LEGISLATIVE COUNCIL

Thursday, 1 December 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:01 and read prayers.

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

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

Bills

RELATIONSHIPS REGISTER (NO 1) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 30 November 2016.)

The Hon. J.S.L. DAWKINS (11:03): I rise to put on the record my position regarding the Relationships Register (No. 1) Bill 2016. I indicate that this bill is a conscience issue for members of the Liberal Party. This bill made it to this place in what I would describe as very bizarre circumstances. It originally started its legislative life as the Relationships Register Bill 2016 in the other place and, in doing so, it incorporated the contents of this current bill and also the contents of what is now the Statutes Amendment (Surrogacy Eligibility) Bill 2016.

One might muse that there was perhaps an attempt to confuse honourable members of parliament, particularly in the lower house, by including the clauses regarding same-sex access to surrogacy (and I am not describing them as that but certainly other people have) in with the other, what I see as, sensible propositions in this bill. When certain members of the lower house determined that that was the case, we had quite a bizarre situation where the surrogacy eligibility bill was split off from this one. I will probably speak more about that later in today's proceedings when I speak on the surrogacy bill.

The management of that legislation in the lower house was, I think, a very strange situation. I am never completely surprised at anything that happens in the lower house because I think the management of their legislation, particularly in conscience matters, has always been relatively substandard.

I think the management of these bills by the member for Reynell, who is an assistant minister to the Premier, has been lacklustre, to say the least. Having said that, I indicate my support for this relationships register bill. I recognise its importance to many South Australians, especially since the tragic death of British tourist David Bulmer-Rizzi, which highlighted the need to extend certain legal rights—which are granted to those who are married in accordance with the commonwealth parliament Marriage Act 1961—to interstate and overseas visitors who are in a committed relationship. With those few words, I reiterate my support for this bill.

Debate adjourned on motion of Hon. J.M.A. Lensink.

ADOPTION (REVIEW) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 November 2016.)

The Hon. S.G. WADE (11:08): I rise on behalf of the Liberal Party to indicate our support for this bill, save that I should highlight to the house that one issue in the bill is a conscience matter for our party: that is, the issue of qualifying relationships. The Adoption Act 1988 was a landmark piece of legislation that significantly reformed adoption in terms of introducing what we generally know as 'open adoption'. Since that act was enacted, and in fact even before, we have seen a significant decline in the use of adoption in Australia. The Hon. Justice Nyland in her report noted the following:

> Since the 1960s, adoption Australia wide has decreased steadily. In 2014/15 there were 292 adoptions registered across Australia, the lowest number on record, and a 74 per cent fall from 1142 in 1990/92.

Her report goes on to state:

> The neglect of adoption as an option for children in care undoubtedly relates, at least in part, to issues arising out of the Stolen Generations as well as past practices of forced adoption.

This bill before us is what I would describe as a once in a generation reform of adoption law, and it has been informed by three significant reports. The first is the commonwealth inquiry, which in February 2012 focused on the adoption practices of the past that forcibly separated thousands of Australian children from their mothers. In 2012, the South Australian parliament apologised for that period. The other two significant reports are the 2014 adoption review by Associate Professor Lorna Hallahan and, to a certain extent, the 2016 report of the Child Protection Systems Royal Commission, the Nyland report.

These reports have informed this act, and let me relate them back to the Adoption Act 1988. The Adoption Act 1988 was a landmark piece of legislation in that it introduced open adoption, as I said, which means that parties to adoptions that were completed after the act came into force could have access to identifying information about each other once the adopted child turned 18 years of age. This bill repeals section 27B, which provides for the issuing of vetoes. The bill provides that a person whose veto expired at the end of the transition period may make a statement of wishes about contact with other parties to the adoption. This particular element of the bill was one of the most controversial.

The honourable member for Adelaide, the shadow minister for child protection in another place, in her community consultation found very strong views from people involved in adoptions in terms of the operation of the veto. In the House of Assembly, through the work of the honourable Rachel Sanderson, working with minister Close, an amendment was moved by the government. Through the work of Rachel Sanderson, the honourable member for Adelaide, and on behalf of the opposition, the government amendment was accepted.

Another element of the Adoption Act 1988 was that it changed the definition of marriage in the act to include de facto relationships, extending the right to apply to adopt a child to established couples not legally married. Likewise, in a parallel sense, the bill before us today also addresses that issue, but goes beyond the issue of heterosexual de facto relationships to also pick up same-sex relationships.

The bill was amended in the other place to remove a government provision which sought to extend the right to adopt to single persons. As I said, the Liberal Party has a party position to support those elements of the bill, save qualifying relationships, which is a matter for the conscience of each member. I indicate that I am considering the issue of the threshold in terms of the bill providing that for an adoption to be executed it needs to be in the best interests of the child and, basically, be the measure of last resort. Personally, I raised with minister Hunter why we need the second part.

There is universal support for the concept of paramountcy of the best interests of the child, and my view is that the second part of that provision is not helpful. So, I would flag that and, in further consultation with the government and with my own party, I will consider whether or not to file an

amendment. With those few words, I indicate that the Liberal Party is looking forward to further consideration of this bill.

The Hon. J.S.L. DAWKINS (11:14): I rise to associate myself with the remarks of my colleague, the Hon. Mr Wade, who, as he has indicated, is the Liberal Party's lead speaker on this bill. I will not seek to add to his quite comprehensive remarks on the substantial provisions of the bill, but I will indicate my own position on clause 5 of the bill, which is a conscience vote for members of the Liberal Party and, I understand, equally a conscious vote for members of the ALP.

I have thought long and hard about opening up adoption to those in qualifying relationships, essentially same-sex adoption. In considering this proposition, I have gone into the consideration for the rights of prospective parents and the development of an adopted child. I have had discussions with the Hon. Susan Close, the Minister for Education and Child Development, and I thank her for those conversations.

I put on the record that had the amendments moved in the lower house not been passed, namely, to involve the eligibility of single individuals to adopt a child without court intervention, I would have been less keen to support this bill. However, in the form that it has come, not that I agree with the member for Newland on a great number of things, I do think that in this case it has made the bill a better one. I indicate my support for clause 5 of the bill.

The Hon. T.T. NGO (11:17): I rise to make a few brief remarks on this bill. It seems to me rather odd that, while same-sex adoption has been endorsed by the other place, the clause relating to single-parent adoption was voted down. If we are here to address perceived forms of discrimination, why then does this bill address the discrimination in a half-hearted way? My opinion is that you either support extended adoption in full to single parents and all couples or you leave it as it is, to heterosexual married couples.

As members would know, with lifestyles these days, everyone is really busy, it is pretty hectic. There are people in our community who, for various reasons, because of their employment or their family situation, may not have the opportunity to form a relationship with someone. It may come to a point where, eventually, these people may want to experience motherhood or fatherhood, but because of this bill they are discriminated against on adoption.

What the bill is saying is, 'No, because you are single you are not entitled to experience motherhood or fatherhood.' This bill really forces this person to go out and form a relationship with a person who they may not like. It is rather odd that we try to fix a form of discrimination, but then, on the other hand, we discriminate against this type of single person.

I remember a few years ago I watched a documentary on television from the US. There was a female executive earning big bucks and she had a very busy life and never had an opportunity to have a relationship. When she got to her mid-40s, and getting closer to her 50s, she found it really hard to have a relationship with anybody because of her lifestyle and her work commitments. However, she would have loved to experience motherhood and have a child.

To cut the story short, she ended up having an adoption somewhere—I cannot remember whether it was overseas or within the States—and she said that was the best thing that had ever happened to her. So, I find it a bit odd that the other place has voted down a clause that allowed single parents to be able to adopt.

Obviously, some conservatives argue the idea that a family is between a mother and a father and other people feel that parenthood has to involve two people. As I outlined earlier, there are good single people out there, but because of their lifestyles and family situations—they might have been looking after their elderly parents, or sick parents—they have never had the opportunity or time to have a relationship with anybody, and they have come to a point where they want to have a child, but they cannot. I will watch with interest in the committee stage to see what the amendments are before I can decide how to vote on this bill.

Debate adjourned on motion of the Hon. J.M.A. Lensink.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (GENDER IDENTITY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 November 2016.)

The Hon. J.S.L. DAWKINS (11:23): I rise to speak on the Births, Deaths and Marriages Registration (Gender Identity) Amendment Bill 2016. Firstly, I indicate that I will be a bit longer than the two previous speeches but probably not as long as the one on the next bill. I advise the chamber that I am not currently inclined to support this bill, certainly in its current form. However, if it is successful in making the committee stage, I will reserve my final position until the final make-up of the bill is clear. It is, of course, a conscience vote for members of the Liberal Party in this place.

It is important, when considering this bill, to remember that this is, in fact, Premier Weatherill's plan B. The original bill of a similar name was defeated by one vote in the other place while the Premier was in Finland. The bill was introduced into the other place on 2 November this year and was somewhat rushed through all stages while the house was also considering other significant social legislation, including the member for Morphett's voluntary euthanasia legislation. I must admit that I have formed the view that the bill has not reached this chamber after the more wholesome debate that other bills the Premier has been advancing have received.

I acknowledge that the bill was drafted in accordance with recommendations from the Legislative Review Committee of the parliament, and the South Australian Law Reform Institute. One of the principal aims of the bill is to make our laws consistent with those at a federal level. The provisions of this bill will also apply to anyone born in or outside of our jurisdiction. To those aims, I certainly do not object.

However, moving to the contents of the bill before us, it essentially repeals the Sexual Reassignment Act 1988 and establishes a new process under the Births, Deaths and Marriages Registration Act 1996 that would allow a person of any age to apply to change their recorded sex or gender identity. The other significant change which the bill proposes to make is for those wishing to legally change their sex or gender identity who, at the time of application, are over the age of 18.

Those individuals, under this bill, would now no longer be required to make an application to a court to have their sex or gender identity legally changed but, rather, make an application in an acceptable form to the Registrar of Births, Deaths and Marriages. The Registrar would then be in a position to alter the sex or gender identity of the individual on their register to whichever their application specifies, as long as they are in accordance with certain criteria. I will address those criteria later in this contribution. However, before I do I would like to speak about clauses 29J and 29P of the bill. These are the clauses referring to the ability to change the sex or gender identity of a minor.

While this provision still requires a minor, or their legal guardian, to make an application to a court for a change to their sex or gender identity, I cannot in any way support this provision. I am implacably opposed to the state giving the ability for parents, or their children, to legally change their sex or gender identity without the minor who is affected at least reaching the age of consent. These clauses form part of the reason for my opposition to the bill.

Moving to the criteria set by the bill which an applicant must satisfy to enable the Registrar to legally change their sex or gender identity, I have formed the view that in its current form these requirements are too lax. While the amendment moved by the member for Schubert in the other place did go some way to improving my view of these provisions, I still feel the criteria set to satisfy the requirement of sufficient amount of 'appropriate clinical treatment' is minimalist.

Essentially, the bill will take away the requirement that an individual wishing to change their sex or gender identity needs to undergo any kind of physical treatment or change before an application can be submitted. Clause 29H(1) of the bill provides:

> …clinical treatment need not involve invasive medical treatment (and may include or be constituted by counselling);

Furthermore, following amendments in the other place, subclause (3) states:

> (3) For the purposes of this Part, clinical treatment constituted by counselling only cannot be regarded as a sufficient amount of appropriate clinical treatment unless the period of the counselling is equal to or greater than the prescribed period.

That prescribed period will only be revealed in the regulations which, according to the briefing that I attended with other members of parliament and my staff, have not yet been contemplated. This minimalistic approach to the threshold required to initiate an application to change your registered sex or gender identity has the potential, in my opinion, for significant misuse, examples of which I will raise in questions to the minister at the conclusion of my contribution. Furthermore, the bill specifies an application may be made to the Registrar to change your registered sex or gender identity even if, and I quote from clause 29I(3), 'An application may be made under this section even if the person is married.'

While I respect the ruling made by the Full Court of the Family Court in the Attorney-General for the Commonwealth v Kevin and Jennifer, and Human Rights and Equal Opportunity Commission as intervener, 2001 FamCA 1074—otherwise known as Re Kevin and Jennifer—in which Chisholm J (Justice Chisholm) held that the question of whether a person is a man or a woman should be determined at the date of the marriage, and given the subject of this case was a man at the time of the marriage and only became a woman subsequent to the solemnisation of the marriage, the marriage was valid—I cannot support this clause.

I personally do not support the state enabling a situation whereby a marriage between a man and a woman conducted under commonwealth law could continue to legally exist if, under a state law, an individual has applied to alter their sex or gender identity, either via counselling or physically, to be the same as that of their partner in marriage. I would also like to place on the record my great concern about the proposal made in clause 29I(2)(a), and other places in the bill, which states 'specify a sex or gender identity of a kind recognised by the regulations that the person is seeking to have registered'.

I go back to the fact that to be doing these things by regulation, having had some experience of the way in which regulations can be manipulated or specifically delayed, is a real concern to me. My own experience in relation to birth certificates—my first surrogacy bill amended the Births, Deaths and Marriages Act to enable the biological mother of a child born by surrogacy to be listed on the birth certificate, but that was only allowed through the proper court practices, and I was privileged to witness the first of those decisions made in South Australia.

I and my staff were allowed to go into what was normally a private court hearing to hear that decision made. Yes, it makes people jump over more hurdles, but in some cases the hurdles are absolutely desirable, and this reliance on regulations is something that really does concern me. While I can appreciate the requirement for some of the new legal provisions that are included in this legislation, I do have some questions, and I would be grateful if the minister would bring back responses, either at the second reading summary or when we go into committee.

Under this bill, could an individual in a same-sex relationship apply to change their sex or gender identity using a sufficient amount of appropriate clinical treatment as the qualifying criteria, therefore having no physical alterations, and successfully have their sex or gender identity changed and then marry their previously same-sex partner under the commonwealth Marriage Act 1961?

Further, under this bill, after their marriage is solemnised, could that individual apply to have their gender changed back after a sufficient amount of appropriate clinical treatment and have their marriage legally continue as per the case I noted known as the Kevin and Jennifer case? Also, could this loophole—intended or otherwise—open up certain medical practitioners and/or psychologists as specified in the bill to become the go-to medical professionals for those wishing to access marriage through what I would describe as unique legislative means? How will a sufficient amount of appropriate clinical treatment as described by the regulations be enforced and/or monitored?

Will a registrar be required to take written advice from a medical practitioner and/or a psychologist at face value, or will more rigorous standards be applied in practice? In what other Australian jurisdictions do provisions such as this operate? Is there any knowledge of any issues that may have been experienced in those jurisdictions? What will be considered a sufficient amount of

appropriate clinical treatment for the purposes of counselling under clause 29H(3) of the bill when it is prescribed? As I have some experience in these matters of consultation to do with regulations, as the minister is aware, I ask: who will be consulted when drafting this regulation?

