heading in the right direction, no doubt there are great challenges we face in South Australia.

We are facing a downturn in manufacturing. We are facing the closure of Holden by the end of next year, an industry that has served this state very well; frankly, an area we have been very

good at, and we should be very proud of our traditional manufacturing in South Australia. However, due to decisions of the current federal government, that will close by the end of 2017.

States like Victoria are facing similar things in those traditional manufacturing areas. Other states, like Western Australia and Victoria, with the global commodity prices and where we are in the resources cycle, are facing significant challenges in those areas. We face them here as well. It is a difficult and challenging situation in which we find ourselves in South Australia, both with the decline in traditional manufacturing and where we find ourselves in the resources sector. We recognise these challenges, and there are things the government has to do in conjunction with industry and with the community.

We have 10 economic priorities, and we are looking at supporting industries that have the capacity to grow and have the capacity to provide jobs. We are working with industry in South Australia to make sure those areas that are growing, those areas that have shown potential to grow, continue to be supported. An area the honourable member will be familiar with is food manufacturing. I know the honourable member talks to me regularly about areas that have an ability to grow, and I appreciate him putting me in contact with various producers in this sector. We certainly are backing food manufacturing. We have a number of grant programs that invest in companies that are involved in food manufacturing. We have a desire to keep supporting food manufacturing as it is an area of the economy that continues to grow. Year on year, for 17 years in a row, food manufacturing—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: Always somebody else's fault.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order! Will the Minister for the Environment cease immediately? If you have a question, do it as a supplementary and not as an interjection. Minister, have you finished?

The Hon. K.J. MAHER: No. We note that particular area and that is certainly one of our 10 economic priorities: premium food and wine exported to the world. We will look to continue to do what we can in that area to support those who are making great headway. The trade minister, minister Hamilton Smith, who is a minister, unlike anyone else opposite has ever been, unlike everyone else currently opposite has ever been. He was a minister some time ago and he is a minister again, and he is leading trade delegations to various parts of the world.

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: We have the Leader of the Opposition interjecting again. He is widely suggested and tipped to take on the trade minister as the Liberal candidate for Waite. If he has the guts and determination to do that, I am sure he will do that. If he hasn't, I am sure he will continue doing what he is doing and being the Leader of the Opposition here for now—until the Hon. Andrew McLachlan has served his time and can take over that role.

Certainly, food and wine is an area we know is growing and has the capacity to grow further. We know that as some of our near neighbours in areas like China and India have rising incomes and a rising middle class they are importing more premium food from other places in the world, and we know that South Australia stands to benefit from that. We know that there are other areas. We know that there are other areas that we are concentrating on.

The defence industry is a great case in point. We know that it wasn't so long ago that the submarine contract—the biggest ever naval contract awarded in this country—was going to Japan. Everyone recognises that; even those on the other side know that that was what was happening. It took a concerted campaign and a concerted effort to save that going overseas, basically exporting jobs to another country.

It has made sure that that contract is now here, but we will be building submarines based in Adelaide. It was a fantastic campaign that we had to do that here, so we know that there will be jobs in Australia. These sorts of projects are at the heart of this transition. The federal government talks about the transition that the Australian economy is undergoing. We are the epicentre of that in South

Australia with the decline of traditional manufacturing. We stand in good stead to have these jobs of the future.

Bills

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Committee Stage

In committee.

Clauses 1 to 7 passed.

New clause 7A.

The Hon. A.L. McLACHLAN: I move:

Amendment No 1 [McLachlan–1]—

Page 6, after line 15—After clause 7 insert:

7A—Insertion of section 62A

After section 62 insert:

62A—Attorney-General must consent to minor being charged with offence against this Division

(1) A minor may not be charged with an offence against any provision of this Division unless the Attorney-General consents to the prosecution by notice in writing.

(2) In this section—

minor means a person under the age of 18 years.

This amendment is proposed by the Liberal Party based on a submission provided to the Attorney-General by the Law Society of South Australia. It relates to another bill that is currently for consideration by the chamber, the Summary Offences (Filming and Sexting Offences) Amendment Bill. The Law Society suggested that there be an extra protection to ensure that young people were not unnecessarily charged with serious offences for activities that can impact their life thereafter due to a moment of foolishness.

The Hon. P. MALINAUSKAS: I rise to say that this amendment, which proposes to amend part 3, division 11A of the Criminal Law Consolidation Act 1935, containing the child exploitation material and related offences, is opposed.

First of all, these provisions are not being amended by the portfolio bill. The amendment seeks to provide that a person under the age of 18 years can only be charged with child exploitation material offences with the consent of the Attorney-General. This amendment is inspired by a submission of the Law Society on another bill. The Law Society argues that it is appropriate to require the consent of the Attorney-General to prosecute a person under the age of the 18 years with child exploitation material offences, as such offences are serious and can lead to registration on the child sex offenders register.

With respect to both the Law Society and the Hon. Andrew McLachlan, this amendment is misconceived and both unnecessary and undesirable. It is not for any Attorney-General to seek to interfere in the exercise of police and prosecutional direction, whether in relation to charging child exploitation offences, or other offences. It is simply not a role for the Attorney-General to get involved in charging decisions, and it is not clear what value this would add to the already independent and robust process of charging and prosecution.

There are also individuals under the age of 18 whose offending is of such a serious nature that they should be properly charged with the child exploitation material offence. Police should not be prohibited from charging a young person with child exploitation material offences, as was suggested by the honourable member in his explanation for the amendment. If the circumstances of the offending warrant such a charge, such serious cases would properly arise.

The criminal justice system relies upon the sensible exercise of discretion by police and prosecutors. There are already special considerations that apply in the prosecution of offenders aged under 18 years. It should also be emphasised that placement on the child sex offenders register in

South Australia is purely discretionary for an individual under 18 years who is convicted of a child exploitation material offence.

There is nothing to indicate that the current system in South Australia is not working in respect of the decision to charge an offender with child exploitation material offences. This is a decision that can, and should be, wholly left to those whose proper roles it is to make those decisions—the prosecuting authorities. They have the expertise to decide such issues. It is unhelpful and unnecessary to seek to involve the Attorney-General or any minister in the exercise of such discretion. Further, it is arbitrary in nature. Why is it that the Attorney-General should be involved in prosecutional decision-making with respect to child exploitation material offences involving young people, but not in relation to murder or sexual assault? These offences also carry serious consequences.

This amendment also ignores the fact that the offence must be proved by the prosecuting authority before a court beyond reasonable doubt, which is surely yet a further check on the exercise of the prosecutional power. Prosecutors prosecute; politicians should not. The government opposes this amendment.

The Hon. M.C. PARNELL: The Greens do not take the technical point with which the minister started his contribution. This is an omnibus bill and, having opened up a range of issues, we don't object to the Liberals putting this so-called unrelated measure in. However, that does not mean we are going to support it, because I do agree with the minister and what he said in relation to the appropriate role of prosecuting authorities compared with the Attorney-General.

Issues of the separation of powers do arise. Where we do agree with the Liberals is that decisions to prosecute in cases such as this must be taken very carefully and have regard to all of the situation, all of the circumstances and any unintended consequences. But at the end of the day, that judgement call, we believe, should be made by prosecuting authorities. It should not be made by a politician, albeit the first law officer, so the Greens will not be supporting this amendment.

The Hon. J.A. DARLEY: I indicate that I will be opposing this amendment.

The Hon. D.G.E. HOOD: I think that means—we will be as well, is what I was trying to say. I think the amendment has merit, to be frank, but I am persuaded by the government's position to remove the Attorney-General from this process.

The Hon. A.L. McLACHLAN: Whilst we pursue the amendment, I see where the numbers lie so I will not be calling a division.

New clause negatived.

Clauses 8 to 18 passed.

Clause 19.

The Hon. A.L. McLACHLAN: The Liberal opposition opposes this clause and seeks to delete part 7. It is consistent with other amendments coming, Nos 4 and 5, which, consistent with my second reading speech, is to keep the existing provisions of the law regarding access to court materials as they are.

The Hon. P. MALINAUSKAS: Section 54 of the District Court Act 1991, section 52 of the Magistrates Court Act 1991 and section 131 of the Supreme Court Act 1935 presently draw a distinction between material in the court file that is of a public nature and material in the court file that has not and indeed may never enter the public domain. Such material can often be of a highly sensitive and personal nature.