Finally, how does the bill ensure that children and minors, who either themselves or through their parents or legal guardians access this legislation, are psychologically capable of contemplating a decision that will affect the rest of their lives and also ensure that they are not being coerced by other parties? I would be grateful if the minister could bring those answers back at the most appropriate time. Certainly, I have contemplated those issues and I think others I have spoken to in the community who have some sympathy with the people this bill is trying to assist are also concerned about those matters.

I will bring to the chamber shortly my own experience in the last nearly 18 months with the supposed development of regulations by an Attorney who may not agree with the particular legislation that is being developed, which means that sometimes these regulations can completely lapse. That has been my experience and some of those questions are a result of that. With those remarks, I am not inclined to support this bill, but I am keen that we get the best information we can in the development of this legislation, if it is to pass.

Debate adjourned on motion of Hon. J.M. Gazzola.

STATUTES AMENDMENT (SURROGACY ELIGIBILITY) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 30 November 2016.)

The Hon. J.S.L. DAWKINS (11:39): I rise today to put on the record my contribution to what is now the Statutes Amendment (Surrogacy Eligibility) Bill 2016, and I indicate that, quite obviously, this bill is a conscience vote for Liberal members in this place. I might indulge the council with a little bit of history.

In 2005, I was first approached by a wonderful young woman called Kerry Faggotter about her particular situation regarding surrogacy and the fact that she needed to go outside this state to allow her child to be carried by her cousin, and for that subsequent family to develop. That young man is now over 11 years old.

Of course, even though they had to go outside the state to have the surrogacy, when she returned to South Australia, one of the first things she realised was that her name was not on the birth certificate. There were certain complications with that, but she was also very keen that we should legalise altruistic gestational surrogacy in South Australia, certainly in a non-commercial sense.

This lady went to see her local member, the member for Playford (the Hon. Jack Snelling), to ask him about getting the law changed. I think these famous words have been said before in this place, but the Hon. Mr Snelling who, happily for him, is blessed with a number of children, told his constituent that it was 'God's will' that she not have children.

This lady was particularly disappointed by that response. She was directed to me. I did not know much about the issue at all at that stage. I spoke to our then shadow minister for health, Dean Brown, who advised me that most of the needed changes would be in the Attorney-General's area. I wrote to then attorney-general Michael Atkinson, and I suppose no-one here would be surprised to know that the response I got from then attorney-general Atkinson was less than supportive. He made it quite clear that the government would not be doing anything in that regard.

I apologise to some members who have been here and lived through this, but I am going to put this on the record because I think it contrasts with some things that have been done recently. In 2006, I came up with my first private member's bill to amend three different acts to achieve a number of things in relation to the legalisation and recognition of surrogacy in this state. That first bill was far from perfect, and I would be the first to recognise that.

On the motion of the minister who is with us today, that bill was referred to the Social Development Committee of which he was the chair. I think the Hon. Mr Wade and certainly the member for Hammond in another place were members of that committee, but I cannot recall the others. I gave evidence, as did Ms Faggotter and a number of other people.

After a comprehensive examination of some 14 months, the report came back in the latter part of 2007 with a number of suggested changes, and I am the first to admit that there were some suggestions about allowing surrogacy for same-sex couples. There were one or two other suggestions that I did not pick up but I did pick up quite a bit of the committee's suggestions and came back with a second bill in early 2008. I have to say I was very grateful that that bill passed this chamber on the voices.

It then went to the House of Assembly and to say that it was delayed is an understatement. It sat in the House of Assembly for some 14 months and there was no doubt that there were some people in the House of Assembly who wanted it to drop off the perch in the legislative sense, in the parliamentary sense, when parliament got up for the 2010 election. Thankfully, a number of people supported me, on all sides of the parliament, enabling that bill to pass 34 votes to seven late in 2009. Early in 2010, we had to bring in a minor amendment bill. Due to the effluxion of time, one of the provisions for the age on the child's birth certificate to be changed had unfortunately passed, so we made that change fairly quickly, and I do not think anybody opposed that.

The bill was, of course, restrictive on how commissioning parents could access a surrogate. It was basically limited to the people you knew, the people you were related to and there was no ability to compensate a surrogate for the costs of a pregnancy. There were a lot of things that were not in it that I would have liked to have been there, but there were things that I had removed, some at the suggestions of the then minister for health, the Hon. John Hill, who later criticised me for putting up amendments which had been suggested by his own department. The bill could have been much better but it was a bill. It was there, it was a foot in the door for South Australia, and I am very proud of it.

As much as I know there were a lot of people who thought that it should have gone further, I got what I could achieve and I am pretty proud of that. In the middle and towards the end of 2014, there was a lot of publicity in this state, in this country and around the world about surrogacy. It was bad publicity about baby farms in India, and particularly about baby Gammy—I think we would all remember that—and the aspect that a surrogate in another country carried twins for a couple in Western Australia, and when the children were born that couple chose to take one and not the other. We heard the reasons and it was a pretty sorry tale. Further to that, the commissioning father had had a very poor background in relation to his treatment of children.

These things got enormous publicity and were doing the cause of surrogacy a great disservice, so I introduced a new bill in late 2014 that included the framework to make it harder for people to go overseas, not to stop people from going overseas, but to make it easier for people to access surrogacy here, and to make them justify to the Attorney-General of the day, if they still needed to go overseas, why they needed to do so and, in doing so, to prove that their record of dealing with children was worthy of that approval.

We also included, obviously, the ability for the reimbursement of natural costs associated with the pregnancy. Another aspect was the establishment of a register and the ability for people to advertise—all designed, I think, to heighten the chances of people to have a surrogacy here at home, in our system and with our languages, and reduce the financial cost.

That bill passed this chamber—once again, on the voices—in May 2015. I would be the first to recognise that there were some of my friends and colleagues who indicated their concern that it still did not have an ability for same-sex couples to be involved in that. That has been a consistent message, and I think that the minister and others know the reasons why I did not include that.

The first bill that I had, had been stewarded through the House of Assembly by the member for Morphett. On this occasion, the member for Morialta took charge of the bill in the House of Assembly and, while there was some muted opposition, I was very pleased that it went through much more rapidly than the previous one. It went through on 2 July 2015, on the voices again.

It is disappointing to me that, basically, I have had to drag further work out of the government, out of the Attorney-General. I have had to enlist the support of the Premier, who has generally been supportive of this work, to get the Attorney-General to prepare the regulations to enable the framework—which I have just mentioned—to exist and also allow the creation of a register. There has been almost no work done. Only after I brought the Premier's attention to this did I get a letter back to say that the Attorney-General had gazetted the regulations.

Well, the regulations he has gazetted only allow for the consultation before he develops the eventual regulations. That could have been done straight after we got this through, when I met with him in the first couple of weeks after the legislation came through. That has been a particularly disappointing thing for me. It was interesting, today, during a parliamentary committee only this morning, that the Attorney-General, in his capacity as Minister for Industrial Relations, was talking about matters to do with the Return to Work Bill. He did use the words—and I am paraphrasing here, obviously—'the parliament has made a decision'.

He then went on to say, and this might be somewhat of a paraphrase: 'as a result, the government has acted, and the community needs to recognise that'. I would be pretty grateful if the Attorney used his own words in relation to my bill. The parliament did make a decision. It made a decision on 2 July 2015, and I would like him to act because there is no doubt that the community has recognised the decision of the parliament.

I could say a great deal more, but I am conscious of the time and the other members who wish to contribute to this debate. I have spent 11 years or so working with the people who wish to access surrogacy. The great majority of them are very private, and I respect that. The time that I have spent doing that work and the processes that I have just outlined of those bills going through both houses of parliament and, of course, through a respective parliamentary committee, are in stark contrast to the process that the bill we are dealing with today has followed.

As I said in an earlier contribution, it originally started out in the other place as just a few extra provisions tucked away at the back of the Relationships Register Bill 2016. Some of the conspiracy theorists of this parliament—and I assure you that I do not count myself among them—think that maybe the member for Reynell may have tried to slip these somewhat controversial provisions into the Relationships Register Bill so that no-one would notice.

If that was the plan—it may not have been, but I have seen some of the machinations that happen in relation to these matters—it came a bit of a cropper because eventually the Relationships Register Bill was split into two: the now Relationships Register (No. 1) Bill, which I spoke about earlier today, and the remnants of that in relation to surrogacy, which have ended up in this bill. These bills have arrived in this place in acceptable form, a form in which they should have been introduced into the other place.

It is interesting that this bill actually skipped a second reading debate and vote completely in the lower house. I find that bizarre. Such was the complete shambles of the consideration of these bills in the other place that clean copies were not available to members for the debate. This situation had to be highlighted at clause 1 of the committee stage in the lower house by the Deputy Leader of the Opposition. That was the first opportunity when there had actually been these separate bills. That was at the committee stage. I do not know how you run a house of parliament that way, but certainly they do some things differently.

I will at this stage record my thanks to the member for Hammond in the House of Assembly. The house had endured a very late night on the assisted dying bill the night before this bill was considered, and there were, I suppose, thoughts in other places after such a long night's sitting. I must thank the member for Hammond for his active participation at the committee stage of what was not at the time a bill but now is.

Of course, as I said earlier, the member for Hammond probably, like me, did not come into this place thinking that we would pursue the number of social issues that we have. He was on that Social Development Committee in his first term. He did participate, with now minister Hunter, in the inquiry into my first bill. I thank him for his participation in that committee stage—that committee stage of a bill that never had a second reading. It sounds bizarre, and I do not know how it happened, Mr President. It would never happen in this house; it would never happen here.

I have to say that the overall handling of the legislation by the assistant minister, the member for Reynell, has been, I think, very ordinary. I have spoken about how the legislation to date has been developed. Yes, it was not perfect and there were people who wanted other things in it. The reality is that it gets to me a bit that an assistant minister, with government resources, never had the thought in her mind to actually come and speak to me about what she was trying to do, or to ask how I thought she might achieve it—not at any stage. Certainly, at a briefing she was at with the South Australian Law Reform Institute, I expressed some issues, but there was never any follow-up on that. I think it is extraordinarily disappointing.

In relation to the handling of the bill in the lower house, I am pleased that the member for Little Para's amendments, which remove the eligibility of single people from access to surrogacy, was something which I supported. I am prepared to go along with the same-sex provisions of this, as long as I get the assurances and the support for the amendment that I will move. I will refer to that later. I certainly was not prepared to support that aspect of it.

I find it somewhat humorous, but also sad, that clause 9 of this bill provides that surrogacy agreements must comply with the requirements set out in the State Framework for Altruistic Surrogacy. This is an instrument which is prescribed by regulations. The reality is that this piece of legislation the member for Reynell has put forward is actually trying to amend an aspect of the legislation which does not exist at the moment because the Attorney-General has not developed the regulations to make it exist.

If they did not want to talk to me, as the architect of the bill, you would think that one arm of government might talk to the other arm of government and work out whether that was the case. It is somewhat humorous, but for those people, some of whom are trying to defy the biological clock and are actually waiting for these things to be made available, it is pretty sad that these games are being played. I do hope that these matters are taken up very strongly with the Attorney once this bill passes, if that is the case, and I think it probably will. I hope additional pressure is put on the Attorney to get on and do the job he is supposed to do.

An even more serious matter is that I am concerned with the complete rewriting of the criteria set out under the bill for the medical eligibility of women trying to access surrogacy. Clause 9 of this bill completely replaces what currently exists under the Family Relationships Act 1975. This is completely unnecessary. Whilst tweaking of the wording may have been required to include access by qualifying relationships or same-sex couples, it did not have to be completely replaced with the retrograde provisions that have been included in this bill. In essence, the specific medical eligibility for a woman to access altruistic surrogacy in South Australia, if they are unable to safely carry a baby to term, has been removed in this bill and replaced with what I can only describe as very weak language. I will explain that a bit more in a moment, and the fact that that language would be entirely left to interpretation.

I will, at this point, go back to that particular matter. When some members of the Legislative Council had a briefing, probably less than a fortnight ago, in the last 10 or 12 days—it may not even be that long—we were given, I think, quite good information by an adviser from the Department of Premier and Cabinet about this legislation. I asked what I thought was probably a silly question. In the definition of 'infertility' in the original bill there was a definite inclusion of women who can become pregnant but cannot carry a child, or it is dangerous for them to do so, and I just wanted to make sure that that was still in the bill.

I had some assurances that that was probably the case, but they were going to check. The next day—and it is actually only a week ago, on Thursday of last week—minister Hunter (and I give him great credit) rang me to say that they had found out that that ability for women who are in that situation to be included in the definition of infertility had been removed. We had a discussion about whether the minister would draft an amendment, or if I wanted to move an amendment. We agreed that he would draft something up and we would have a look at it.

We had subsequent discussions over the next few days and I indicate that he included Professor John Williams from the South Australian Law Reform Institute in those discussions. I think the minister canvassed, quite properly, with me the potential to not move an amendment but to have

words put on the record by him in this chamber which would make it clear in the *Hansard,* but not in the actual act, that it is the intention that those women still be included.

I have looked at those suggested words, and I will not read them out here, but I do commend the minister and Professor Williams for the work they did on that. However, the minister is aware that I will move an amendment to restore, as close as possible, the wording of the current legislation to make sure that those women who can become pregnant, but cannot carry a child, are included. I thank the minister for attempting to address the issue, certainly for being immediately up-front and saying that this had not been done. It is another example of the sloppy way in which this whole legislation has been developed in the House of Assembly. Why would they have not come to me initially to get my thoughts about this? The more I think about it, I just wonder why that was the case.

In coming to the conclusion of my remarks I could apologise for delaying the house, but it is a matter that has taken up a lot of my time for more than a decade. I have read the words developed by Professor Williams for the minister, and I respect everything that is said in there, but I could not possibly leave this bill in a state where the previous words were not restored to it, or as close as is possible, given that the suggestion is to now include same-sex couples. I could not possibly allow that to happen given that the reason all this work has been done is that, in the initial stages, the people who came to me were in that situation. How could I possibly go back to them and say, 'Yes, we've got an updated version of this bill but, sorry, you're left out.'

I will put some questions on the record that I indicated to the minister I would ask. The minister will have to go to the Attorney-General to get answers for these, so I would appreciate them either at the second reading summary stage or, perhaps, at clause 1 in the committee. Firstly, when is it expected that the regulations required by the current provisions of the Family Relationships Act 1975, and, if passed, the provisions of this bill, will be gazetted, given the delays that have already been experienced through the handling of these matters?