The portfolio bill draws on the distinction and its effect is that the court will not need to contact the parties in the proceedings about a third party seeking access to material that has entered the public domain, but the bill proposes that the court will have to notify the parties in the proceedings about a third party seeking to access material in the court file that has not and may never enter the public domain. This will enable the parties in the proceedings to make submissions, if they wish, about whether inspection should be permitted.

The change was originally requested by the DPP and is supported by the Legal Services Commission and the Law Society. It is consistent with the recent changes in the Statutes Amendment (Vulnerable Witnesses) Act 2015, which strengthened the protection given to certain sensitive material in criminal cases involving vulnerable victims.

Since the introduction of this bill, the Attorney-General has discussed the issue with the DPP and the heads of jurisdiction who are working to resolve the concerns raised by the director. Given this, the government will not oppose these amendments.

The Hon. D.G.E. HOOD: It matters not, given where the numbers lie, but just for the record Family First had intended to support the amendment.

The Hon. M.C. PARNELL: Given the government is not opposing the amendment I will put on the record that the Greens' position on this was to listen intently to the debate and to be persuaded by the oratory of members participating, but we were leaning towards supporting the Liberal amendment; in other words, removing the three sections that relate to them. This one relates to the District Court, there is one relating to the Magistrates Court, and one to the Supreme Court.

I want to put on the record my acknowledgement of the submissions that were made to me: there were three. Unsurprisingly, there were two from media outlets. News Corporation and Free TV Australia saw the government's bill as an unwarranted barrier to their access to documents held by the judiciary, being an arm of government, and they encouraged us to oppose these sections and to support the Liberal amendment.

I also acknowledge the submission of the Law Society, and I think that their submission was probably driven a fair bit by their members' representation of defendants, who were the ones who, more than likely, were to be embarrassed by the disclosure of material on the court file. It is something we do not talk about often here, but it is something that is well known, and that is that part of the process of having a judiciary that is open to scrutiny by the public and by the media is that that can be in many ways part of the punishment, in many cases, in criminal proceedings, and courts actually will take into account adverse publicity that has already been received when they are imposing sentences.

The threshold question is whether we should make it harder for members of the public, in general, and the media in particular, to access material that has been presented in court. The Greens' position is that the case was not made for changing the status quo. It does not mean that we are hostile to any future attempts, but the government will need to do a lot more to convince us, rather than just presenting a bill. We have had the opportunity for briefings, but there has not been a great deal of evidence presented that warrants this change, so we are not proposing to support those clauses of the bill. The government has seen that not only do the numbers not lie their way but that insufficient debate has been had and it has not actually made its own case, therefore it is not vigorously defending its own bill.

The Hon. J.A. DARLEY: Thank you, Mr Chairman. For the record, I will be supporting the deletion of this clause.

Clause deleted.

Clauses 20 and 21 passed.

Clause 22.

The Hon. K.L. VINCENT: I have some comments and questions specifically in relation to the new definition of 'complex communication needs'. Complex communication needs is, of course, something that has been brought up by the vulnerable witnesses act, a piece of legislation in which Dignity for Disability has been very much involved and interested in through our work on the Disability Justice Plan. Certainly, we think it is very important that people with a variety of support needs have those needs met so they can tell their story in court.

For the record, just so that we are clear, I wonder if the minister could place some information on the record. I will ask the questions and then if he needs me to repeat any of them, I would be happy to do so. My questions are:

1. Why do we need a definition of 'complex communication needs', given that it was not clearly defined when the vulnerable witnesses act first passed this parliament?

2. What does the definition cover and not cover in a practical sense?

3. For example, would the use of Australian sign language or Auslan, because of deafness, be considered a complex communication need or would that be considered mere translation?

4. Where a person might need to use Auslan, or a method of sign language, for reasons other than deafness, for example, if they had maybe autism or a developmental issue, but something other than deafness, how is that defined? Would that be defined as a complex communication needs support?

The Hon. P. MALINAUSKAS: I am very grateful for these questions from the Hon. Kelly Vincent and highlight her close and helpful involvement in this very important area of law. In the original drafting of the Statutes Amendment (Vulnerable Witnesses) Act 2015, a decision was taken that the term 'complex communication needs' for when a vulnerable party is entitled to communication assistance, if reasonably available, should not be expressly defined in the act because of the complexity and subtlety of that term and what may or may not be covered by it.

It was thought a definition may be overly prescriptive about the infinite variety of conditions and situations that may amount to complex communication needs. This view was based in large part on the views expressed in the extensive consultation process, including with the disability sector. The Attorney-General's second reading speech sought to offer some assistance. The term should be wider than an intellectual disability or a cognitive impairment but should not be too expansive or broad as to unduly diminish the concept and its workability.

It was to be a complex communication need and not a mere communication need. For example, a mild stutter would not amount to a complex communication need. In the discussions with interested parties leading up to the intended implementation of the Statutes Amendment (Vulnerable Witnesses) Act 2015 on 1 July 2016, a different view has emerged. The Chief Judge and others stated that a court will be assisted in approaching its new powers and role under the act with at least some definition of complex communication needs. This will assist in working out what is a mere communication need and what is a complex communication need.

The Aboriginal Legal Rights Movement also flagged this point. South Australia Police highlight that they will be assisted in working out when to secure a communication partner for a vulnerable suspect, witness or victim with complex communication needs, if 'complex communication needs' is explicitly defined. This is especially as the requirement for SAPOL to notify a communication partner, if reasonably available, at a police station will be included in the forthcoming regulations to accompany the new act.

On further reflection, it was thought preferable that the term 'complex communication needs' be expressly defined in the Evidence Act 1929, with supplementary provision in the forthcoming regulations for a consistent definition in the context of outside court. The portfolio bill provides that for the purposes of the new Statutes Amendment (Vulnerable Witnesses) Act, a witness who is to give oral evidence in proceedings will be taken to have complex communication needs if the witness's ability to give the evidence is significantly affected by a difficulty to communicate effectively with the court, whether the communication is difficulty is temporary or permanent, and whether caused by disability, illness, injury or some other cause.

However, the witness who is to give oral evidence in proceedings whose native language is not English, will not be taken to have complex communication needs merely because the witness is not reasonably fluent in English. Although the witness may be entitled to give the evidence through an interpreter under section 14 of the Evidence Act 1929.

To provide some context, I have an example of a complex communication need. The term 'complex communication need' could cover a wide range of situations. I repeat: it is not and is not intended to be a prescriptive term. Communication involves speaking, hearing, listening, understanding, social skills, reading, writing, and using voice. People who have significant difficulty

with any aspect of communication—for example, as a result of disability or age—could be considered to have complex communication needs.

Communication impairment can be related to a disabling condition or have no known cause. It could include a person with autism disorder who has limited verbal skills. Another example might be a person who is suffering the effects of foetal alcohol spectrum disorder. The mere fact that the person may not speak English would not amount to complex communication needs, but combining this with the effects of FASD could be. The term 'complex communication needs' would not include nervousness, excitability, a mild stutter or problems in communication due to intoxication through drink or drugs. It will have to be determined on a case-by-case basis. The impact of communication impairment can involve difficulties that can be temporary or last a lifetime.

Cognitive impairment definition: the term 'cognitive impairment' is already defined in section 5 of the Statutes Amendment (Vulnerable Witnesses) Act 2015. That definition draws on the extensive consultation undertaken as part of the Disability Justice Plan and the Statutes Amendment (Vulnerable Witnesses) Act 2015. The definition in the portfolio bill is identical to what is in the Statutes Amendment (Vulnerable Witnesses) Act. Both the Statutes Amendment (Vulnerable Witnesses) Act and the bill provide examples of what may amount to a cognitive impairment. The act and the bill explain that a cognitive impairment includes:

(a) a developmental disability (including, for example, intellectual disability, Down syndrome, cerebral palsy or an autistic spectrum disorder);

(b) an acquired disability as a result of illness or injury (including, for example, dementia, a traumatic brain injury or a neurological disorder);

(c) a mental illness.

It is recognised that comorbidity is particularly prevalent in prison populations and when cognitive impairment and mental ill health present together. Mental ill health is often linked to a diagnosis, most often by a psychiatrist, of a behavioural or mental pattern that may cause suffering or a poor ability to function in life. The presence of both a cognitive impairment and mental ill health would most likely impact functioning communication and a witness would be considered to have complex communicational needs.