Secondly, why is the provision for eligibility criteria currently available at section 10HA of the Family Relationships Act 1975 for women wanting to access surrogacy in South Australia—namely, that they are considered eligible if they are unable to safely carry a baby to term—not included in this bill? That might be a question for the member for Reynell, not the Attorney. Is it the intention of the government that this would no longer be sufficient cause to access altruistic surrogacy in South Australia? If not, what is the government's intention in this matter, and how can women who are affected have confidence that they will not be caught up in legal action trying to interpret the legislation? That is all based around the suggested wording that, in good faith, the minister said could be included in the *Hansard*. I think the prospect of having some legal action of, instead of looking in an act, having to go back to try to find some words in the *Hansard*, is a bit flimsy.

I would hope that this can be fixed relatively easily. I have spoken to a number of members in this chamber about this issue and the moving of such an amendment, which I do not yet have available. The minister had one drawn up prior to the development of these alternative words, so we will consult on that over the next several days. I would ask that members support such an amendment going through to clarify who is actually eligible to participate in the provisions made available by this legislation. I will obviously support the second reading.

I have been concerned, as I have indicated on a number of occasions this morning, about the manner in which this current bill that we are dealing with has been developed. A number of these issues, particularly the one I have just been talking about at some length, could have been avoided if there had been some consultation. I reiterate the fact that I will be developing an amendment to clause 9. I recognise the sincerity of minister Hunter in his interest in this whole legislative area, right back to when I first brought a bill to this parliament in 2006. He has been consistent, I have been consistent, however I think he knows that, in the development of the bill, the legislation would not exist now if I had tried to get it up in the form he wanted.

The legislation is there. It is there so that the government can make some amendments to it and make it further available to other people in the South Australian community. Can I say in conclusion that, given the attitude of many members of the government, if I had not done this work there would not be a bill there, and there would not be a bill there for them to amend. I think that does highlight the value of private members' legislation. There are a number of my colleagues who have

had the experience, and it is a difficult experience, of putting private members' legislation through. People will say, 'I agree with what you are doing, but I don't like this bill. The bill is not perfect.'

I have expressed a view previously, particularly in relation to the voluntary euthanasia legislation—and this is a view of John Dawkins, it is not a view of the Liberal Party or anybody else, I think, at the moment—that if there is a significant community issue, and there is no doubt that there is quite a deal of support for it in the community, then the government of the day should provide some assistance to a private member in the development of a private member's bill to perhaps make sure that it is a better piece of legislation, and that perhaps there is less likelihood for people to say, 'I support this matter, but not this bill, because this bill is not perfect.'

People tend to criticise private members of parliament, in bringing up legislation, for not having a perfect piece of legislation. I know there are a number of members in this chamber who have had to do that. I have been blessed with staff members who have helped me do it. This goes back to Todd Hacking, whom many would remember and, of course for the last five years, that work has been followed on by Councillor Brad Vermeer.

I could not have done it without them and without parliamentary counsel. That is something for the current government and future governments to think about. I am quite genuine in that view. I ask members to give serious consideration to supporting the amendment that I will arrange to have drafted to clause 9 because, as I said before, how can I go back to the people I did all this work for and say, 'Sorry, you've sort of been left out of it. We've got some words that might stand up in court to allow you to be part of it, but we can't be sure'?

We do need to make sure that they are part of it as, I agree, this bill will actually include the same-sex couples who wish to be there. I have had more discussions very recently than I have ever had with members of the same-sex community about this matter. Generally, as much as many have been encouraged to do that, they have not, but I have had some recent discussions in that regard. With those words, I appreciate the chamber's patience in listening to me on this bill. This legislative area means a great deal to me.

The Hon. T.A. FRANKS (12:21): I rise on behalf of the Greens to speak to the government's Statutes Amendment (Surrogacy Eligibility) Bill 2016. I will be brief but I do want to say that I am extremely proud to support this legislation. Many same-sex couples have contacted me with regard to their access to surrogacy and I will now be able to give them a clear and concise answer. It is indeed a desired piece of law from the government for both the fairness it places on the sector and the welcoming hand it extends to all members of our community. I must reiterate that this bill, rather than creating any special rights for the rainbow or queer community, simply creates full equality for them in the law.

I commend the provision that makes it a requirement of registration to prohibit assisted reproductive technology (ART) providers from discriminating in providing their services based on sexual orientation, gender identity or other factors. The fact that it has been possible for people to be the gatekeepers based on these categories for so long, whether or not that power was taken advantage of, is inexplicably wrong. I note that the Premier will be apologising in the other place today as will the Leader of the Opposition, the member for Dunstan. It is a momentous occasion.

We do not always get it right. We do have a history and, while we were not part of creating it, we can certainly work to make amends for it in many ways. I welcome those words that will come from the other place today. Likewise, I welcome the resounding wisdom present in the provision that the access requirements for ART simply be that, in their given circumstances, a person is unlikely to become pregnant. This removes the invasive and ostracising requirement to be what was termed medically or socially infertile—outdated and unnecessary hurdles to jump—and will provide equality in access.

The amending of the Equal Opportunity Act and the Family Relationships Act to bring their protections and procedures in line with what, after today, I hope to be able to proudly say is South Australia's new culture of equality will allow people in all forms of relationship to pursue this path, if they wish. Surrogacy is of course still a complex and emotional path to pursue. I hope that, on top of this reform, we do extend our hands of support to all South Australians wishing to have a family in this way.

Two particular potential families—indeed, couples—who are known to me, among many others who wish to pursue this path, have allowed me to share their stories. I will not use their names because I think their stories actually reflect many in the community who would like to see these reforms pass through this parliament. The first couple, as I say, are known to me. They state:

> My long term partner and I recently got married in Hawaii with 50 family and friends attending the wedding from all over the world.
>
> Being able to share our commitment to one another in front of our family and friends for us was the happiest day of our lives.
>
> A year on our next life goal is to start a loving family.
>
> We have always loved kids and feel that we have a lot to give however the laws in our own country make it difficult to know where to begin and as two guys from very long standing and proud families, adoption is really not for us. We have the option of a family egg donor but the legal complications and surrogacy limitations [are] a minefield [and] the only option seems to be in other countries where we have little to no protection from the law.

They would love to see South Australia step up for them, to ensure that they can pursue what I think many people would take for granted, which is starting a family and continuing their family traditions. Another couple has let me use the words of their experience, and that story is:

> My partner and I have been together for over 5 years and are very keen to have children through surrogacy. We have a small farm in the Adelaide Hills, along with a few horses and, of course, dogs. I work full time for the Government and my partner is in the services industry. We are engaged, however legislation currently prevents us from marrying, and have supportive and loving family and friends. We are two stable, caring men…with a wonderful life.
>
> Surrogacy is our first preference for building a family. I have always had a strong desire to have children who are genetically related to me, and both my partner and I would love to bring up a child from infancy and provide them with a rich life. We also have a close friend of ours, who has a child of her own, and who wants to support us in building our family by carrying our child.

All three of those people involved in that particular potential surrogate family are well known to me, and I know that they will provide a wonderful life for whichever children they are lucky enough to have. They continue:

> We are ready physically, mentally, socially, emotionally and financially, and know it is time for South Australian legislation to change and enable us to take the next step in our lives. We would appreciate your support…

Certainly, the Greens stand here today in this parliament and say we will support you. We will support you to have those families. I share some of the frustrations of the previous speaker, the Hon. John Dawkins, and I do understand his frustrations with the way that, when one brings private member's legislation in particular to this place and seeks to serve a constituency, that can be thwarted. The processes can be difficult—unsupported by the bureaucracy and often unsupported by the time frames—and the debates on conscience votes are sometimes quite arduous.

I share those frustrations, but I will not be seeing constituents yet again having to bear the brunt of those frustrations. I urge all members of parliament to do the job we are here to do, to take this legislation and debate it as best we can and in a timely way. If we are frustrated with the government's handling of the process, we should not see that burden being borne by the constituents who I hope to see treated better after this particular parliamentary process.

People in the LGBTI community have suffered stigma and discrimination. We know the rates of suicide, and that awful case, just in these past two weeks, of the young boy in Queensland who was bullied to death in a school because we do not have acceptance. A parliament today can show that we as leaders do accept those young children in our schools who are currently being bullied, that we will say 'no more' and that we will support these families in all their forms because they are us. In fact, I wish there were more of us here today because we might not see these debates stymied for so long. With those few words, I support the bill.

Debate adjourned on motion of Hon. J.M.A. Lensink.

PUBLIC SECTOR (DATA SHARING) BILL

Committee Stage

In committee.

Clause 1.

The Hon. R.I. LUCAS: I raised this in the second reading but it was obviously too early for the minister, on behalf of the government, to respond. I think he gave an immediate response to earlier contributions made on the second reading so I want to pursue some of the issues I raised in the second reading. With the issue I raised, there are many examples, but one clear example is the YourSAy website where the government, I think, has over 50,000 registered users, with email addresses and names, indicating their attitude to various political issues of the day that the government is seeking to canvass.

Since I spoke at the second reading, I have had my office look at various government departments and agencies. The most recent example was in the nuclear royal commission debate. There is an agency of government, which has the acronym CARA (exactly what that stands for I forget now), which manages the waste dump process. It has a well organised process where tens of thousands of members of the public could express their views in relation to the controversial issue of the nuclear waste dump that the Weatherill Labor government (supported by minister Malinauskas) is supporting in South Australia.

The Hon. P. Malinauskas: I stick to what I believe in.

The Hon. R.I. LUCAS: Indeed, but we will not debate that here. So, that was the second example. Regarding Transforming Health, there is a very considerable interactive process between SA Health and the community in terms of expressing particular points of view. In the environment area, there are a number of areas on the Department for Environment's website where people have been able to give their name and email addresses, and that is collected and stored somewhere in that department.

These are examples of where government departments and agencies have stored the names of individuals, their email address and their particular view on a particular political issue that the government has been seeking to canvass. If I can take, in the first instance, the YourSAy website: to which particular agency is that information currently restricted to? Is it just the Department of the Premier and Cabinet?

The Hon. P. MALINAUSKAS: Maybe if I read out some remarks regarding clause 1 generally; I think that may address some of the questions that the Hon. Mr Lucas has raised. On 15 November 2016, the Hon. Mr Lucas in this house asked the government a number of questions regarding the bill. I thank the honourable member for his contribution and provide answers to those questions. I take the opportunity, first, to reassure the house that the intent of the bill is not about government obtaining lists of email addresses to circulate materials for political purposes.

As I explained to the house, the bill is about ensuring that government agencies can share valuable government data with each other to improve evidence-based policy development and service delivery to benefit members of the public. The government respectfully disagrees with the Hon. Mr Lucas that the provisions of the bill will be used for purely political purposes.

Regarding YourSAy, the data collected from the YourSAy website is held in a secure database and is covered by the privacy policy outlined in a link available on the website. I can read out the link: http://yoursay.sa.gov.au/privacy-policy. The privacy policy tells users about the information collected and how it is used and forms part of the terms of use of the website. Of particular interest to the Hon. Mr Lucas would be if the information collected from users, which can include certain personal information, is protected and handled in accordance with the South Australian government's information privacy principles (IPPs).

If personal information needs to be shared with a third party, then the IPPs are complied with. A copy of the government's IPPs can be obtained from the Department of the Premier and Cabinet's website, and a link is provided on YourSAy to that website: dpc.sa.gov.au/privacy. Clause 4(10) of the IPPs is most relevant to disclosure of personal information and states that:

> (10) An agency should not disclose personal information about some other person to a third person for a purpose that is not the purpose of collection (the secondary purpose) unless:

(a) the record-subject would reasonably expect the agency to disclose the information for the secondary purpose and the secondary purpose is related to the primary purpose of collection;

(b) the record-subject has expressly or impliedly consented to the disclosure;

(c) the person disclosing the information believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of the record-subject or of some other person;

(d) the disclosure is required or authorised by or under law;

(e) the disclosure is reasonably necessary for the enforcement of the criminal law, or of a law imposing a pecuniary penalty or for the protection of the public revenue or for the protection of the interests of the government, statutory authority or statutory office-holder as an employer;

(f) the agency has reason to suspect that unlawful activity has been, is being or may be engaged in, and discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or

(g) the agency reasonably believes that the disclosure relates to information about an individual that suggests that the individual has engaged or may engage in illegal conduct or serious misconduct in relation to a person; and

(i) the agency reasonably believes that the disclosure is appropriate in the circumstances; and

(ii) the disclosure complies with any guidelines issued by the Minister for the purposes of this clause.

However, information submitted through the YourSAy website may be provided in de-identified form to researchers at the University of Adelaide or other universities. The information is used for research purposes to evaluate and improve YourSAy and other public engagement processes and may be published in an academic journal. By submitting information to the YourSAy website, individuals provide their consent to being involved in the research. No identifying information is provided to the researchers.

I advised the house on 15 November 2016, that should this bill be passed the government will engage in consultation on the regulations that may be required to be made under this legislation, including provisions that might exempt certain data from the operation of the legislation and include or exclude certain agencies, persons or bodies from the operation of the act. A reasonable assumption is that the regulations might exclude sensitive criminal intelligence data and agencies such as the Independent Commission against Corruption and the Office for Public Integrity. During this process, consideration is likely to be given to whether data held by Revenue SA or ReturnToWorkSA, and other health-related data and the relevant agencies, ought to be exempt from the act.

Regarding deceased persons, I advise the house that the definition of 'individual' in the bill includes deceased persons as well as living persons, so that personal information about a living or deceased person is subject to considerations of de-identification under the trusted access principles. This way, the attention of all data providers is drawn to the need to have regard to the sensitivities of bereaved family members and other similar issues when considering data requests.

Tabling of decisions: the Hon. Mr Lucas is concerned that the minister's decisions under clause 9(1) to direct public sector agencies to share data ought to be made public, including by tabling the decisions before parliament. The government respectfully disagrees that this measure is necessary. However, the government will support an amendment filed by the Hon. Mr McLachlan for the publication in the *Gazette* of decisions made under clause 9(1) and the laying of a notice of such decisions before each house, provided that the period of laying the notice be increased to six sitting days.

The government will also support an amendment to be moved by the Hon. Mr McLachlan that would see decisions under clause 9(1) published in an annual report, and also decisions made under clause 8 in relation to public sector data that contains personal information. In addition, the government will support a further amendment moved by the Hon. Mr McLachlan for a review of the legislation on its third anniversary. The government proposes to move its own amendment so that

the purposes for data sharing under clause 8 are recorded in writing, and hopes to receive member support for the amendment. The government considers these amendments, taken together, to provide sufficient oversight of decisions made under clauses 8 and 9.

Further use of disclosure of data: the minister has a power under clause 14 to approve the use or disclosure of shared data for a purpose that is different from the original purpose for which the data was shared. It is not anticipated that this power will be used extensively. It will only be used where appropriate to do so. This provision was inserted to avoid the inconvenience of agencies needing to comply with clauses 8 or 9 again where it should strictly be unnecessary to do so.