What is the case for Auslan interpreters? Auslan is a recognised language and Auslan interpreters used in court could be accredited by the National Accreditation Authority for Translators and Interpreters. Qualified Auslan interpreters are used in court for deaf people and would also be used for clients who are deaf or blind. There is already a number of organisations who supply Auslan interpreters in court, including Deaf Can: Do. A communication partner does not have the skills or the training to do Auslan interpreting. To become fluent in Auslan would take about two years and approximately three to six years to become an interpreter. Auslan would generally be regarded as akin to a language interpreter but some individuals who use Auslan may also have some other additional communication impairments such as autism and that could also amount to complex communicational needs.

The Hon. K.L. VINCENT: I seek some further clarification on a few points. First, the minister used the words, I think, 'some other cause', so a person might need a communication assistant for some other cause other than disability, and I appreciate that. He mentioned that it would not cover nervousness or irritability, but could it potentially cover, for example, someone who was not just nervous but perhaps had ceased speaking or had limited verbal capacity to talk about a particular incident following severe trauma?

The Hon. P. MALINAUSKAS: I believe the answer to that question is simply yes.

The Hon. K.L. VINCENT: A stress disorder, PTSD for example, could well be covered.

The Hon. P. MALINAUSKAS: I understand that PTSD was contemplated in the context of the development of the bill but, of course, all of this would have to be looked at on a case-by-case basis to ascertain whether or not that is the case.

The Hon. K.L. VINCENT: The minister has done a good job of explaining this but I just want to make sure that we are clear, so I appreciate him giving me the time. Can we assume then that where a person is strictly deaf, and that is their only condition relating to their communication, their

use of an Auslan interpreter would not be deemed complex communication needs, it would be a mere translation job. However, where somebody might use sign language or something very similar due to autism, for example, that might be a little more complex and may be defined as complex communication needs. Is that correct?

The Hon. P. MALINAUSKAS: I am advised that the answer to that question is, in essence, yes. There is a longer answer but to put it simply I am advised that the answer to your question is yes.

Clause passed.

Clause 23 passed.

New clause 23A.

The Hon. A.L. McLACHLAN: I move:

Amendment No 3 [McLachlan–1]—

Page 10, after line 12—After clause 23 insert:

23A—Substitution of section 11

Section 11—delete the section and substitute:

11—Duration of intervention orders

(1) A final intervention order remains in force—

(a) for a period of 5 years or such lesser period as may be fixed by the Court—

(i) that confirms the interim intervention order as a final intervention order under section 23; or

(ii) that issues the final intervention order under section 23 in substitution for an interim intervention order,

(as the case may be); or

(b) until it is revoked in accordance with this Act,

whichever occurs first.

(2) An interim intervention order remains in force—

(a) until confirmed by the Court under section 23; or

(b) until it is revoked in accordance with this Act,

whichever occurs first.

(3) Subject to subsection (4), this section applies to an intervention order—

(a) that was issued before or after the commencement of subsection (1); or

(b) that was continued in force under clause 37 of Schedule 1; or

(c) that was issued pursuant to the *Bail Act 1985*, the *Criminal Law (Sentencing) Act 1988*, the *Youth Court Act 1993* or any other Act.

(4) An intervention order issued more than 5 years prior to the commencement of this section will, by force of this subsection, be taken to be revoked on the day falling on the 6 month anniversary of the commencement of this section (however nothing in this subsection prevents a person from applying for another intervention order in relation to the same defendant).

This amendment is proposed by the Liberal Party in response to commentary that appeared in the Courts Administration Authority's annual report 2014-15. I will read an extract from page 20, under the main heading of 'Recommended Changes to Legislation', subsection 'Section 11: Intervention Orders (Prevention of Abuse) Act 2009', which says:

The Intervention Orders (Prevention of Abuse) Act 2009 (the Act) commenced on 9 December 2011. Since then there have been more than 7,000 intervention orders confirmed.

Section 11 of the Act provides that an intervention order is ongoing and continues in force until it is revoked. Accordingly, Section 11 does not allow an issuing authority to fix a date for expiration of an intervention order. Given

the high volumes of confirmed intervention orders since commencement of the Act, and that only a very small percentage (approximately 1.6 per cent) of orders are revoked, over time this is likely to result in a substantial number of intervention orders continuing in force which may no longer be necessary, potentially criminalising otherwise lawful behaviour.

The Child Sex Offenders Registration Act 2006 specifies that a control order under that Act remains in force for a period of five years or such lesser period as specified in the order. Given that those orders are for protection, by analogy it might be appropriate to have a parallel clause in the legislation governing protection in the area of domestic violence. Accordingly, it would be desirable that there be an amendment to the Intervention Orders (Prevention of Abuse) Act 2009 to allow for intervention orders to lapse after an appropriate period of time.

The amendment proposed in my name is in response to that commentary, which appears in that annual report, and has been crafted in accordance with the indications I have set out.

I do not propose to debate it at great length; the provision is simple, and provides for those orders to remain in force for a period five years or such lesser period. It has a number of subsequent provisions which relate to transition. I ask members in the chamber to indicate their support or otherwise, so that I can make a decision on whether to pursue the amendments.

The Hon. P. MALINAUSKAS: The proposed amendment will delete section 11 of the Intervention Orders (Prevention of Abuse) Act 2009 and replace it with a new section 11 headed 'Duration of intervention orders'. The effect of the amendment is to impose a fixed term on final intervention orders so that an intervention order only remains in force for a period of five years or such lesser period as may be fixed by the court. Subclause (2) further provides that an interim intervention order remains in force until it is confirmed by the court under section 23 or until it is revoked.

Under the current legislation, the intervention order is ongoing and continues in force until it is revoked. This policy position was adopted by the government and welcomed by industry groups, because no court can predict, when making an order restraining a defendant from being violent, what may happen when the defendant is no longer subject to that restraint.

Whilst there is an argument that an order may no longer be necessary because of the passage of time, there is an equal argument that, due to the nature of domestic violence, there may never be a point in time where a protected person would feel safe from further abuse from a defendant. The current law places the onus on the defendant to establish in an application to revoke the order that the victim is no longer at risk of abuse rather than requiring a victim to come back to court to show they still require protection.

The government is currently drafting a discussion paper to seek community views on the Domestic Violence Disclosure Scheme and other potential areas of law reform. A discussion paper has yet to be released because information is being collated from multiple government agencies in order to develop a paper that not only seeks community views on law reform but also paints an accurate and comprehensive picture of domestic violence in South Australia. This discussion paper needs to be done right, not quickly.

The Hon. M.C. PARNELL: The Greens' position on this amendment very much tries to go back to first principles and that is to pose the question: what are these intervention orders supposed to be for anyway? When you approach it from that point of view, we can see that they are a mechanism for keeping women safe—and I say that advisedly, I know it can apply to men as well but overwhelmingly we are talking about keeping women safe.

Having said that, you can imagine situations where an injustice is caused by something lasting forever, but similarly, and I think this is what the minister was alluding to, you could have women who are getting to the four year, the 4½ year, the four years 11 months situation with levels of anxiety increasing. They know that their ex knows that the intervention order is about to expire and they are going to have to go back to court and maybe they will have to re-agitate the reason for the intervention order being necessary. So you can also imagine a great deal of harm and hurt caused by a five-year expiration period.

What gives me some comfort is what the minister said just now and that is that they recognise that a broader community debate is required about the future of intervention orders, how long they should last, whether they are on a searchable register, whether any busybody can go along and find

out about it. I look forward to that process and I think it will be an important community process. I guess we also have to bear in mind, and I think this goes to part of the Liberals' motivation for putting this forward, that an intervention order is not a criminal conviction. It relates to somebody who has convinced a court of law that there is a need for protection, but it does not require conviction for assault, and it does not actually require an offence to have been committed.

Whilst it has criminal consequences, it is not strictly a part of the criminal law. The criminal consequence is breaching an intervention order but you do not need to beyond reasonable doubt have committed a crime before an intervention order is put in place; at least that is my understanding of how it works.

I think that the right thing for this parliament to do now is not to support this amendment, to wait for the discussion paper and for the community conversation to occur, and then I think we will be in a better position to weigh up the pros and cons of time limiting these intervention orders. But for now, the Greens' position is that the cons outweigh the pros and we can see more harm than good being done in supporting this amendment now. We think it's premature and so we will not be supporting it.

The Hon. D.G.E. HOOD: I think the Hon. Mr Parnell has outlined it quite eloquently, and I think if you swapped the word 'Greens' in his explanation for 'Family First' we would say something very similar. I indicated to my colleague the Hon. Mr McLachlan when he came to see me yesterday that we probably would not support this amendment and that is our final position.