Although these decisions are not among those listed in the Hon. Mr McLachlan's amendment for inclusion in the annual report, there is no reason why the annual report could not also provide details of approvals given under clause 14. The government will support an amendment filed by the Hon. Mr McLachlan for the publication in the *Gazette* of decisions made under clause 14 and the laying of a notice of such approvals before each house, provided that the period of laying the notice be increased to six sitting days.

Delegations: as is common in modern legislation, the minister may delegate his or her functions and powers. It is not anticipated that the minister will inappropriately exercise the minister's powers of delegation, nor that any delegate would improperly exercise their powers. The government will support an amendment filed by the Hon. Mr McLachlan for the publication in the *Gazette* of delegations of the minister's functions and powers and the laying of a notice of such delegations before each house, provided that the period of laying the notice be increased to six sitting days.

The Hon. R.I. LUCAS: I thank the minister for those responses on behalf of the government. Regarding the issue of government access, the minister in part of that response was talking about release of information to university researchers and in that process it being depersonalised. That is not really my concern, as I outlined in the second reading contribution. My concern is the inappropriate use by governments of information that they have collected. I gave the example where, during the 2010 election campaign, the Premier used a government database of people within the education department and sent information on the Labor Party's policy to all those people.

If you are in government, if you have access to the database of all teachers and SSOs and ancillary staff and others within the education department, at the press of a button being able to send the Labor Party education policy, prior to an election, during a caretaker convention period, is an enormous advantage for the government of the day. This is not a hypothetical, this was an actual case, a complaint which was lodged. At the time, of course, no action was taken because there was really no mechanism to take action, other than to complain to the person in charge of the caretaker convention, who was a CEO of the Premier's department. Put that to the side.

It is occurring, and it is not an issue of whether it is inappropriately being given to independent academic researchers, or anything like that. Whilst I mention it, I do not think it is really an issue of the premier of the day being so blatant as to send it off to Reggie Martin in the Labor Party and to have him contact all the people. That is not necessary. The premier and the ministers in the government of the day, particularly if you have former Labor Party staffers who are the chief executives of the Department of the Premier and Cabinet who are at that particular level as well, it is the issue of the potential abuse and misuse of these government databases for political purposes in periods leading up to an election period.

The questions that I have directed therefore are not about the academic researchers, they are about the capacity with this data sharing, and particularly, as the minister has said, and he read out all of the privacy principles and all those things that related to YourSAy, for example. That is only one of the many websites, and I have not had time, obviously, because I had not heard that response, to check whether the same privacy principles relate to all the recreational fishers who contact the environment department or the fishing department about their views for and against marine parks or whatever it might happen to be.

Put that to the side, if we just address those particular issues, under clause 14 the minister acknowledged in his response, because I raised this in the second reading:

> A data recipient must not use or disclose public sector data received pursuant to an authorisation under section 8 or section 9 other than for a purpose for which it was provided unless—

(a) the Minister, after consultation with the data provider, approves the use or disclosure;

Clearly, the minister can authorise the use or disclosure of information other than for the purpose for which it was gathered. I think the minister's response acknowledges that and he said there is not any mal-intent in relation to this particular provision that exists in the legislation. I accept that the minister is reading the advice that has been given. We have seen misuse and abuse of the government databases and information that is available already over the last six years.

My questions are really in relation to, under this particular legislation—they are my questions but also my comments—what will be the restrictions that prevent a premier, with a compliant CEO of his or her department, being able to use information contrary to the use for which it was originally provided by exercising the powers under 14(a)? The government's response is, 'Well, that's not the intention. You will have to accept that we'll act honourably in relation to these things.' I do not accept that particular assurance.

Specifically, in relation to the exchange of information, does the minister concede, with the provisions and the explanation that he has given, that for example in relation to the CEO of DPC—if he now controls the YourSAy database, under the privacy principles that he was talking about—it will be possible under this for all the other databases to be sent to, exchanged with, the Department of the Premier and Cabinet, with the powers under section 14 and the other related powers that he has referred to?

For example, anyone who has corresponded with the health department on Transforming Health, and the various other ones I have referred to, does the government accept that there would be the power to transfer all of the information on those databases to the Department of the Premier and Cabinet, if the minister utilises clauses like section 14 and the other clauses that would be required?

The Hon. P. MALINAUSKAS: The government is willing to support one of the amendments that has been moved by the Hon. Mr McLachlan, which I think should alleviate some of the concerns that the Hon. Mr Lucas has raised, in that all decisions that the minister makes in the context of the clause that you refer to will be made publicly available through both the *Gazette* and also be laid before both houses. The government believes that that should provide confidence to the chamber that any such decisions will be public and, of course, will be held to account in due course.

The Hon. R.I. LUCAS: The minister accepts that through the gazettal, of course, it is not disallowable, so there would be, potentially, public knowledge of a decision that has been taken within the—I think the six sitting days, is it?

The Hon. A.L. McLachlan: Yes.

The Hon. R.I. LUCAS: Within six sitting days, but, of course, in a period leading up to an election, the house is not sitting. So, if the house rises in November 2017, the election is not until March 2018, there can be a gazettal in December and it does not have to be advised. Putting that particular convenience and issue to the side, my question is: can the minister confirm that clearly it is not disallowable in any way, is it? It will just be public notice of the decision and there is not much that can be done about it other than make a complaint about it, if you wanted to?

The Hon. P. MALINAUSKAS: The Hon. Mr Lucas has served in this chamber for a very long period of time and I do not think it is appropriate or necessary for me to be lecturing him about various parliamentary procedures. I think the honourable member knows all too well what is disallowable and what is not, and what gazetting means and so forth. I do not intend to lecture him and provide him answers to questions that I am pretty sure he is fully conscious of.

The Hon. R.I. LUCAS: I was not asking for a lecture: I was just asking for an answer to a question, but let me infer from that that the minister does not want to use the words, 'The government agrees that it would not be disallowable.' It would actually be the public announcement of a certain delay period of a government decision and the power of the parliament or the opposition in relation to that is negligible, other than, obviously, to complain about it publicly.

I am not sure why the minister was reticent about answering the question. As I said, I was not asking for a lecture on the particular issue. Can I go back to the question. The minister said, 'If the minister takes this decision it will at least be gazetted and people will know about it.' Can I have

the minister confirm that what I have asked is, essentially, correct? That is, if the minister utilises these powers and has a supportive chief executive officer, that the information that exists on government databases in the environment department or in the health department could be transferred to the Department of Premier and Cabinet onto a central database held in the Department of Premier and Cabinet?

The Hon. P. MALINAUSKAS: In that specific question that you most recently asked, the answer to that question is yes. The intent of the bill is for information to be shared across government departments for the purpose of better public policy outcomes. It is not designed, or framed in such a way, as to try to deliver a political outcome: rather, a better public policy outcome.

The Hon. R.I. LUCAS: Whereabouts in section 14, though, does it say that the only reason for a minister to not follow the restriction, which says the data should only be used for the purpose it is provided for—where does it say in that particular exemption under 14(a) that the minister can prove the use or disclosure that can only be used, in essence, for a public policy purpose, as opposed to any other purpose?

The Hon. P. MALINAUSKAS: In respect to the specific provision the Hon. Mr Lucas is referring to, it may not appear there, but I understand that all decisions and actions that occur under the act have to be in accordance with the objects of the act. The objects of the act, I am advised, clearly spell out what the purposes and intent of this is, and that is as I articulated earlier.

The Hon. R.I. LUCAS: Chair, the reason for having exemptions—there might be objects of the act, but clearly under 14(a) there is no restriction. It makes it quite clear that the minister, after consultation, can approve the use or disclosure. There is no restriction as the minister has just acknowledged, but I will further pursue that issue in clause 14.

The Hon. A.L. McLACHLAN: I should indicate to the chamber that there are a number of amendments, which have been filed by the opposition. Some I will move, some I will not. I thought I would clarify that for the benefit of the chamber before we proceed into the other clauses.

The opposition will be moving amendment No. 1 [McLachlan-1], which is to insert the word 'written' before 'approval'. My understanding is that the government does not have an objection to that particular amendment. On that set of amendments, I will not be moving amendment No. 2 [McLachlan-1]. That clause will be replaced in another suite of amendments, which I will refer to shortly.

I will not be moving amendment No. 3 [McLachlan-1]: requirement to record reasons. The opposition will be accepting the government's amendment in relation to the recording of the decisions. I will be moving amendment No. 4 [McLachlan-1] and amendment No. 5 [McLachlan-1]. As the honourable minister has indicated, the government is supporting those amendments, and they relate to the annual report and a subsequent review.

I turn to my second set of amendments. I will be moving amendment No. 1 [McLachlan-2]. As I understand it, this is in agreement with the government. It relates to a recasting of the safe data provisions, which relate to putting a primary obligation to remove personal data. That may allay some of the concerns of my honourable friends. It changes from the first set of amendments that I filed because I changed the words in relation to protection of children to an exemption for wellbeing and welfare, and there is a further clause being inserted, which is allowing the sharing of personal information for a prescribed purpose. Obviously, that is by regulation.

I will also be moving my third set of amendments: amendment No. 1 [McLachlan-3], amendment No. 2 [McLachlan-3], and amendment No. 3 [McLachlan-3]. In there, I refer to one sitting day. I will be seeking to amend that amendment by deleting the word 'one' and inserting the word 'six'. I will take some advice from the Clerk on technically how I do that. For the benefit of members, that is how I intend to proceed with the amendments.

Progress reported; committee to sit again.

Sitting suspended from 13:00 to 14:17.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2015-16—
- Corporations—
  - Murray Bridge
  - Onkaparinga
  - City of Port Adelaide Enfield
  - City of Port Lincoln
- District Councils—
  - Barossa
  - Barunga West
  - Ceduna
  - Clare and Gilbert Valley
  - Elliston
  - Franklin Harbour
  - City of Grant
  - Kangaroo Island
  - Kimba
  - Streaky Bay
  - Yorke Peninsula

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

Reports, 2015-16—
- Australian Energy Market Commission
- Department of Treasury and Finance
- Distribution Lessor Corporation
- Essential Services Commission of South Australia
- Funds SA
- Generation Lessor Corporation
- Local Government Financing Authority of South Australia
- Motor Accident Commission
- South Australian Parliamentary Superannuation Scheme
- Southern Select Super Corporation
- State Procurement Board
- Super SA Board
- Technical Regulator—Electricity
- Technical Regulator—Gas
- Transmission Lessor Corporation

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

Maternal, Perinatal and Infant Mortality Committee—Report, 2014

Reports, 2015-16—
- Australian Children's Education and Care Quality Authority
- Board of the Botanic Gardens and State Herbarium
- Central Adelaide Local Health Network
- Central Adelaide Local Health Network Health Advisory Council Inc.
- Coast Protection Board
- Country Health SA Local Health Network Inc.
- Department for Health and Ageing
- Department of Environment, Water and Natural Resources
- Education and Care Services Ombudsman, National Education and Care Services Privacy and Freedom of Information Commissioners

Education and Early Childhood Services Registration and Standards Board of South Australia
Environment Protection Authority
JamFactory Contemporary Craft and Design Inc.
National Aboriginal Cultural Institute (Tandanya)
Native Vegetation Council
Northern Adelaide Local Health Network
Northern Adelaide Local Health Network Health Advisory Council Inc.
Pastoral Board
SA Ambulance Service
SAAS Volunteer Health Advisory Council
South Australian Film Corporation
South Australian Tourism Commission
South Eastern Water Conservation and Drainage Board
Southern Adelaide Local Health Network
Southern Adelaide Local Health Network Health Advisory Council Inc.
State Opera of South Australia
State Theatre Company of South Australia
Windmill Theatre Co.
Women's and Children's Health Network
Women's and Children's Health Network Health Advisory Council Inc.

Regulations under National Schemes—

Health Practitioner Regulation National Law Amendment (Midwife Insurance Exemption) Regulations 2016 under the Health Practitioner Regulation National Law

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Reports, 2015-16—

South Australian Water Corporation
Technical Regulator—Water

By the Minister for Police (Hon. P. B. Malinauskas)—

Reports, 2015-16—

Chief Psychiatrist of South Australia
Controlled Substances Advisory Council
Renewal SA
Riverbank Authority
South Australian Community Visitor Scheme—Disability Services
South Australian Community Visitor Scheme—Mental Health Services
South Australian Housing Trust
South Australian Mental Health Commission
South Australian Police

By the Minister for Correctional Services (Hon. P. B. Malinauskas)—

Department for Correctional Services—Report, 2015-16

By the Minister for Emergency Services (Hon. P.B. Malinauskas)—

South Australian Fire and Emergency Services Commission—Report, 2015-16

By the Minister for Road Safety (Hon. P.B. Malinauskas)—

Community Road Safety Fund Revenue and Expenditure—Report, 2015-16

Ministerial Statement

POWER OUTAGES

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) (14:21): I table a copy of a ministerial statement on the topic of Separation from the NEM Update made earlier today in another place by my colleague the Treasurer.

Parliamentary Procedure

ANSWERS TABLED

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

Question Time

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (14:22): I seek leave to make a brief explanation before asking a question of the Minister for Water and the River Murray regarding the Murray-Darling Basin.

Leave granted.

The Hon. J.M.A. LENSINK: In evidence to the Budget and Finance Committee last week, executives from his department referred to a list of projects being considered by the department to meet the 450-gigalitre efficiency measure. Is the minister in a position to outline a list of the projects and their current status in terms of commencement dates, proposed water efficiency savings, etc.?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:23): I thank the honourable member for her most important question. This goes to the heart of the Murray-Darling Basin Agreement for our state. I forgot to say that there is a little bit of confusion out in the community in terms of what the Liberal Party's position is on the 450-gigalitre provision. I am very pleased to say that, in all her public statements—at least, those I have heard—the Hon. Michelle Lensink gets it right whereas her parliamentary colleagues in the other place certainly don't.

The 450 gigalitres is essentially the important part of the agreement that got South Australia over the line. It was the component that of course the Eastern States didn't like too much but then South Australia didn't very much like the 650-gig downwater component either. In the spirit of compromise at the time, as I understand it, all the states in the Murray-Darling Basin jurisdiction decided to hang together rather than hang separately. That situation has now changed somewhat because the Eastern States see an opportunity for themselves essentially to try to rip the plan apart, take the bit they like—the 650 downwater—without actually—

The Hon. J.M.A. Lensink: They can't do it without changing the act.

The Hon. R.I. Lucas: It's legislated.

The PRESIDENT: Order! The minister has the call.