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

The Hon. K.L. VINCENT: For the record, I have given this some consideration and I think the Hon. Mr Parnell has done well in terms of outlining the issues. I think that, given the minister has ensured that there is going to be a consultation process around what intervention orders should look like, the best thing, of course, is to listen to those who have had experiences with that procedure and, in respect to them, I would like to wait and to have that conversation before we put this in place, and certainly, because the nature of the incident which probably led to an intervention order being in place is likely to have been very traumatic, I would hate to do anything to make the experience any more anxiety inducing than it has to be. I think the Hon. Mr Parnell has outlined well that having a specific expiry date could well increase the anxiety when it comes up, and so I am not inclined to support it at this time but am happy to keep the conversation alive.

The Hon. A.L. McLACHLAN: I acknowledge and appreciate the comments of honourable members. Obviously, I will not be calling 'division'; the numbers against this amendment are clear. I would reiterate that the Liberal Party puts forward this amendment, having regard to the annual report, but also we probably have slightly less faith in the government in its going forward conversation. I note the comments of certain honourable members in relation to their decision that they may support an amendment of this nature going forward, depending on the conversation the government has with the community. We place probably less faith in that.

I also leave the chamber with this thought; that is, as we stand at the moment, with intervention orders two standards apply to the community: one is intervention orders, and there are certain circumstances surrounding those, and we have a different standard in relation to child sex offenders. I would argue that that is inconsistent at this time, and it is appropriate that the chamber acts in relation to it now.

If the conversation in relation to intervention orders changes in the future, so be it, and if there is a pressing case the Liberal Party and many of its members, particularly in this chamber, have a longstanding commitment to solving issues in relation to domestic violence and would obviously look upon any such amendment with kindness. I leave the chamber with that thought, that at the moment we have a dual standard.

New clause negatived.

Clauses 24 to 27 passed.

Clause 28.

The ACTING CHAIR (Hon. J.S.L. Dawkins): I invite the Hon. Mr McLachlan to speak. He does not have to move his amendment. I think that the Hon. Mr McLachlan is advocating for clause 28 to be deleted, and I call him.

The Hon. A.L. McLACHLAN: My comments in relation to clause 19 apply. This follows on from the removal of part 7. It is the view of the Liberal Party that part 12 and part 17 should not proceed on the basis that the law is operating in an appropriate manner at the moment, and the government has not made a sufficient case for the amendments it proposes.

The Hon. P. MALINAUSKAS: We do not oppose Mr McLachlan's proposition.

Clause deleted.

Clauses 29 to 37 passed.

Clause 38.

The ACTING CHAIR (Hon. J.S.L. Dawkins): We now move to the Hon. Mr McLachlan and a similar stance on the deletion of clause 38.

The Hon. A.L. McLACHLAN: That is correct, Mr Acting Chair.

The Hon. P. MALINAUSKAS: We do not oppose Mr McLachlan's proposition.

Clause deleted.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:05): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MENTAL HEALTH (REVIEW) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 May 2016.)

The Hon. R.L. BROKENSHIRE (16:06): This bill was introduced to the House of Assembly back on 2 December 2015 by the Hon. Jack Snelling, at that point in time minister for mental health and substance abuse. The Mental Health Act commenced back in 2010. The act conferred limited powers to make orders for community treatment or inpatient treatment, and section 111 of the act stipulated that a report must be laid before each house within four years of the act's commencement. That four-year period ended on 30 June 2014.

The Office of the Chief Psychiatrist kept and managed a database of the issues and carried out the review, looking at issues identified throughout the first four years of operation and other issues identified through consultation. Based on this review, this bill was introduced with amendments, in correspondence with public feedback and updated developments in international human rights law and mental health legislation from other Australian jurisdictions.

I understand that of the recommendations arising from the review the government endorsed 65, which is 90 per cent. They deferred seven (10 per cent), and they will be considered under the next review. A total of 55 of the 65 endorsed recommendations (85 per cent) were referred on to parliamentary counsel for drafting, 11 per cent were referred to the OCP for attention, and 5 per cent referred to SACAT.

The bill seeks to amend the Mental Health Act 2009, including the Advance Care Directives Act 2013 and the Health Care Act 2008. The Mental Health Act relates to the provision of treatment,

care and rehabilitation of persons with serious mental illness for the purpose of bringing about their recovery. The act also provides protection of the freedom and legal rights of the mentally ill. The government emphasises that it is important for amendments to be made in regard to mental health legislation over time as things progress, in order to effectively address the changing needs and treatment of those with mental illness.

Family First strongly agrees with the government on that point, as I am sure the opposition and all crossbench members do. You, Mr Acting Chair, show a particularly strong interest in mental health, and I commend the Hon. John Dawkins for his genuine and dedicated effort. It is, sadly, a growing problem in modern society, and it is an issue which we have to be acutely aware of and which needs the full attention of government, clinicians and legislators in the parliament.

The overview of the bill amends the language and definitions; it tidies up some of the language and it provides more contemporary definitions in line with community standards; it looks at rights and introduces new rights and clarifies existing rights; it deals with cross-border arrangements; it deals with the functions of the Chief Psychiatrist; administrative or service provision matters are also dealt with; it deals with the Community Visitor Scheme; it deals with the ECT and other prescribed psychiatric treatment; it removes obsolete and discriminatory provisions; it deals with level 1 Community Treatment Orders; it deals with patient assistance requests; and there is also some other major reform.

The five key areas of change are: to extend Community Treatment Orders from 28 to 42 days; it amends patient transport request requirements to allow the South Australian Ambulance Service and the South Australian police to provide medication to a patient in their home; it amends the Community Visitor Scheme to increase facilities and services; it enhances cross-border arrangements and improves options; and, finally, it improves the oversight and operation of ECT (electroconvulsive therapy) as prescribed by psychiatric clinicians for treatment.

The government has advised Family First that the bill proposes to lift previously restrictive clauses in the act to give mental health services and general practitioners greater freedoms to act in the best interests of their patients and provide less inconvenience to them and their families. An example of that is allowing SAAS or SAPOL, as I said, to assist in the administration of a patient's medication at home rather than in a hospital. I strongly commend this particular part of the act.

These days, when you see an ambulance travelling down the road, you will often see a police car behind that ambulance and most of the time that police car will only have one police officer in it. The reason for that is that the other police officer is in the ambulance securing the patient and protecting the paramedics. Often that is because those people with these illnesses have not had their medication or have become quite agitated when police arrived with ambulance officers to take them to hospital. Sometimes they have had really bad experiences and have, at times, been shackled in emergency departments for, sadly, many days. So, this, hopefully, will help to prevent that. If someone does need their medication, if they do need settling down, it is often better for them to have it done in their own environment.

Family First has a very strong interest in mental health. We work with the broad cross-section of mental health advocates and we commend them for the work they do and the contact they have with us, as members of parliament, to educate us on where needs are for mental health patients and mental health as an important and diverse portfolio.

With those comments, I will finish by saying that I note that in the last cabinet reshuffle we now have a separate minister for mental health and drug and alcohol abuse. I think that is a good move. I think it was too much having the Minister for Health also having responsibility for this area. I am enjoying working in my capacity with the new minister, the Hon. Leesa Vlahos. Family First supports the bill. We have had no negative contributions from the sector and we commend the bill that the government has introduced and look forward to its swift passage.

The Hon. K.L. VINCENT (16:15): I would like to take the floor briefly to speak on the Mental Health (Review) Amendment Bill 2015. I will not rehash the changes that this bill has made, as I know a number of speakers have already done this extensively in this place and the other. I thank the government, including the Chief Psychiatrist, Mr Aaron Groves, for the briefings that they gave me on the important issues that this bill does cover.

It is my understanding, as the Dignity for Disability MP, that stakeholders have been pretty comprehensively consulted on these issues, and certainly the communications my office has had have suggested that the mental health community is reasonably satisfied with the content of this bill. At this point I will certainly make a couple of comments about mental health supports in South Australia in general. As members of this place would know, I, along with some other members, have been a long-time advocate for improved mental health services, including particular services for people with a diagnosis of borderline personality disorder, and will continue to be so while this state continues to lag behind in the services that it can and must provide.