The Hon. I.K. HUNTER: The Hon. Michelle Lensink says they can't do it without changing the act. That is not true, of course, because it requires them to put up projects and this is the thing the Liberal Party doesn't understand. At this point in time, the way the agreement works and how the states have cooperated around the Murray-Darling Basin Agreement is that states put up their own individual projects which get assessed by rather rigorous methods that were established by the CSIRO and other independent, learned advisers. Those plans are assessed and then voted on by the Murray-Darling Basin Authority and, of course, ultimately, MinCo gives its sign-off on that.

So, states put up their own projects. The Hon. Michelle Lensink acknowledged as much when she asked me what projects South Australia are putting up. She needs to understand also that South Australia doesn't put up projects for New South Wales or Victoria, as much as I would like to

write those projects for them because there have been none forthcoming whatsoever, and this is the key point of difference.

South Australia is the only jurisdiction to date that has even gone out and done a pilot program on the 450 gigalitres which need to be delivered by 2024. I understand there was a vague commitment by New South Wales to participate in a pilot program that went nowhere. No pilot program eventuated, I am advised. We have seen nothing of it. Certainly, not even Victoria even pretended that they had an interest in delivering a pilot program. For them, it was a push back to the never, never.

The important thing to understand is South Australia has gone out—I think through the NRM, but I stand to be corrected on that—looking for private sector partners to develop the ideas that will deliver water for the 450 gigalitres in a way that is socio-economic neutral or indeed beneficial, as we have seen has been the case in terms of SARMS funding where we have developed new industries around irrigation and the technology that's supplied to irrigators, and also the complicated computer monitoring and the controlling which can be done from a central location. Those programs are in fact returning water to the river, making agriculturalists and irrigators much more productive and more efficient and, by the way, also establishing a new industry in terms of supplying that technology, updating it regularly and providing the infrastructure to local communities.

That's the essence of it. It is something that we have been pushing for in terms of those pilot projects. Nobody has done it, but the efficiency programs to deliver those 450 gigalitres are something South Australia is very keen on. It's also well to remember that we have had in South Australia very high levels of irrigator efficiency from our irrigators. They have been doing it for a number of years, as I said.

On the pilot landholders, under the pilot as I understand it in South Australia, landholders can receive funding to upgrade irrigation infrastructure or for other on-farm, water efficiency activities. In return, irrigators transfer the water savings they are confident of achieving from the project to the commonwealth. The pilot that we are engaged in will help to ensure that the efficiency program is well designed to meet the interests of our irrigators and their communities, and compliance with a listed requirement of socio-economic neutrality will be an important part of this, which I mentioned at the outset.

I am advised we are also thinking about other opportunities, including urban water efficiency projects that might meet the stringent requirements laid out in the agreement. Any other irrigation efficiency programs would have to be developed by working closely with our irrigation stakeholders just as we have done up to this date.

It's also important to understand that, because of the historical efficiency that irrigators have engaged in over 50 years, the low-hanging fruit in South Australia is simply not as abundant as it will be in New South Wales and Victoria in some places where they've still got open channel irrigation. There are great efficiencies that can be achieved in those Eastern States if only they were to step up.

The other conundrum in all this is this money is designed to go to irrigators themselves to make them more efficient. Why on earth would Barnaby Joyce and the federal Liberal government be standing in the way of irrigators getting their hands on that money that was put aside precisely for this purpose—to establish the 450 gigalitres and to do it in a way that is socio-economically neutral or beneficial to communities? As I said, we have been able to show this through our SARMS projects in various guises of increasing irrigation efficiency for our landowners and our agriculturalists up and down the Murray.

We don't expect—and it is important that we all note this—that there will be a similar apportionment of the 450 as there was in terms of other water in terms of downwater because, simply put, South Australians have been very, very efficient irrigators for the best part of 50 years. The low-hanging fruit now primarily exists in New South Wales but also in Victoria, and that's what that money is designed to do: to provide works and measures that will provide water back into the channel and be delivered in a way that benefits the environment of the river and benefits the long-term sustainability of the river for all our communities up and down the Murray, not to mention also those communities that rely on the Murray for drinking water.

MURRAY-DARLING BASIN PLAN

The Hon. S.G. WADE (14:29): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding the Murray-Darling Basin.

Leave granted.

The Hon. S.G. WADE: In evidence to the Budget and Finance Committee last week, representatives from DEWNR outlined that, under the agreement with the commonwealth, every 10 years South Australia is required to ensure that 120 gigalitres of water is put back into the river for the environment. My questions for the minister are:

1. Can the minister provide information about how many gigalitres have been returned since the agreement has been in place?

2. Can the minister also provide details about how much has been returned under this agreement on an annual basis, and what the obligation is over the 10-year period?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:30): Let me just briefly refresh my memory from my notes on that matter. I can, whilst I am perusing them, advise that our share of water return in terms of gigalitres—and this is the overall share—is about 183 gigalitres that is returned to the river, (not on an annual basis, of course) and we are currently up to about 140 gigalitres. I am also advised that we are well on track to achieve that and I think I have put that on the record previously, and we should probably hit our targets well before the other states. In terms of the annual feed-in to the river, I do not have that information immediately at hand. I am afraid I will have to take that on notice and bring it back for the honourable member.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (14:31): I seek leave to make an explanation prior to directing a question to the Minister for Environment on the subject of carbon neutrality.

Leave granted.

The Hon. R.I. LUCAS: As members would be aware, the government has promised for a while now that Adelaide would be the world's first carbon neutral capital city, I think, or city, because we have previously been advised there are a number of other cities around the world who have made similar claims. I think Copenhagen and Melbourne are two of a number who are making that particular claim. The minister will be aware that Melbourne, with the support of the Victorian Labor government, has continued to update on an annual basis their zero net emissions or carbon neutral Melbourne by 2020 as their current goal.

The minister will also be aware that in recent times the state government and the Adelaide City Council have released documentation indicating that they were going to achieve carbon neutrality, or try to achieve carbon neutrality by 2025, which is five years later than the policy of Melbourne and the Victorian government. My question to the minister is: does the minister accept that this recent joint policy announcement is an indication that the former commitment to being the world's first carbon neutral city for Adelaide is no longer valid?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:32): I thank the honourable member for his most important question. I suppose it is not surprising that there is a degree of confusion in the mind of the Hon. Mr Lucas around these areas because he is not comparing apples with apples; he is comparing Adelaide with Melbourne, and the promises and the ambitions are quite different. Melbourne's commitment, as I understand it, is just for the city council. It does not apply to the city itself, it does not apply to the government's involvement, it does not apply residents of the city of Melbourne, and it does not apply to businesses. It is just for the operations of the Melbourne city council or, however they style themselves.

The state government and the Adelaide council have a different ambition. The ambition for the city of Adelaide itself in terms of its council-controlled emissions is, indeed, 2025 but, in fact, the joint ambition of the state government and the Adelaide City Council is to become carbon neutral and to be the first city in the world, and to cover off on all the emissions. That is not just the emissions

of the state government, it is not just the emissions of the city council, it is the emissions of the whole city as encapsulated in the borders of the Adelaide City Council, I suppose, so that includes the CBD and Parklands and the environs of North Adelaide. It also includes all of the transport emissions that come in and go out of the city in terms of people commuting in for work and for other purposes, and for those who are just moving through the city to get to the other side of the city.

The government and the city council share this common goal, and the ambition was affirmed by the Premier and the Lord Mayor—with their joint release of the Vision for Carbon Neutral Adelaide—very shortly before the Paris climate negotiations in December 2015, together with their joint launch of the Carbon Neutral Adelaide Action Plan 2016–2021 on 8 November of this year.

So, as I said, the reference to 2025 represents the last date by which the city council itself will become carbon neutral for its own emissions. Efforts are being made to make this happen in an earlier style, in terms of the overall emissions for the whole city—that's our joint ambition. I am also advised that council resolved to delay any purchase of carbon offsets until all cost-effective and reasonable measures to reduce city emissions have been exhausted. Well, that is wise. Carbon offsets are the things that you do to bridge the gap, if you like, to borrow a phrase from another context.

It does remain the position of state government and council, through this unique partnership that we have, to achieve a carbon neutral Adelaide, to prioritise direct emissions reduction and activities over offsets and, when required, to preferentially seek offsets from projects that are in South Australia. That would always be our ambition, if we can manage that, to have local offsets. My desire is to have offsets that people in the city of Adelaide can go and see and touch and have a tangible relationship with, knowing that they are offsetting their emissions.

So, Adelaide is aiming to be the first carbon neutral city in the world, and we are well placed amongst our international counterparts to win that race. I am advised that it is unlikely that Melbourne will be carbon neutral by its nominated date, but that remains to be seen. I understand that they haven't done the extensive background work that the City of Adelaide has, nor do they enjoy a similar level of partnership with state government that we share with the City of Adelaide.

It is this collaborative partnership that we have with the Lord Mayor and the city council that really distinguishes us from the rest of Australia, if not other parts of the world. I know the Lord Mayor—when he comes back from international meetings—is a signatory on behalf of the City of Adelaide of the Compact of Mayors. It is a similar organisation to the one which Premier Jay Weatherill heads up as one of the three world co-chairs of the Compact of States and Territories. He remarks constantly—no doubt, members have heard him say this—that when he's meeting with mayors from around the world they come up to him and ask him for advice about how on earth he has managed to have such a close working partnership with his jurisdictional state government.

To me, at least, it seems like a common sense approach, to work together in a very close partnership. That hasn't been achieved elsewhere in the world to the same level, and I think that stands us in brilliant stead to actually achieve this big ambition of becoming the world's first carbon neutral city.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (14:37): Supplementary: given the minister referred in his answer to the collaboration between city council and the state government, Lord Mayor Haese has indicated that the only way carbon neutrality could be achieved by 2025 was by purchasing offsets, to which the minister has referred, and he said that the council would be asking the state government to help pay for the offsets, which he conceded would cost millions each year. Can the minister indicate what level of funding the government has committed this financial year to the city council purchasing offsets, and for each of the forward estimate years—that is, for each of the next three years—together with the city council, to purchase offsets to help achieve this policy goal?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:38): The Hon. Mr Lucas is really putting the cart before the horse. We need to do the work that is actually going to achieve the biggest bang for buck in the first instance, and that will be addressing the

emissions that we see as part of the city profile that come from transport and fixed assets—the energy consumption in those buildings. Together, that adds up to roughly about 85 or even up to a high 80 percentile mark in terms of the emissions. So, logically, that is where you would put your greatest effort: to prioritise direct emissions reduction activities over offsets. That's what we're doing.

When required, as I said, we would preferentially seek offsets of a local nature and from projects in South Australia, but we are working very closely with the city council to achieve those goals well before anyone else does. However, first of all you prioritise your game plan to actually achieve the best outcome you can in the shortest amount of time. You prioritise your direct emissions, your transport emissions, your standing energy emissions that come from buildings, and then you see what you are required to do to bridge the gap. There is no point in trying to bridge the gap when you don't know what the gap is.

MURRAY-DARLING BASIN PLAN

The Hon. J.M. GAZZOLA (14:39): Under standing order no. 107, I direct a question to the Hon. Michelle Lensink about the Murray-Darling Basin Plan. My question is: does the honourable member agree with Liberal spokesperson for water, Tim Whetstone, the member for Chaffey, that the full basin plan was 2,750 gigalitres, which does not include the 450 gigalitres of water because, in his words, 'the 450 gigalitres of upwater was a side deal'?

The Hon. J.M.A. Lensink: Was that all a quote, or just the last bit?

The Hon. J.M. GAZZOLA: I've just asked a question.

Members interjecting:

The PRESIDENT: Order!

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

The PRESIDENT: Order! Did the member understand that question?

The Hon. J.M.A. Lensink: No; could he repeat it please?

The PRESIDENT: The Hon. Mr Gazzola, please read it out, and we want silence.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gazzola.

The Hon. J.M. GAZZOLA: Tim Whetstone, the member for Chaffey, has said that the full basin plan was—

Members interjecting:

The PRESIDENT: Order! No more. It is difficult enough to understand the question without people interjecting. The Hon. Mr Gazzola.

The Hon. S.G. Wade: Mr Gazzola doesn't even know where it's from; he doesn't even know if it's a complete quote.

The Hon. J.M. GAZZOLA: You've been here long enough, Stephen.

The PRESIDENT: Order! The Hon. Mr Gazzola will ask the question, without interjection.

The Hon. J.M. GAZZOLA: Tim Whetstone, the member for Chaffey, said—

Members interjecting:

The PRESIDENT: Order! The next one to interject will be warned—

The Hon. K.J. Maher interjecting:

The PRESIDENT: —and that includes the Leader of the Government. The Hon. Mr Gazzola.

The Hon. J.M. GAZZOLA: Tim Whetstone, the member Chaffey, said that the full basin plan was 2,750 gigalitres, which does not include the 450 gigalitres of water because—and the quote

was—'the 450 gigalitres of upwater was a side deal'. And that was in an interview from 18 November. Okay, Stephen?

The Hon. S.G. Wade: Where?

The Hon. J.M. GAZZOLA: On radio.

The Hon. J.M.A. LENSINK (14:41): I think I am familiar with the interview that the honourable member is referring to. I think the last words are the quote where he refers to the 450 gigalitres of upwater, but I think he is actually trying to put words in the honourable member's mouth, from my understanding of the particular interview. The basin plan is 3,200 gigalitres. It is 2,750 gigalitres and 450 gigalitres of upwater. That gets you to 3,200. It is legislated. The only way that it can be amended is through amending the act, and every state has a veto over any proposed changes to the basin plan. It has been guaranteed by the Prime Minister. I am not quite sure that it gets any more definitive than that.

Members interjecting:

The PRESIDENT: Order!

MURRAY-DARLING BASIN PLAN

The Hon. J.M. GAZZOLA (14:42): I have a supplementary. Is it the Liberal Party policy then that the Murray-Darling Basin Plan does not provide for a 3,200-gigalitre commitment, as the member for MacKillop said yesterday in parliament, because the water was, in his words, 'never guaranteed'?

The Hon. J.M.A. LENSINK (14:43): I don't think the supplementary comes out of my response, but I will respond to it as follows. The Liberal Party position is that the basin plan will be delivered in full on the 3,200 gigalitres.

MURRAY-DARLING BASIN PLAN

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) (14:43): I have a supplementary question arising out of the original answer to the question. Is it Liberal Party policy that users in South Australia should 'move to where the water is', as the national LNP water minister has told South Australians?

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK (14:43): No, that is not the Liberal Party's position. The honourable member well knows that. He knows that the Prime Minister—who is, you know, the chief guy—has guaranteed 3,200 gigalitres in full; the basin plan will be delivered in full.

Members interjecting:

The Hon. J.M.A. LENSINK: Perhaps I can just explain it for—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The honourable Leader of the Government and the Hon. Mr Wade, allow the member to answer the question. The Hon. Ms Lensink.

The Hon. J.M.A. LENSINK: Perhaps I can just explain it for the rather simple Leader of the Government as follows: the Prime Minister is a Liberal federal member of parliament and he is the Leader of the Government which has been elected by the people of Australia. He is the top guy. He sets the policy.

Members interjecting:

The PRESIDENT: Order! Just show a little respect for any member who is on their feet trying to answer a question. I don't want to hear any interjections. The Hon. Ms Lensink.

The Hon. J.M.A. LENSINK: The Prime Minister, for the record, happened to be the guy who wrote the water act, as the former minister for the environment. He has a bit of an understanding of this plan and how it works. He has guaranteed it. I am not quite sure how high you want to go, other than God, perhaps.

Members interjecting:

The PRESIDENT: Allow the Hon. Ms Lensink to finish her answer.

The Hon. J.M.A. LENSINK: The state Leader of the Opposition, the state leader of the Liberal Party, the member for Dunstan, met with the top guy, who repeated the commitment, who is my boss. The boss of the state Liberal Party and the boss of the Australian government met together to talk about the 3,200—

Members interjecting:

The Hon. J.M.A. LENSINK: Steven Marshall. You know how this works? I am a little bit surprised, Mr President, that I am having to explain the divisions of state—

The PRESIDENT: Will you allow the Hon. Ms Lensink to answer the question and don't throw other questions in for her to answer.

The Hon. J.M.A. LENSINK: Perhaps a bit of civics education. You missed that one, perhaps. The Leader of the Government—slightly embarrassing—you missed a bit of civics education, did you?

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: Perhaps if I could just finish by saying that I did actually speak to Barnaby Joyce. I spoke to him on the weekend, following the incident, and expressed to him the concerns of South Australians, and we had a very civilised conversation. I will not have the members opposite, who have had a free rein in question time, when government members have been on their feet, to say whatever they liked about the position of the Liberal Party in this place. We have stood up to them. We have stood up to them on a number of occasions. I can even talk about other incidents: the Hon. Gail Gago, who is not here, but she has also made allegations about us not standing up for our members who have made sexist remarks. Well I have, in ways that she never has, when Bill Heffernan made inappropriate remarks.

Members interjecting:

The PRESIDENT: Order! You have all had your fun. Have you answered the question?

The Hon. J.M.A. LENSINK: I am more than happy to answer any of these questions.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: There are some good brochures in Centre Hall, Mr Maher, that you could avail yourself of, about the processes of how parliaments operate and so forth and divisions between state and federal and all those sorts of things. You might find that beneficial, firstly, before you ask questions and before you interject, which is out of order.

Members interjecting:

The PRESIDENT: Order! The honourable Minister for Police.

MURRAY-DARLING BASIN PLAN

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:48): I have a supplementary

arising out of the honourable member's answer: since the honourable member has clarified that her top boss in the Liberal Party is the Prime Minister—

The Hon. J.M.A. Lensink: No, I said Steven Marshall.

The Hon. P. MALINAUSKAS: —is the Prime Minister. That's not what you said. Check the *Hansard.* Does that then mean—

Members interjecting:

The PRESIDENT: Order! This is becoming too much.

Members interjecting:

The PRESIDENT: Order! This is disgraceful behaviour and it will not be tolerated from anyone. The next person who interjects will be warned. The honourable minister.

The Hon. P. MALINAUSKAS: The *Hansard* will clearly reflect the Hon. Ms Lensink referring to the Prime Minister of Australia—

The Hon. R.I. LUCAS: Point of order: the minister's question should be asked without explanation. The minister should understand the standing orders, I would have thought, given that he has been here and he sees himself as the future leader and premier of the state, you would think he would at least understand.

Members interjecting:

The PRESIDENT: Order! Normally, we are pretty flexible in question time. We give everyone the opportunity of asking questions and answering them, but this has turned into a bit of a farce. Now, minister, ask your question, and without interjection.

The Hon. P. MALINAUSKAS: As I stated earlier, arising out of the member's answer, if she believes that the Prime Minister of Australia is her top boss, then in his absence, when the Deputy Prime Minister assumes that role, does that make the Deputy Prime Minister your boss then, too?

The Hon. J.M.A. LENSINK (14:50): I will use the defence that is sometimes used by the honourable Minister for the River Murray: don't put words in my mouth.

The Hon. P. Malinauskas: I'm not. Check the *Hansard.* You said the top boss is the Prime Minister.

The PRESIDENT: Order! Will the minister please contain himself and allow the honourable member to answer the question.

The Hon. J.M.A. LENSINK: Don't put words in my mouth. The boss of Australia is the Hon. Malcolm Turnbull, okay? Do we need to go through this again? He is the boss of the Coalition.

The Hon. P. Malinauskas: He's your top boss; he's not my boss.

The Hon. J.M.A. LENSINK: No, I never said that.

The PRESIDENT: No debate across the floor.

The Hon. J.M.A. LENSINK: I think he trumps your role. He's a little bit more powerful than you.

The Hon. P. Malinauskas: But he's not my boss. I don't answer to him. I answer to the people of South Australia. You should do the same.

The PRESIDENT: Order! Will the minister please desist.

The Hon. J.M.A. LENSINK: Goodness me, what an excitable young chap. He is obviously looking forward to moving down—he is living in Cheltenham—moving into—

Members interjecting:

The Hon. J.M.A. LENSINK: Croydon—moving into the electorate of Croydon and seeing himself elevated and—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: My, hasn't he taken the mantle of becoming a minister, just taken like that, like a duck to water.

The Hon. P. Malinauskas interjecting:

The Hon. J.M.A. LENSINK: As I said, I don't think I need to check the *Hansard.* If the Minister for Police is so concerned, I'm sure he can check the record. I am pretty sure that I said that my boss is a chap called Steven Marshall, who is the member for Dunstan, and it doesn't get much simpler than that. Perhaps the Minister for Police needs a civics lesson, too.

The PRESIDENT: The Hon. Mr Brokenshire.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: The Hon. Mr Brokenshire. What was that? I hope *Hansard* got that. The Hon. Mr Brokenshire has the floor.

WATER ALLOCATION

The Hon. R.L. BROKENSHIRE (14:52): I note that the—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Brokenshire has the right to ask his question without interjection.

The Hon. R.L. BROKENSHIRE: Thank you, sir, and I note the government are getting ready and practising to be opposition, but at the moment they are still the government—

The PRESIDENT: Just asked your question.

The Hon. R.L. BROKENSHIRE: —and therefore my question is to the government. In particular, my question is to the Minister for Environment, natural resources and water. I seek leave to make a brief explanation before asking the question.

Leave granted.

The Hon. R.L. BROKENSHIRE: I asked questions of SA Water during evidence they gave to the Natural Resources Committee about River Murray water and whether or not the SA Water Corporation had the right to go onto the market when it came to surplus River Murray water allocations. They advised us that, under Schedule E of the Murray-Darling Basin agreement, they cannot use the 650 gigalitres over the five-year rolling average for any trading on the market. However, they then went on to say:

> SA Water holds other permanent entitlements on licences with allocations that are tradable. The primary role of these entitlements is to support water security for both our non-metropolitan customers and metropolitan customers in combination with our other sources.

They then say:

> In a year, when these allocations are not required for the public water supply, SA Water makes this water available for trading on the water allocations market.

My questions to the minister are:

1. Can the minister advise the house, over the last three years, how much water in megalitres or gigalitres SA Water has traded:

2. Can the minister assure the house that any water that has been traded has not been traded upstream of the South Australian border to interstate irrigators?

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 a very confused and nonsensical question. What is it about a water trading market the honourable member doesn't understand—what is it about a water trading market that the honourable member doesn't understand?

Water trading markets work to get the most efficient use of a resource in a system. It doesn't do to try to put artificial constraints on a water trading market if you want the market to work in an effective manner. This is the absolute incredibility of a questioner from Family First, the Hon. Robert Brokenshire, who is essentially a rural socialist. He is a rural socialist. What he wants is for the state to control the entire water market for the benefit of his constituency, and not to worry about anybody else.

The Hon. R.L. Brokenshire: I'm only interested in South Australia.

The Hon. I.K. HUNTER: He is only interested in his own constituency; he is not interested in the rest of the state. He is not interested in other irrigators; he is not interested in those people who depend on the River Murray for drinking water; he doesn't care about people in the River Murray-Darling Basin who depend on that water for irrigation purposes. All he cares about is his own little constituency. How remarkable is that: to have a person come in here pretending to be a conservative, but in fact all he is is an out-there rural socialist who wants to control the water market for his own purposes. It's just crazy.

He should talk to some of the Liberals who, apparently, are supposed to be free marketeers. What we do understand is that by putting up a water trading market, we have allowed our irrigators, our water licensees and those who utilise water either in terms of annual amounts or have an allocation, to more freely trade their water in an effective market-based system, which gives them the best value for that product. They can make rational choices about whether they utilise their water licence for that year, or their water allocation, to irrigate a crop, or to sell it upstream, within South Australia or into other markets interstate. That is a choice for them.

The Hon. R.L. BROKENSHIRE: Point of order: I have listened for four minutes to the wrong answer. My question is: how much water has SA Water traded over the last three years, and can the minister tell the house whether any of that water was traded upstream at the South Australian border? SA Water—nothing to do with irrigators and tradeability. I want to know what your corporation was doing, and I want an answer for a change.

The PRESIDENT: Will the Hon. Mr Brokenshire remember that it wasn't appropriate the way you were pointing then and desist from that in future. Minister.

The Hon. I.K. HUNTER: You've just got to shake your head at that sort of numbskull behaviour in this place, don't you? Here we have the—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Here we have the Hon. Mr Wade—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Here we have the Hon. Mr Wade shouting out across the chamber.

Members interjecting:

The PRESIDENT: Minister, take your seat. 'Numbskull' is not the appropriate wording to use, I must say. He is a member of this chamber.

The Hon. I.K. HUNTER: I think I said 'numbskull behaviour', Mr President. I didn't call him a numbskull; that would be for someone else.

Members interjecting:

The PRESIDENT: Allow the minister to finish his answer. I must say it is extremely disappointing to hear the interjections from the minister's own colleagues. Allow him to get on his feet and answer the question. Minister.

The Hon. I.K. HUNTER: We have the Hon. Mr Wade on the other side of the chamber having a little member for Dunstan moment when he says, 'What a joke of an opposition we've got in this state.' Well, of course, no wonder the minister next to me guffawed, with the Hon. Mr Wade confirming what we all knew: the opposition in this state is a joke, an absolute joke. Well, we've now got the Hon. Mr Brokenshire joining in on the joke. The Hon. Mr Brokenshire comes in here with the wrong question. He comes in here with a question—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —about water markets, and when I give him an answer about water markets he pretends that is not the question he asked. Water markets work to the benefit of everyone in the water market, whether they are an incorporated body—as an irrigator trust, for example—whether they are an independent farmer, or whether they are SA Water. It makes no difference. A water market is open and transparent, as markets should be. The Hon. Mr Brokenshire comes in here thinking that we should distinguish between players in a water market. That is a numbskull sort of question, and it deserves to be treated in a numbskull sort of fashion. Unfortunately, I can't. I have to give him information that I understand about how a market works.

The Hon. J.S.L. DAWKINS: Point of order, sir.

The PRESIDENT: Point of order.

The Hon. J.S.L. DAWKINS: You did indicate that the use of the word 'numbskull' was inappropriate, and the minister is getting around that by repeating it.

The PRESIDENT: I said it is inappropriate to call someone in this chamber a numbskull. He hasn't used it in that context, so, minister, continue.

The Hon. I.K. HUNTER: Let me rephrase: the Hon. Mr Brokenshire comes in here with clown-like questions that really should be treated in a like manner, but I don't. I try to give him an informed response about how water markets work. It is not my fault that he doesn't have the first understanding of that.

WATER ALLOCATION

The Hon. J.M.A. LENSINK (15:01): Supplementary: the minister might need to take this on notice, but can he guarantee to the chamber that none of that water that was sold has actually been used by upstream cotton and rice growers?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:01): Again, the Hon. Michelle Lensink, from the free marketeer party over here, doesn't seem to understand how water markets work. You sell into a market, like a share market, and you have people who buy water on that open market. Often you will have a broker, like Waterfind, who operates in this state in a fantastic capacity to such an extent that, in fact, they are launching their enterprise overseas. I understand they are opening offices around the world, particularly in California. That's how it works. You don't actually control—in most instances, if you are using a broker, for example—who might be buying your water. You sell into a market, and someone who wants to buy water from that market buys it. That's how it works.

WATER ALLOCATION

The Hon. R.L. BROKENSHIRE (15:02): Supplementary: a simple question for the minister—

The PRESIDENT: Hon. Mr Brokenshire, why don't you give the minister the answer, and he can work out the question? It might be easier for us all.

The Hon. R.L. BROKENSHIRE: I would like to do that because it would help. Does SA Water Corporation, when it trades water, have a policy to say that it will trade that water anywhere in the Murray-Darling Basin system, or is the policy that they will trade what we are talking about, temporary water, to South Australian irrigators?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:02): How many times do I have to educate the honourable member about how water markets work? Perhaps I need to send him out on a refresher. When you trade into a market, you buy a resource, whether it is a share or some other marketable good, that is sold on the free market. You buy it. You don't ask where it is coming from. You don't ask who the seller is, normally. You might see it if you are having a private trade, for example, which some people do, particularly irrigators trading to other irrigators, but when you are buying in a market fashion, you sell into a market and you buy from a market. That's how they work.

STRATEGIC POLICY ADVISORY PANEL

The Hon. A.L. McLACHLAN (15:03): I seek leave to make a brief explanation before asking a question of the Minister for Correctional Services.

Leave granted.

The Hon. A.L. McLACHLAN: On 11 August this year, a media release was issued by the minister titled 'Targeting a reduction in reoffending'. The media release stated that a strategic policy advisory panel was being formed. The terms of reference for this advisory panel were that cabinet would endorse the panel's policy document by 28 November 2016 and that there would be an action plan due November 2016. My question to the minister is: has the minister been advised of the recommendations of the panel and, if so, what are the key recommendations from the panel?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:04): I thank the honourable member for his important question around an important subject. The government outlined earlier this year that we are committed to adopting a target of reducing the rate of reoffending by 10 per cent by the year 2020. The current rate of reoffending in South Australia is 46 per cent and, although that number is better than the national average, undoubtedly it would be an outstanding result if we were able to reduce that number even further because it would bring with it a whole range of public policy benefits, not least of which is a safer community. Indeed, a substantial saving to the South Australian taxpayer is part of that.