It is time to provide a resourced, stand-alone service in this state for people who have already suffered too much and too long with a very misunderstood and maligned condition. I would also like to note that we are also concerned about the loss of funding to many smaller community mental health support services in this state. The cynic in me wants to say that it is easier to measure, or to get a news story, about a new mental health bed or a new ward opening, but it is not so easy to measure or get a news story up about a person who might have gone to a choir with people with the same mental health condition and had some benefit out of that. That does not mean that that person has not reaped the same benefits, and I think we need to focus more and more on providing supports for positive mental health in community and in home, so that people can go about living their lives with their mental health condition, rather than having to take as much time out to go to hospital.

We are also concerned in Dignity for Disability about the loss of funding to the Intensive Home Based Support Services. This was a great service that has recently lost its funding at the federal level, and it is my understanding that the state government has no intention to step in and fund it. This is very disappointing for many reasons, one of which is that the literature that I have read clearly indicates that, on average, the IHBSS program shortens hospital stays by some 10 days, I think the figure was. It is quite a short-sighted decision, because there is a lot of money to be saved, as well as an improved quality of life, by shortening the length of stay in hospital.

We have also, of course, been vocal about our desire for the newly appointed Mental Health Commissioner to be someone with some degree of lived experience of mental ill health, and I certainly still believe that that is necessary now and will still be necessary in any future appointments. This is because mental ill health is already so misunderstood that I think it would send a strong message to the community to have someone who comes from that community in that position.

Overall, I would like it noted that mental health continues to be the poor cousin to other parts of our health system. It attracts fewer dollars per patient and does not receive dollars commensurate with mental health's percentage of the disease burden. Disease burden is a technical term, not one of which I am particularly fond. Certainly, it needs to be recognised that money can be saved and that there is quality of life when we respect and recognise that people experiencing mental ill health can be the experts in their own lives. They can recover outside of hospital using a variety of supports which may include hospital at least in part, and mental ill health does not have to be a life sentence the way that it still is for far too many in our community. With those few words, and renewing Dignity for Disability's commitment to addressing the stigma associated with mental health and the lack of attention that it receives at a policy level, we commend the bill to the chamber.

Debate adjourned on motion of Hon. T.T. Ngo.

Personal Explanation

LEIGH CREEK

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:21): I seek leave to make a personal explanation.

Leave granted.

The Hon. K.J. MAHER: Earlier today in question time under intense and relentless questioning from the Hon. John Dawkins about services in Leigh Creek, I gave an answer that indicated that just over $18 million had been allocated over the next four years. I have since been advised that is over the next five years. I wanted to clear that up at the earliest opportunity. I can also

advise the chamber in relation to the other part of the question of the Hon. John Dawkins in terms of how much money was being made available for the Outback Communities Authority to run services in the town that has not yet been determined. It has not been determined which part of the former services that Alinta provided will be provided by various government agencies and which part will be provided by the Outback Communities Authority. However, I can assure the Hon. John Dawkins that the funding required to run those services will be provided to the Outback Communities Authority.

Bills

SUMMARY OFFENCES (FILMING AND SEXTING OFFENCES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 May 2016.)

The Hon. A.L. McLACHLAN (16:22): I rise to speak to the Summary Offences (Filming and Sexting Offences) Amendment Bill. I speak on behalf of my Liberal colleagues. The bill seeks to amend the Summary Offences Act 1953. The bill has been tabled to respond to the modern social practice of sexting between young people. Sexting refers to the sending of sexually explicit photographs or messages typically by mobile phones. It has also been drafted to respond to the higher instances of what has been termed 'revenge pornography' occurring in our community.

Revenge pornography refers to the publication of explicit material depicting someone who has not consented to that publication with the intent of causing them humiliation or embarrassment. The government asserts that instances of revenge porn are becoming more common in our society and often arise when a relationship breaks up and the injured party decides to distribute intimate images to enact revenge.

I note the Women's Legal Service has advised that in respect of this trend, threats involving revenge pornography are common in the context of domestic violence and are often used as a form of blackmail when women attempt to leave such relationships. Under current laws, minors who take, send or receive naked or partially naked photographs, images or videos of themselves or another minor might be at risk of being charged or convicted of child pornography offences. This is because the existing definition of an invasive image excludes police from charging an accused with the offence of distribution of an invasive image where the person depicted is under the age of 16.

The rationale for this provision was so as not to intrude on the Criminal Law Consolidation Act child exploitation offences This is why, on occasions, minors have been charged under child pornography laws for offending conduct of this nature. The aim of this bill is to provide prosecuting authorities with a wider and more appropriate level of offences to deal with these types of situations. The opposition agrees that this will result in charges being laid that better reflect the gravity of the offending conduct. The opposition understands that the proposed amendments will not prohibit the police from charging a young person with a child pornography offence if that is warranted, given the circumstances of a particular case.

I now turn to the technical provisions of the bill. The bill extends the current offence of distributing an invasive image to also apply when the images depict a person under the age of 17. As mentioned previously, if a minor was depicted he or she could only be prosecuted under the child pornography legislation. The new offence of distributing an invasive image of a minor will attract a fine of up to $20,000 or imprisonment for four years. This is a higher penalty than the current penalty for an invasive image depicting an adult, which will remain as a fine of up to $10,000 or imprisonment for two years.

The bill also creates a new offence of threatening to distribute an invasive image or an image obtained from indecent filming. The offence of threatening to distribute an invasive image will apply to both minors and adults. This new threatening offence will attract a penalty of a fine of up to $10,000 or imprisonment for one year. On this point I note that on 26 May an article was published in *The Advertiser* about a case that is currently before the District Court. A guilty plea was entered by the defendant so I will make brief comments but no more than have been divulged in open court and the media.

This case involves a man who took invasive images of a woman on two separate occasions. He pleaded guilty to one count of indecent filming and took to Facebook to threaten the woman that she would 'get what's coming to her'. This case prompted the judge hearing the matter, District Court Chief Judge Muecke, to comment on the use of social media platforms which allow people to engage in 'immoral and even illegal behaviour they would not attempt face to face'.

When I read about this case I took comfort that this bill contains a provision that will criminalise threats to distribute invasive images—sadly, this is needed in our community. I also note that the bill contains provisions that guard against the criminalisation and distribution of innocent images; for example, parents sending photographs of their baby in the bath to family members or friends. It achieves this by excluding from the definition of 'invasive images' those that fall within the standards of morality, decency and propriety generally accepted by reasonable adults in the community: a common-law test.

I note that the government has filed a set of technical amendments which the opposition is minded to support. The amendments have been moved to clarify that a greater penalty applies when an invasive image depicts someone under the age of 17, and to achieve consistency with the Criminal Law Consolidation Act and the offences that relate to child exploitation material under that act. I look forward to the government's submissions in relation to those amendments during the committee stage.

The opposition has also filed two amendments. The first relates to the definition of the term 'breasts'. Clause 5(7) of the bill inserts wording into the act to deal with the filming and distribution of an invasive image. For the purposes of defining invasive images, the bill includes the words 'in the case of a female—the breasts are visible'. It is the view of the opposition that the word 'bare' should be inserted before the word 'breasts' otherwise images of covered breasts would be unintentionally caught under this definition. The opposition believes that this would be out of step with the balance of the section and with the notion of an invasive image warranting criminal sanction. The Attorney-General said he would consider this particular amendment between the houses. We look forward to the minister advising the chamber of the Attorney-General's view on this amendment.

The second amendment that the Liberal opposition is seeking to insert into the act is to delete the definitions contained in section 26B of the act relating to 'broadcasting', 'media organisation' and 'publish'. The opposition proposes, instead, to replace it with a definition of media organisation that mirrors the definition contained in the recently passed Surveillance Devices Act 2016.

It is the opposition's view that the definition contained in the government's bill is out of step with definitions used elsewhere, and does not adequately reflect what constitutes how the media operates in contemporary society. As the opposition previously argued in respect of the Surveillance Devices Act, the definition contained in the bill links media organisations to broadcasting licences, which excludes a number of organisations that are currently operating as a media organisation but would not satisfy this criteria. The opposition believes the proposed amendment would achieve legislative consistency, and accurately reflect how freelance and other contemporary media practices operate in modern society.

In summary, the Liberal opposition hopes that this bill will assist in constraining the trend in our community in relation to sexting, and discouraging the same. With those words, I indicate to the chamber that the Liberal Party will be supporting the second reading of this bill.