In order to pursue that policy, I appointed a strategic policy panel which is made up of experts from a range of different fields within the criminal justice sector to provide me with advice on various ideas that could be adopted with a view to realising that target. That policy panel has in essence concluded its work. I am happy to report that I will be meeting with the panel tomorrow to receive their recommendations. I have been very much looking forward to this meeting for some time. The panel has been ably chaired by Mr Warren Mundine. He has been assisted by a number of other panel members. I will quickly run through them from memory.

There was the former police commissioner Mal Hyde; the victims' rights commissioner, Michael O'Connell; Amanda Blair, who has long been a passionate advocate in the area of Corrections and also a member of the board of Housing SA; Professor Ian Edwards; Mr Lynn Arnold, a former premier of this state who, more importantly, has also served as a CEO within Anglicare; and Ms Nikki Govan, who is the Deputy Chair of Business SA.

I am very much looking forward to meeting with the panel tomorrow afternoon and receiving their recommendations. From there, of course I will be taking that report to cabinet. Post that, I look forward to releasing the information publicly in due course. I do acknowledge that the Hon. Mr McLachlan's question mentioned the time line of late November. That is in essence on track. Today is the first day of December and I look forward to receiving the outcomes of that public policy panel's recommendations at the earliest available opportunity.

STRATEGIC POLICY ADVISORY PANEL

The Hon. A.L. McLACHLAN (15:06): Supplementary: after cabinet has considered the report, is it the minister's intention that that report will be made public?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:07): Yes.

MOBILE BLACK SPOT PROGRAM

The Hon. T.T. NGO (15:07): I have a question for my boss in this chamber and the Minister for Science and Information Economy. Can the minister inform the chamber how the federal Liberal government has failed to deliver for regional South Australia through its mobile black spot program?

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): I thank the honourable member for his question and his interest in this area. The federal Liberal government—the bosses of those opposite, as we have heard today—has announced sites to be funded under round 2 of the mobile black spot program for South Australia. As a result, they have confirmed their complete and utter failure for many of this state's regional communities.

Members may recall that this state Labor government contributed $2 million to round 2 of the federal government's mobile black spot program. Today, the federal Liberal government has announced that 20 sites will be funded through the program, 15 of which will receive state government support. It is disappointing that, of the $2 million the state government put up, the federal Liberals chose—

Members interjecting:

The Hon. K.J. MAHER: Well, of the $2 million that the state government put up—and here is the embarrassment for the Hon. Terry Stephens—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: Here's the embarrassment for the Hon. Terry Stephens—

Members interjecting:

The PRESIDENT: Order! There are a number of crossbenchers here who have questions they want to ask. If the opposition and the government are going to continue to interject on each other while the time goes by, I will give the crossbenchers their questions ahead of yours. Any more interjections and I will go straight to the next crossbench question.

The Hon. K.J. MAHER: Thank you, Mr President. It was very disappointing to hear what the federal Liberals have done—the bosses of the Hon. Terry Stephens, their bosses in the federal government. The South Australian government put up—

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Sit down. The Hon. Ms Franks.

HIV

The Hon. T.A. FRANKS (15:09): I seek leave to make a brief explanation before addressing a question to the Minister for Police on the topic of blood-borne viruses and spitting.

Leave granted.

The Hon. T.A. FRANKS: The Australasian HIV and AIDS Conference is the premier medical scientific conference in the Australasian HIV and related diseases sector. It met here in Adelaide from 16 to 18 November and moved a unanimous resolution, which states:

As researchers, clinicians, and civil society representatives, we are united in our commitment to a HIV response grounded in evidence and protective of the human rights of people living with and affected by HIV. This conference expresses its profound disappointment in the governments of South Australia, Western Australia and the

Northern Territory for enacting anti scientific and counterproductive laws mandating HIV testing for people accused of spitting on law enforcement personnel, in the face of overwhelming evidence that such laws are neither effective nor necessary. HIV is not transmitted in saliva and these laws only serve to further marginalise and criminalise people with HIV. We call on all governments to establish evidence-based protocols that protect the wellbeing of police and emergency workers and the rights of people living with HIV.

I note that when the state government brought in these laws, they did so because they sought to protect those who protect us, and everyone in this place and indeed the Greens support that goal. I note that there were 118 incidents in the year prior to 2013 that did involve officers being spat on. There were also 279 incidents where officers came into contact with blood and two occasions where an officer suffered a needlestick injury.

My question to the Minister for Police is: will he ensure that the rollout of these tests, which will now see the offender tested rather than simply the officer, is based on a scientific and evidence-based principle, does not add to the stigma around people living with HIV and, where it is a blood-borne virus, saliva is not seen as a criterion for such testing, which will lead to this stigma?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:12): Let me thank the Hon. Ms Franks for her important question. I am more than happy to take on notice the parts of the question that pertain to the responsibilities of the Attorney-General and seek an answer back as soon as possible, but I would just add a couple of remarks.

Firstly, I appreciate the tenor of the honourable member's question. It won't surprise the honourable member that, as Minister for Police, my principal concern is of course with the safety of those men and women who do genuinely put themselves in harm's way to protect our community. I think it's important that, when men and women put on the uniform, they do so with the confidence that the government of the day, and indeed the parliament more broadly, have their interests at heart in trying to protect them from the range of different threats that they have to face on quite literally a regular basis, and this certainly falls into that category.

Of course, you want to make sure that policy is balanced and evidence based as always, but where police officers have genuine concerns around the risks to them that may present from other offenders, then that also needs to be taken into account. I appreciate the remarks and sentiments of the Hon. Ms Franks, which are undoubtedly well meaning, but my principal concern will naturally be the interests of those men and women serving in uniform. Again, I am more than happy to take on notice the question that specifically goes to the responsibilities of the Attorney-General.

HIV

The Hon. T.A. FRANKS (15:13): A supplementary: if these procedures aren't changed and indeed it is rolled out so that a blood-borne virus is tested for when a saliva exchange has taken place, will those officers be provided with information that will allay their fears and ease their psychological distress, with the science that shows them that they will not contract HIV or other blood-borne viruses?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:14): Again, I thank the honourable member for her supplementary question. A range of information is always sought to be provided with those members who serve in SAPOL who have been subjected to a particular incident. SAPOL, I am pleased to inform, do have a rather comprehensive resource in place to be able to assist those officers who deal with stressful circumstances.

I understand and I have been advised that there is an employee assistance program in place within SAPOL, which is comprehensive, and I dare say, without knowing specifically whether or not that sort of information is provided, that a whole range of different pieces of information are provided to SAPOL members who have found themselves facing a difficult situation. Of course, the overall majority of employees within SAPOL are members of the Police Association of South Australia and I also dare say that they would be going out of their way to provide whatever information police officers require to be able to give them comfort in their times of distress.

HIV

The Hon. S.G. WADE (15:15): A supplementary question, Mr President: given the minister's desire to protect police officers, can the minister advise whether the regulations under the legislation have been proclaimed?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:15): I am more than happy to take that on notice. Again, the responsible minister in this particular area is the Attorney-General. I understand that a process is in due course but I would, for the sake of clarity and certainty, seek to take that on notice and provide that question to the Attorney-General.

SA PATHOLOGY

The Hon. K.L. VINCENT (15:16): I seek leave to make a brief explanation before asking the minister representing the Minister for Health, questions regarding SA Pathology jobs.

Leave granted.

The Hon. K.L. VINCENT: Pathology is involved in up to 70 per cent of medical treatment decisions and 60 per cent of Australians require pathology services at least once a year. The government has announced, however, that it will cut 278 SA Pathology jobs in response to a 2014 Ernst & Young review. I also note that the South Australian Public Service employs people with disability at a rate of less than 2 per cent, failing to meet even its own modest targets. My questions to the minister are:

1. Was the local collection of specimens in rural and regional South Australia examined in the Ernst & Young review?

2. When the new Royal Adelaide Hospital opens, will sputum samples need to be split between two sites, the new Royal Adelaide and Frome Road, for testing?

3. What percentage of SA Pathology revenue has traditionally been generated by the regional pathology services?

4. Did the Ernst & Young review reflect that private pathology services at regional accident and emergency departments are bulk-billed through Medicare?

5. How many medical scientist positions will be axed, and at which hospitals or laboratory sites?

6. How many employees with a declared disability will lose or have lost their jobs since 2014?

7. Does the minister acknowledge that with an ageing population, the need for diagnostic services, including pathology, will increase and not reduce?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:17): I thank the honourable member for her many questions directed to the Minister for Health in the other place on the subject of pathology. I undertake to take those questions on her behalf to the minister and seek a response and bring it back.

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

The Hon. J.A. DARLEY (15:18): My questions are to the Minister for Police representing the Attorney-General regarding the South Australian Civil and Administrative Tribunal:

1. Can the minister advise the average time taken for matters which were previously heard by the Residential Tenancies Tribunal and now heard by SACAT?

2. Can the minister advise the average time the Residential Tenancies Tribunal took to hear such matters?

3. Similarly, can the minister advise the average time now taken by SACAT for matters which were previously heard by the Guardianship Board?

4. Can the minister advise the average time the Guardianship Board took to hear these matters?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:18): I thank the Hon. Mr Darley for his question. Again, of course, that question falling within the remit of the Attorney-General and Deputy Premier, I am more than happy to take that question on notice and seek an answer from the Deputy Premier in the other place.

SOUTH AUSTRALIA POLICE

The Hon. T.J. STEPHENS (15:19): I seek leave to make a brief explanation before asking the Minister for Police questions regarding support for SAPOL officers. The Police Association of South Australia's 2016 member survey revealed that 54 per cent of respondents disagreed that SAPOL was an organisation that supported officers suffering psychological injury arising from work. In an article in *The Advertiser* dated 6 November 2016, Police Association of South Australia president, Mr Mark Carroll, said, 'Our member feedback shows reluctance to admit to a psychological injury for fear of the associated stigma.'

My questions to the minister are: given the incident on Hindley Street on 28 November, what counselling and assistance is available to those officers who may experience psychological injuries following the event, and what cultural changes are occurring within SAPOL to ensure the organisation is more supportive towards those suffering from work-related psychological injuries?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:20): I thank the Hon. Mr Stephens for his question on a very important subject. I have been advised by SAPOL that SAPOL has extensive and established practices, resources and policies in place so that all psychological injury claims made by police officers are investigated to establish the facts of each claim. Investigations can include medical assessment and evaluations by independent medical examiners in PTSD and trauma stress cases, which are well documented internally to ensure the best possible response to the respective complainant.

I am pleased to inform the Hon. Mr Stephens, and the chamber more broadly, that SAPOL has a full-time employee assistance section, which can provide ongoing advice and support in welfare and psychological services to any police officer who may be experiencing PTSD or trauma. The events earlier this week—from recollection, I believe it was Monday evening and Tuesday morning—provide a strong example of the sort of challenges, risks and threats that our men and women in uniform, as I said earlier, have to face on a regular basis. They truly do outstanding work in the pursuit of keeping our community safe. I have nothing but the utmost respect for the men and women who serve on the front lines and, indeed, all men and women who serve within the South Australian police force.

When, as a community, we ask our police officers to put themselves in harm's way, put themselves in risky situations, it is reasonable, I think, for governments and parliaments alike to do everything they can to reasonably ensure the preservation or the safety of those men and women. They work in risky environments. Not all risk can be mitigated, but to the extent that we can do everything that we can to ensure that SAPOL is well resourced and has all the tools at its disposal to be able to deal with and mitigate immediate risks—like the situation that unfolded in Hindley Street on Monday evening and Tuesday morning, like those instances—we need to be doing everything we can.

I think, by and large, that is something that has been achieved up until this point, notwithstanding the fact that there will always be room for improvement. By and large, our police force is incredibly well resourced, but outside of individual incidents, where extraordinary deeds take place, it is also true—as the Hon. Mr Stephens' question alludes to—and important that we do everything we can to support our officers behind the scenes. I think, as society has recently become increasingly aware, post-traumatic stress disorder is a genuine issue. It is a real-life issue.

We have seen men and women from a whole range of different fields within the emergency services sector, and also through the Australian Defence Force, present cases in recent times and

publicly have the courage to speak out around how PTSD has affected them. That hasn't always been easy. It is not always easy for someone suffering from such a condition, particularly from a sector that often is associated with terms like 'bravery' and 'courage', to talk about these things, although that is, of course, one of the most courageous acts of all. Recently, I think the community has become more aware of the issues that PTSD presents.

So, SAPOL is not immune. It is important that SAPOL—as this challenge progresses and the degree of awareness increases and more cases present themselves—is doing everything it can to be able to take on this rather substantial challenge. There was a *Four Corners* report, I note, earlier this year (which was compelling viewing for those people interested in policing in Australia), looking at instances, by and large interstate, where members of the police force were talking about their experience with PTSD.

It is absolutely critical that we have the policies and procedures in place to ensure that when our men and women in uniform present with such an instance, they are able to receive access to services that will help them deal with what is a genuine medical condition. More than that, it is also fundamentally important that the culture of our emergency services organisations, including the South Australian police force, allows itself to welcome those people who are suffering from PTSD, or who may potentially suffer from PTSD, to come forward and speak up so that they can access the services they need.

Bills

PUBLIC SECTOR (DATA SHARING) BILL

Committee Stage

In committee (resumed on motion).

Clause 1.

The CHAIR: Does any other member have anything to contribute to clause 1? If not, I put that clause 1 stand as printed.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

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

Amendment No 1 [McLachlan–1]—

Page 5, line 33 [clause 6(4)]—Before 'approval' insert 'written'

It is part of the theme of these amendments to give physicality to some of the decisions being made and thereby assist when there is an annual review and an annual report.

The Hon. P. MALINAUSKAS: The government will be supporting this amendment. The amendment would require the minister to give written approval for the ODA to direct a public sector agency to provide data to the ODA for the purposes of it carrying out its functions. This amendment is not wholly necessary, as it would reflect what would occur in practice in any event, namely, the minister would give approval in writing rather than verbally. However, the government considers that this amendment is not unreasonable and would not prejudice the effectiveness of the legislation and so supports the amendment.

Amendment carried; clause as amended passed.

Clause 7.