The Hon. K.L. VINCENT (16:31): Can I just put a few brief words on the record on behalf of Dignity for Disability in support of this bill. I start by thanking those members and staff who have taken the time to inform myself and my staff about it. This is a very important issue for the safety of many people, particularly young people. I, like all other members in this place, I am sure, have been shocked and appalled by the apparent increase in the use of the vile practice that has been deemed 'revenge porn'. I think any measure to tackle that, and to punish those who stoop to the level of using those measures, should certainly be welcomed. I also hasten to add that I am concerned—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I am sorry to interrupt the honourable member, but the honourable members behind the lobby ought to be aware that their voices do carry, and the Hon. Kelly Vincent has not the strongest voice in the chamber; so if members could be aware of that I would appreciate it. The Hon. Kelly Vincent.

The Hon. K.L. VINCENT: I once had a drama teacher who described my voice as 'the sound of the wind going through the trees'. That is how I like to think of it, instead of something more negative. It does sometimes have its downfall, so I very much appreciate your protecting my little wind, Mr Acting President.

If I can just catch my train of thought now—I think I was saying that I have also been quite concerned about some commentary, particularly on social media, that did really stoop, I think it is fair to say, to victim blaming. Yes, I think there does need to be more education and awareness for people of all ages, but particularly young people, about the fact that the distribution of the kind of images that we are talking about here should not be done lightly, but also I do not think that these two things need to be mutually exclusive.

We also need to take a stand, as a parliament and as a community, and say, 'That person distributed that image' or 'trusted you to take that image,' in the context of a very particular relationship, be that a romantic relationship or something else, and, 'Just because you are bitter about the way that relationship has ended' or things that have happened within the context of that relationship 'does not under any circumstances give you the right to seek revenge in this violent and despicable way.' As I said, any measure to punish people, but also to send the message that the victims of so-called revenge porn are not automatically to blame here in the way that many people out there would seem to believe. So this is a very important bill and one that we are happy to support.

I also add, though, following on from the Hon. Mr McLachlan's explanation of his amendment, that I get a bit nervous (I do not know if 'nervous' is the right word, but I cannot think of a better one at the moment) when we deal with legislation that talks about community standards and the idea of propriety, only because acceptable behaviour might vary quite differently from one person to another. We cannot all be as dignified as you, Mr Acting President.

I sought some advice from parliamentary counsel that I would like to explain, because I did have a query about the Hon. Mr McLachlan's amendment, particularly as it does relate to bare breasts. I was concerned that it might cover things like, for example, the depiction of the nonsexual use of breasts such as when breastfeeding. That would be of concern to people like myself, who were quite tired of seeing a very natural and normal thing like breastfeeding demonised in the media as well as on social media and in the community.

So I sought some advice on this, as to whether the Hon. Mr McLachlan's amendment could cover that, and the advice I have received is, to paraphrase, that for the purposes of part 5A of the Summary Offences Act an image would only be deemed to be invasive if it depicted the person baring their breasts in a place other than a public place. Therefore, if it were an image of a woman breastfeeding her baby in, say, a cafe or a movie theatre it would not be deemed an invasive image for the purposes of this bill, as I understand it, because a cafe or movie theatre or a restaurant is, by definition, a public place.

The advice I have from parliamentary counsel also says that it would be very hard to argue, very hard to see, that if a woman were simply breastfeeding her baby in a place that is not a public place, how this could offend against the propriety test set out in section 26A(3). However, if there were a situation where a woman happened to be breastfeeding but also doing something else that was, arguably, sexual at the same time, that may well be an offensive image.

I just want to make it clear it is my understanding that, for the purposes of this bill and for the purposes of the Hon. Mr McLachlan's amendment, the mere natural and normal act of breastfeeding would not be deemed a sexual and therefore invasive image if it were depicted and distributed in a photograph. I just want to make that clear, because it was of concern to me and may have been of concern to some other members. With those few brief words, and with that clarification on the record, I will be happy to support the bill.

The Hon. T.A. FRANKS (16:37): I rise today on behalf of the Greens to speak to the government's Summary Offences (Filming and Sexting Offences) Amendment Bill 2016. The Greens support the threefold effect of this bill.

First, it criminalises the act of distributing what is called 'revenge porn'; that is, invasive photos of people shared to scare, intimidate or shame them. Society is perhaps too eager to, if not justify then rationalise the distribution of revenge porn as the act of, say, a spurned lover. That

assumption can be wrong. The people who share such images are at best immature bullies and at worst manipulative egomaniacs. Either way, people take pleasure in humiliating others or they use material gained in confidence—often during a romantic relationship—to control and intimidate that other person.

Secondly, in criminalising the perpetrators of these attack, it reinforces that the South Australian parliament, the police force and our laws all recognise that people who may share these photos in confidence—although many of these attacks have actually involved the hacking of private accounts to gain these photos without consent, as well as those that have then shared willingly—are not responsible for the vitriolic use of those photos to humiliate them.

I would like to call out some media sources in their treatment of revenge porn, in particular Channel 7's *Sunrise,* who in the wake of the local attacks which came to light last year, insisted on posting to their social media account that these victims of revenge porn were somehow responsible for the non-consensual use of those photos gained from hacking. On the *Sunrise* Facebook page it stated: 'What's it going to take for women to get the message about taking and sending nude photos?' One feminist writer, Clementine Ford, responded, and she summed it up in a way that I will share with members because I could not say it better myself:

> I have taken nude photos of myself and sent them to lovers, I've taken nude photos of myself when I'm bored, I've taken nude photos just because I have a smart phone and it's fun. None of that means I have asked for my privacy to be violated, my photos stolen and my very self made available for public humiliation and judgement. Consent is everything. When Channel 7's Sunrise asks 'when will women learn' instead of 'why do men continue to view women as objects they can defile and violate while the world watches and tut tuts', they are victim blaming. They are saying it's the responsibility of victims of crime and assault to prevent it and not the responsibility of society to make such crimes intolerable and unacceptable.
>
> When will women learn? Learn what? That our bodies do not belong to us? That we have no right to determine who sees those bodies, touches those bodies—

The next line is unsayable for *Hansard*—

> [does other things with those bodies] and shares in those bodies? Honey, we don't need to learn that. We already know the answer. We don't have those rights. We are not allowed to be the masters of ourselves, only the gatekeepers.
>
> Consent is what happens when you give permission. Theft and assault is what happens when people take it from you despite you saying no.

Sunrise later deleted that particular post and replaced it with, and I quote: 'A stern warning for people who share risqué photos online.' This replaced comment is still directed at the victims of crime and not the perpetrators of those crimes. I hope this bill and similar ones interstate have shown, particularly those media sources, that in these circumstances victim blaming is now a legal myth, and with the passage of this bill certainly that will make that plain.

Thirdly, this bill offers prosecutors an alternative offence to charges of distributing child pornography when minors share explicit images, a move long overdue and much welcome. As the Attorney-General's Department explanatory paper clarifies, however, this will simply be an additional offence open to our legal system.

There has been, and will still be, serious cases involving minors distributing child pornography who merit being charged under the Criminal Law Consolidation Act. Although it is wrong to believe that minors who share explicit pictures are always naive or misguided about the consequences of their actions, it is undeniable that in some cases this is the case. We live in a society where each and every single one of us who has a smart phone, including minors, holds a potential personal porn production company in the palm of our hands.

The Luddites amongst us might believe that this distribution of explicit images is somehow a very modern or contemporary phenomenon. To them I say, have a look back through history, particularly the early 20th century, but certainly it goes far further back than that, to see that this is simply not the case; it is simply now that these images can be taken, shared and distributed in a matter of seconds or less.

It is a proud moment when our parliament passes legislation such as this which seeks to end victim blaming and which seeks to keep up with the times of technology. Certainly I will be looking forward to the debate, quite rightly I think raised by the Liberal opposition, as to whether or not the

definition of 'breasts' should include the word 'bare' before 'breasts' as in the following part of that clause where genitals are actually defined as being 'bare'. It seems logical to me and I certainly look forward to the committee stage debate on that and, indeed, the amendments that the government has put forward on this bill.

It is time to stop victim blaming. These types of revenge porn tactics are used in what is in many cases violence against women (not always violence against women), when they are threatened or shamed by having images distributed of them without their consent. With those few words, I look forward to the committee stage and will support the second reading of this bill.

The Hon. J.A. DARLEY (16:45): I rise briefly to support the second reading of the Summary Offences (Filming and Sexting Offences) Amendment Bill 2016. As outlined in the second reading report, the bill updates filming offences in part 5A of the Summary Offences Act 1953 in response to the emerging phenomena of sexting and revenge pornography. In short, it does so by broadening the scope of offending to also include threatening to distribute invasive images, or images obtained by indecent filming, and by increasing the penalties that apply to new and existing offences.

There have been many very public examples of sexting-type images being used as a tool of revenge, with apparently very little regard for the consequences that this sort of behaviour can have on the parties involved. Unfortunately, as we all know, this sort of behaviour has also become quite common amongst younger people. Bullying and harassment is, of itself, unsettling behaviour for victims. When you add to that mix the dissemination or the threat of disseminating invasive images, it adds another completely unacceptable layer of humiliation and denigration. The problem is magnified even further when the victims, and often the culprits, are minors.

I agree wholeheartedly with the government that this is a complex area that cannot be dealt with by legislative reform alone. Education also plays a key role, and it is extremely important that minors in particular are educated about the wideranging and extremely damaging ramifications this sort of behaviour can result in for victims and offenders alike.

To that end, I ask the minister to advise whether consideration has been given to any sort of education campaign in schools, not only about the inappropriateness of sexting and revenge pornography but also about the consequences of that sort of behaviour. With those words, I indicate my support for the second reading of the bill.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:47): I thank all members for their contributions on this bill and look forward to the committee stage. I know some questions have been raised that will be addressed in committee.

Bill read a second time.

RAIL SAFETY NATIONAL LAW (SOUTH AUSTRALIA) (MISCELLANEOUS NO 2) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:48): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

I am pleased to introduce the Rail Safety National Law (South Australia) (Miscellaneous No 2) Amendment Bill 2016, which amends the Rail Safety National Law. The Law is contained in a schedule to the Rail Safety National Law (South Australia) Act 2012.

In December 2009, the Council of Australian Governments agreed to implement national rail safety reform, that created a single rail safety regulator, and to develop a rail safety national law, which a rail regulator would administer. The national rail reform aims are to:

- support a seamless national rail transport system;
- not reduce existing levels of rail safety;
- streamline regulatory arrangements and reduce the compliance burden for business; and
- improve national productivity and reduce transport costs generally.

The Rail Safety National Law commenced operation on 20 January 2013. The Office of the National Rail Safety Regulator was established as a body corporate under the Law, with its scope now also enacted through legislation in all jurisdictions, except Queensland, which has recently committed to adopting the Law.

The National Transport Commission, together with jurisdictions and the regulator, developed the Law and are also responsible for identifying legislative amendments. Ministers of the Transport and Infrastructure Council are responsible for approving the Law and its amendments. This Amendment Bill was approved by the Council on 6 November 2015.

South Australia, as host jurisdiction, is responsible for the passage of the Law and any amendment Bills through the South Australian Parliament. Once commenced in South Australia, each participating jurisdiction has an Application Act that automatically adopts the Law and subsequent amendments into its own legislation.

During its first two years of operation, the regulator has successfully discharged its obligations under the Law including facilitating the safe operation of rail transport in Australia by providing a scheme for national accreditation of rail transport operators and promoting the provision of national policies, procedures and guidance to industry, further progress in the consolidation of national rail safety data information and education and training for safe railway operations.

This Bill constitutes the second amendment package to be considered by Parliament. The first amendment package commenced on 1 July 2015.

This Bill is an amendment package which is administrative in nature and will improve operation of the *Rail Safety National Law (South Australia) Act* by:

- clarifying that infringement penalties and court imposed penalties can be paid into the regulator's fund. This amendment provides clarity to the existing provision and is not a policy change;
- maintaining currency with relevant national systems for the delivery and assessment of competencies relevant to rail safety workers and providing for flexibility to recognise these different systems if changes are made in the future. This follows an amendment to the Commonwealth *National Vocational Education and Training Regulator Act 2011*, that makes the current Rail Safety National Law reference to the Australian Quality Training Framework redundant;
- allowing an authorised officer to secure the perimeter of any site for compliance and investigative purposes, but not explicitly to restricting access to rolling stock (a vehicle that operates on or uses a railway) separate to securing a site. This amendment will clarify that rolling stock may also be secured;
- requiring a third party to notify a rail infrastructure manager before carrying out any work near a railway that threatens, or is likely to threaten, the safety of the railway or the operational integrity of the railway. However, there is currently no requirement for a third party provider to comply with a reasonable direction given by a rail infrastructure manager. This amendment will help to allow a rail infrastructure manager to resolve matters at the local level by giving written advice to the third party as necessary to ensure safety. Section 199 of the *Rail Safety National Law (South Australia) Act* already provides the ability for the regulator to intervene, if circumstances require;
- resolving the ambiguity as to which period of time the regulator has to commence prosecution; and
- allowing a court to make an order directing a convicted person to pay (not exceeding one-half) of any fine to the regulator.

The Bill has the support of Ministers of the Transport and Infrastructure Council, and major stakeholders, including rail industry associations.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Amendment provisions

This clause provides that the amendments proposed in Part 2 of this measure are to the *Rail Safety National Law* (the *Law*) set out in the Schedule to the principal Act.

Part 2—Amendment of *Rail Safety National Law (South Australia) Act 2012*

4—Amendment of section 4—Interpretation

These amendments are consequential on the amendment proposed to section 117 of the Law.

5—Amendment of section 33—Payments into Fund

These amendments provide for all infringement penalties paid to or recovered by ONRSR and all portions of fines paid to ONRSR by court order under new section 260A to be paid into the National Rail Safety Regulator Fund.

6—Amendment of section 117—Assessment of competence

These amendments update references in connection with qualifications and competencies for rail safety workers.

7—Amendment of section 149—Securing a site or rolling stock

These amendments will allow for the securing not only of a site but also of rolling stock.

8—Amendment of section 183—Contents of non-disturbance notice

These amendments are consequential on the amendments proposed to section 149 of the Law.

9—Amendment of section 199—Power to require works to stop

These amendments will allow for a rail infrastructure manager, by written notice, to give reasonable directions to a person who is proposing to do work which may threaten the safety or operational integrity of the manager's railway. The other amendments to the section are consequential.

10—Amendment of section 218—Period within which proceedings for offences may be commenced

This amendment clarifies that the relevant period within which proceedings for offences against the Law may be commenced is the latest of the various stated periods.

11—Insertion of section 260A

This clause inserts a new section.

260A—Payment of portion of fines to ONRSR

This provision empowers a court that convicts a person of an offence against the Law to order that a portion (not exceeding one-half) of any fine imposed as a penalty by the court be paid to ONRSR.

12—Amendment of Schedule 2—Miscellaneous provisions relating to interpretation

This amendment inserts clause 15A into Part 3 of Schedule 2 to the Law to clarify how an offence against the Law is created.

Debate adjourned on motion of Hon. D.W. Ridgway.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) (QUALIFICATION FOR APPOINTMENT) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:49): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Judicial Administration (Auxiliary Appointments and Powers) (Qualification for Appointment) Amendment Bill 2016* expands the categories of persons eligible to be appointed an auxiliary judge to include a person who holds a 'prescribed office in a prescribed court of a jurisdiction outside of Australia'. This will allow judges of international courts to be prescribed for the purpose of being appointed auxiliary judges in this jurisdiction, depending on the circumstances and on arrangements made with the Courts in those other jurisdictions.

From time to time, the courts need to appoint auxiliary judges. The purpose of appointing an auxiliary judge may be for them to hear a particular case, to cover leave of permanently appointed judges, or for other similar reasons.

The appointment of judicial auxiliaries is governed by section 3 *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*.

The *Judicial Administration (Auxiliary Appointments and Powers) Act* provides for the Governor, with the concurrence of the Chief Justice, to appoint a person to act in a specified judicial office/s on an auxiliary basis. *Judicial Administration (Auxiliary Appointments and Powers) Act* sets out the categories of person who are eligible for appointment on an auxiliary basis. It includes retired High Court judges, retired or currently sitting judges of the Federal Court, the Supreme Court of another State or Territory, the District or County Court of another State or Territory, the Court of Appeal or the Supreme Court of New Zealand, or magistrates. It also permits a person who is eligible for appointment to the relevant judicial office on a permanent basis, or would be so eligible but for being over the age of retirement, to be appointed.

At present, the only international judiciary eligible for appointment are retired or current judges of the Court of Appeal or the Supreme Court of New Zealand.

The proposed amendment expands the category of eligible persons to include a person who holds a 'prescribed office in a prescribed court of a jurisdiction outside of Australia'. It will expand the scope of potential auxiliary judges available to be appointed to South Australian courts by permitting international courts to be prescribed.

It will permit, a judicial officer from another jurisdiction with particular expertise, perhaps of a technical nature, to be appointed to hear a case that would significantly benefit from that expertise.

It is intended that this may facilitate judicial 'exchanges' in appropriate circumstances. It will enable the judiciary to draw on the experience and expertise of international colleagues. This in turn may assist to improve processes and procedures, or substantive outcomes.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal. It is appropriate for the measure to commence on assent so there is no commencement provision in the Bill.

Part 2—Amendment of *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*

3—Amendment of section 3—Appointment of judicial auxiliaries

This clause allows for the appointment of a person who holds a prescribed office in a prescribed court of a jurisdiction outside Australia as a judicial auxiliary in South Australia.

4—Insertion of section 7

This clause inserts a general regulation making power, reflecting the need to make regulations prescribing an office and a court for the purposes of the new provision to be inserted in section 3 of the Act.

Debate adjourned on motion of Hon. D.W. Ridgway.

NOTARIES PUBLIC BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:50): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The eminent authority on notaries public Peter Zablud defines a notary as a practising lawyer who holds a unique public office of trust and fidelity, and who, among other things, has the internationally recognised power and authority to prepare certificates of Australian law, deeds and other instruments of all kinds, authenticated by his or her signature and official seal in a manner which renders them acceptable to the judicial or other public authorities in the countries in which they are produced.

Notarial acts and certificates are recognised in the countries of the British Commonwealth and some civil law countries without the need for further certification from the Department of Foreign Affairs and Trade or foreign diplomatic missions. However, in addition to requiring documents to be notarised, many countries also require a

notary's authority, signature and seal to be officially verified or 'legalised' before notarised documents can be used. Legalisation is performed by the Department of Foreign Affairs and Trade or by the consular officers of the country in which a notarised document is to be produced. Notaries public produce almost 50 per cent of all documents presented to the Department of Foreign Affairs and Trade for legalisation.

With the continuing emphasis on international business in this State, it is expected that the role of notaries public in commercial contexts will grow in importance for South Australia. In order to maintain a high standard of notarial practice and ensure that notaries public are appropriately qualified this Act will reform the laws governing the admission and qualifications of notaries.

The new Act will:

- restrict the office of notary public to legal practitioners of at least five years standing, who hold a current practising certificate;
- where a notary public ceases to hold a legal practising certificate authorising them to practise law, they will not be entitled to practise as a notary;
- The Legal Practitioners Education and Admission Council in consultation with the Notaries' Public Society will make the rules concerning the qualifications for admission, and the requirements for post-admission education and training;
- provide the Supreme Court with the power, should it think fit, to suspend a person from practising as a notary public (and also allow for the lifting of such a suspension); and
- include a transitional provision allowing those persons admitted to the office of notary public prior to the commencement of the new Act to continue practising as a notary as if they were admitted as such under the new Act (providing also that such persons are exempt from the requirement to maintain a current legal practitioners practising certificate).

To restrict the field of applicants to legal practitioners will service the public interest and ensure that consumers receive a high quality of professional service. Under such a restriction public notaries, as legal practitioners, would be subject to normal legal practice discipline in accordance with the *Legal Practitioners Act 1981*.

Although restricting appointment of notaries to legal practitioners would limit the number of providers in the market and may be viewed as anti-competitive, it would ensure that all notaries are suitably qualified (having a strong understanding of the law), be properly insured (under the Law Society's professional standards scheme) and subject to regulated standards of professional conduct (under the *Legal Practitioners Act 1981*, for conduct occurring in connection with the practise of law). The public benefits of such a restriction outweigh the costs that may be involved in its implementation.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause provides the short title of the measure as the *Notaries Public Act 2016*.

2—Commencement

This clause provides for commencement on a day to be fixed by proclamation.

3—Interpretation

This clause provides definitions for the purposes of the measure.

4—Functions of LPEAC

This clause gives functions to the Legal Practitioners Education and Admission Council for the purposes of the measure. These functions are—

(a) to make rules prescribing the qualifications for admission of a person as a notary public and rules prescribing the requirements for post-admission education, training or experience for a person admitted as a notary public and to monitor compliance with those rules; and

(b) to keep the effectiveness of legal education and training courses and post-admission experience under review so far as is relevant to qualifications for practice as a notary public.

Rules made prescribing the requirements for post-admission education, training or experience for a person admitted as a notary public may prescribe requirements in relation to the issue or renewal of practising certificates under the *Legal Practitioners Act 1981* subject to conditions.

5—Appointment of notaries public

This clause provides that a person may apply to the Supreme Court to be admitted and enrolled as a notary public of the Supreme Court if the person is entitled to practise the profession of the law in this State and has been admitted as a legal practitioner (in this State or any other State) for at least 5 years.

A person is entitled to be admitted and enrolled as a notary public of the Supreme Court if the person satisfies the Court that—

(a) the person's entitlement to practise is not subject to any limitation, restriction or other condition inconsistent with the carrying out of the functions of a notary public; and

(b)the person has complied with the rules relating to the qualifications for admission of a person as a notary public made by LPEAC or should otherwise be exempted from compliance with those rules; and

(c) the person is a fit and proper person to practise as a notary public.

A person admitted as a notary public is to make an oath in the prescribed form.

6—Powers and authorities of notary public

This clause provides that a person admitted as a notary public has all the powers and authorities (including the power to take affidavits) exercisable by law or custom by notaries public.

7—Roll of notaries public

This clause requires the Registrar of the Supreme Court to cause a roll to be kept of all notaries public admitted under the measure and, on application by a notary public, to grant a certificate in the prescribed form certifying that the person is a notary public duly authorised and admitted to practise as such in this State.

8—Investigations, inquiries and disciplinary proceedings

This clause provides that conduct of a notary public in performing the functions of a notary public is taken, for the purposes of investigations, inquiries and disciplinary proceedings under the *Legal Practitioners Act 1981*, to be conduct occurring in connection with the practice of law and also to be professional conduct of a legal practitioner.

9—Power of Court to suspend or remove name from roll

This clause provides that the Supreme Court may, on its own initiative or on application, suspend or remove the name of a notary public from the roll of notaries public if the Court considers that a ground exists for so doing. Suspension or removal from the roll results in a person ceasing to be admitted and enrolled as a notary public as specified.

10—Automatic removal of name from roll

This clause provides for automatic removal of the name of a legal practitioner from the roll of notaries public if the person's name is removed from the roll of legal practitioners maintained under the *Legal Practitioners Act 1981* or the relevant interstate equivalent roll. Removal results in the person ceasing to be enrolled as a notary public.

11—Person acting as notary public contrary to this Act

This clause provides an offence of acting as a notary public without being admitted as a notary public and also being entitled to practise the profession of the law in this State. There is a transitional provision that allows a person to practice as a notary public without being entitled to practise the profession of the law in this State if the person was admitted as a public notary under the *Legal Practitioners Act 1981* before the commencement of this clause.

12—Regulations

This clause provides that the Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, the measure.

Schedule 1—Related amendments and transitional provision

Part 1—Preliminary

1—Amendment provisions

This clause provides for amendment of an Act so specified in this Schedule.

Part 2—Amendment of *Legal Practitioners Act 1981*

2—Amendment of section 14C—Functions of LPEAC

This clause amends section 14C of the *Legal Practitioners Act 1981* to broaden the functions of LPEAC under that Act to include functions assigned under any other Act.

3—Amendment of section 17A—Conditions as to training etc

This clause amends section 17A of the *Legal Practitioners Act 1981* so that rules made in relation to post-admission training for notaries public may effect the issue or renewal of practising certificates subject to conditions under section 17A.

4—Amendment of section 21—Entitlement to practise

This clause is consequential.

5—Repeal of Part 7

This clause repeals Part 7 of the *Legal Practitioners Act 1981* which provides for the admission and enrolment of public notaries.

Part 3—Transitional provision

6—Continuation of roll and persons admitted to the roll

This clause provides that the roll of all public notaries kept by the Registrar of the Supreme Court under Part 7 of the *Legal Practitioners Act 1981* immediately before the commencement of this measure continues after that commencement as the roll of notaries public required to be kept by the Registrar of the Supreme Court under clause 7 of the measure and a person listed on that roll is taken to be admitted as enrolled as a notary public under the measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 16:51 the council adjourned until Tuesday 21 June 2016 at 14:15.