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

Amendment No 1 [McLachlan–2]—

Page 6 line 29 to page 7 line 3 [clause 7(4)]—Delete subclause (4) and substitute:

(4) Safe data

(a) If data to be shared and used contains personal information, the personal information must be de-identified unless—

(i) the person to whom the personal information relates has consented to the sharing and use; or

(ii) the sharing and use of the personal information is reasonably related to the original purpose for which it was collected and there is no reason to think that the person to whom the information relates would object to the sharing and use; or

(iii) the sharing and use of the personal information is in connection with a criminal investigation or criminal proceedings or proceedings for the imposition of a penalty; or

(iv) the sharing and use of the personal information is in connection with the wellbeing, welfare or protection of a child or children or other vulnerable person; or

(v) the sharing and use of the personal information is reasonably necessary to prevent or lessen a threat to the life, health or safety of a person; or

(vi) the purpose of the sharing and use of the personal information cannot be achieved through the use of de-identified data and it would be impracticable in the circumstances to seek the consent of the person to whom the information relates; or

(vii) the sharing and use of the personal information is for a prescribed purpose or occurs in prescribed circumstances;

(b) Data to be shared and used for a purpose must be assessed as appropriate for that purpose having regard to—

(i) whether the data is of the necessary quality for the proposed use (such as being accurate, relevant and timely); and

(ii) whether the data relates to people; and

(iii) if data containing personal information is to be de-identified, how that de-identification will be undertaken and whether the data may be re-identified, and if so, how it may be re-identified.

I understand the government will be supporting this amendment. The approach taken to this amendment by the Liberal opposition has been that we would seek to have the data depersonalised where possible, subject to certain exemptions. As indicated by the minister, the bill as drafted, enables the Office of Data Analytics, the ODA, to direct that a public sector agency provides public sector data to the ODA, but they must first obtain approval from the minister.

This amendment places a mandatory requirement, and I ask members to note that the inserted (4)(a) uses the word 'must', on the public sector agencies to identify personal information. The amendment incorporates elements from the commonwealth and New South Wales information privacy principles and provisions commonly contained in privacy legislation throughout Australia, although the amendments have been tailored to apply specifically to South Australia, as we have no privacy law that covers state government, local government or South Australian universities. The amendments have also been crafted to encapsulate the concepts contained in the existing South Australian government circulars, such as the Department of the Premier and Cabinet Circular PC012.

For the benefit of honourable members, the list of exemptions includes if the person has consented to the sharing of their personal data. This provision is obviously standard in information privacy principles. The second exemption is if the sharing and use of personal data is reasonably related to the original purpose for which it was collected, and there is no reason to think that the person would object.

Again, the form of drafting is from standard privacy principles, and there is jurisprudence being built in the courts around this. If the data relates to criminal investigation proceedings or the data relates to the welfare and protection of children—members will recall that the government placed great emphasis on this in introducing this bill, although its concept was well before the issues

relating to child protection—it will be used to better share information in response to the recommendations of the Nyland royal commission.

Also, there is an exemption for the use of data which is reasonably necessary to prevent and lessen a threat to life or health or safety of a person and an all-encompassing provision that allows for regulations to provide for prescribed purpose. Of course, members will be able to seek to disallow any other initiative from the government relating to exemptions, if they were to appear in regulation. (4)(b) of the inserted clause reproduces the original conditions which existed in the government's bill. I recommend the amendments to the members.

Amendment carried; clause as amended passed.

Clause 8.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 8, line 1 to line 3 [clause 8(2)]—Delete subclause (2) and substitute:

(2) Before public sector data is provided to a public sector agency under subsection (1)—

(a) the public sector agency must make a written record of the purpose or purposes for which the public sector data is proposed to be provided and used as agreed with the public sector agency that is to provide the data; and

(b) the public sector agency that is to provide the data must apply the trusted access principles and be satisfied that the provision and use of the data is appropriate in all the circumstances.

I thank the honourable member for his third amendment on [McLachlan–1] and appreciate the motivation behind that particular amendment. The government had concerns about the drafting of this amendment and, as a result, is moving its own amendment, which we believe addresses the honourable member's concerns about the need to make a written record on the purpose for which data is proposed to be provided and shared between public sector agencies. This, in turn, will enable both the annual report and the review of the act to be completed both effectively and efficiently.

The government's proposed new paragraph 8(2)(a), in effect, requires the public sector agency that is to receive data to agree with the data provider what the purpose is for the provision and use of the data and to make a written record of that purpose. The government's amendment aligns with the Hon. Mr McLachlan's fourth and fifth amendments, on [McLachlan–1], relating to annual reports and a review of the act, which the government is supporting. I urge support for the government amendment.

The Hon. A.L. McLACHLAN: The opposition will be supporting this amendment.

Amendment carried; clause as amended passed.

Clause 9.

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

Amendment No 1 [McLachlan–3]—

Page 8, after line 27—Insert:

(6) The Minister must—

(a) as soon as practicable after making a direction under subsection (1), cause notice of the direction to be published in the Gazette; and

(b) within 6 sitting days of making a direction under subsection (1), cause notice of the direction to be laid before each House of Parliament.

(7) A notice under subsection (6) must specify the data provider, the data recipient and the general nature of the public sector data to which the direction relates.

The Hon. P. MALINAUSKAS: The government supports this amendment. The amendment operates when the minister makes a direction under clause 9 that a public sector agency provide data that it controls to another public sector agency. This direction may include data that is otherwise exempt from the voluntary data sharing provisions between agencies under clause 8.

Before making such a direction, the minister must have regard to the trusted access principles and be satisfied that the sharing and use of the data is appropriate in all circumstances. The amendment requires that the minister publish a notice of the direction in the *Gazette* and within six sitting days have the notice laid before each house. The government generally supports this amendment and commends it to the house.

Amendment carried; clause as amended passed.

Clauses 10 to 13 passed.

Clause 14.

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

Amendment No 2 [McLachlan–3]—

Page 10, after line 24—Insert:

(2) The Minister must—

(a) as soon as practicable after giving an approval for the purposes of subsection (1)(a), cause notice of the approval to be published in the Gazette; and

(b) within 6 sitting days of giving an approval for the purposes of subsection (1)(a), cause notice of the approval to be laid before each House of Parliament.

This amendment is in line with the previous amendment to clause 9, and the opposition is seeking to ensure that the parliament and the community are aware of actions of the minister so that they can hold the minister to account for his judgements.

The Hon. P. MALINAUSKAS: The government supports the amendment.

Amendment carried.

The Hon. R.I. LUCAS: My question in relation to clause 14 follows the questions I was referring to earlier. Clause 14 has been amended, and we also amended earlier the safe data provisions under clause 7. As my colleague the Hon. Mr McLachlan indicated with safe data, with the new amendment, which the government supported:

…if the data that is to be shared and used contains personal information, the personal information must be de-identified unless—

and there is a whole series of possible exemptions. The broadest, potentially, in the context of my question is:

…the sharing and use of the personal information is reasonably related to the original purpose for which it was collected and there is no reason to think that the person to whom the information relates would object to the sharing and use.

Clearly, that is a judgement that the public servant or the minister would make. It is not challenged—ultimately, someone could take it to court, I guess, but, essentially, it is a judgement call that the minister or the public servant takes in relation to whether or not it is reasonably related to the original purpose for which it was collected. When I was referring earlier to the possibility of harvesting email addresses and names from various government departments and agencies into a central repository, such as DPC, I referred to clause 14, which provides:

A data recipient must not use or disclose public sector data received pursuant to an authorisation under section 8 or section 9 other than for a purpose for which it was provided unless—

(a) the Minister, after consultation with the data provider, approves the use or disclosure;

In response to earlier questions, the minister's advice was that it is the minister's decision, in the end, as to whether or not he or she is going to approve the use or disclosure for a purpose other than the purpose for which it was originally received.

My question is: when one looks at this act with the new amendment in clause 7(b)—which provides that 'you must, unless it is for a reasonable purpose', and, under clause 14, 'the minister can without any reason use it for a purpose other than the purpose for which it was originally collected'—what is the ultimate impact? Even with the new amendment in safe data provision that

has been included, and we all support it, can the minister, if he deems fit, use clause 14 and approve the use or disclosure for a purpose for which it was not originally collected?

The Hon. P. MALINAUSKAS: Your question, as I understand it—and correct me if I am wrong—pertains to the question of whether or not a minister could later use their authority granted to them under this bill—

The Hon. R.I. Lucas: Under clause 14.

The Hon. P. MALINAUSKAS: —under clause 14, to be able to allow for information to be disseminated for a political purpose.

The Hon. R.I. LUCAS: No, you did not understand my question. We will come to the political purpose ultimately. What I am saying is: under clause 14, does the minister have the power? I am not a lawyer, and neither is the minister, but he has legal advice available to him. On my reading as a non-lawyer, now that we have the safe data provision with clause 14 still in there, a minister (Labor or Liberal) could direct that, under clause 14, data collected by a Transforming Health department, for example email addresses, be transferred to the DPC. Whether it is used for political purposes or not is a separate argument. I want to know whether under clause 14, on my reading, if the minister could still do that, and we could still have in DPC a central collection of all emails and contact points from various departments and agencies that have come into the various arms of government.

The Hon. P. MALINAUSKAS: My advice is that the answer to that question is yes, that could occur.

The Hon. R.I. LUCAS: I do not propose to delay the proceedings much longer than that. I support all the amendments that we have put in there with agreement between the government and the opposition in an endeavour to be transparent and accountable. In the end, the issue still remains that the minister will have that power. I have highlighted the concerns I have seen with the abuse of these particular provisions in the 2010 election and in a slightly different way in the 2014 election. We are leading into a 2018 election, and I have concerns.

If a premier, with a compliant CEO in the DPC, has access to massive databases of people who have expressed views on political issues, he does not have to give it to his Reggie Martin or his party equivalent. He has that capacity, through that database, to directly provide information to all of those people on a whole variety of issues centrally as the leader of the government and as the premier.

As I said, in 2010, it was as blatant as sending copies of the Labor Party policy on education to teachers and SSOs and other people within the education department. It was not even concealed along the lines of being a government announcement on this particular issue. It was actually the Labor Party policy document. Whoever the state secretary was at the time, it was authorised by the state secretary of the Labor Party. It was as brazen as that at the time. I accept the fact that the minister in charge of the bill here can say and do nothing more than that. Based on the advice he was given, he has answered the question.

I flag my ongoing concern in relation to this. The amendments that have been moved will at least potentially shine a light, although, as I highlighted earlier, the issue of six sitting days means that if there are no sitting days between November 2017 and March 2018, when there is an election, then these particular issues will not see the light of day until after the election. So, a premier, a government and a CEO who wanted to use these provisions for their own purposes would be able to, if they so chose.

Clearly, we would hope that is not going to be the case, that they are not used in that way but are actually used for the purposes for which the bill was originally conceived, and that was in the public interest to share data for the better delivery of services in South Australia. I hope that is what, in the end, we see coming out of the bill, not it being used as a vehicle for a premier and a government to be able to get its message, in a more targeted way, to a large number of public servants or people who have corresponded with the Public Service.

Clause as amended passed.

Clause 15.

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

Amendment No 3 [McLachlan–3]—

Page 10, after line 37—Insert:

(3) The Minister must—

(a) as soon as practicable after delegating a function or power under subsection (1), cause notice of the delegation to be published in the Gazette; and

(b) within 1 sitting day of delegating a function or power under subsection (1), cause notice of the delegation to be laid before each House of Parliament.

(4) A notice under subsection (3) must specify—

(a) the delegate and the delegated functions or powers; and

(b) any conditions or limitations imposed on the delegation; and

(c) whether the instrument of delegation provides for further delegation by the delegate.

A further amendment to the inserted clause (3)(b) is to strike out the number '1' and insert '6', and strike out the word 'day' and insert the word 'days'. This amendment is consistent with the previous amendments to clause 14 and clause 9 in relation to requiring transparency of decision-making by the minister.

The Hon. P. MALINAUSKAS: The government supports the amendment.

Amendment as amended carried; clause as amended passed.

Clause 16 passed.

New clause 16A.

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

Amendment No 4 [McLachlan–1]—

Page 11, after line 8—After line 8 insert:

16A—Annual report

(1) The Minister must, as soon as practicable after each 30 June, cause a report to be prepared about the operation of this Act during the year ended on that 30 June.

(2) Without limiting subsection (1), a report relating to a year must include the following matters:

(a) in relation to the provision of public sector data pursuant to a direction of ODA under section 6(4), a list of such directions including, in respect of each direction—

(i) the identity of the data provider and data recipient; and

(ii) the nature of the data; and

(iii) whether the public sector data contained personal information and whether the data was, at the time of the direction, exempt public sector data;

(b) a summary of the results of data analytics work undertaken by ODA and made available to public sector agencies, the private sector and the general public;

(c) in relation to the provision of public sector data containing personal information under section 8(1), a list of all instances of such provision including the identification of the data provider and data recipient, the general nature of the data and the purpose for which the data was shared;

(d) a list of all directions made by the Minister under section 9(1), including, in respect of each direction—

(i) the identification of the data provider and data recipient and the general nature of the public sector data; and

(ii) the purpose for which the public sector data was to be provided; and

(iii) whether the direction related to public sector data containing personal information and whether the data was, at the time of the direction, exempt public sector data;

(e) a list of all agreements entered into pursuant to section 13(1) including, in respect of each agreement—

(i) the identification of the parties to the agreement and the general nature of the data being shared; and

(ii) whether the agreement related to the sharing of public sector data containing personal information and whether the public sector data was, at the time of sharing, exempt public sector data.

(3) The Minister must, within 6 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of the Parliament.

The purpose of this new clause is to provide for an annual report in relation to the operation of the bill when enacted. Obviously, it is post action so it does not address, necessarily, some of the concerns raised by the Hon. Rob Lucas but it will allow the parliament to review the operation of the act and determine whether it is making a positive impact on policy development or is being used for suboptimal reasons or reasons outside the intention of the objects of the act.

The Hon. P. MALINAUSKAS: The government again considers that this amendment in respect of an annual report is not unreasonable and therefore supports the amendment.

New clause inserted.

Clause 17 passed.

New clause 17A.

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

Amendment No 5 [McLachlan–1]—

Page 11, after line 31—After line 31 insert:

17A—Review of Act

(1) The Minister must, as soon as practicable after the third anniversary of the commencement of this Act, appoint a retired judicial officer to conduct a review of the operation of this Act.

(2) The Minister and any other person performing functions and powers under this Act must ensure that a person appointed to conduct a review is provided with such information as they may require for the purpose of conducting the review.

(3) A report on a review under this section must be presented to the Minister within 6 months of the appointment under subsection (1).

(4) The Minister must, within 6 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

(5) In this section—

judicial officer means a person appointed as a judge of the Supreme Court or the District Court or a person appointed as judge of another State or Territory or of the Commonwealth.

This amendment provides for a review of the act by a retired judicial officer. Again, it could be considered to arise out of an abundance of caution on how the act is used. The view of the opposition was that, given that we do not have a privacy act and we do not know when we will have one or if we will have one, it would be appropriate to see how these provisions work and whether there are any significant or concerning invasions of individuals' privacy in the transfer of data. I commend the amendment to members.

The Hon. P. MALINAUSKAS: Again, the government is happy to support this amendment. It sees it as appropriate and not unreasonable.

New clause inserted.

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) (15:53): I move:

That this bill be now read a third time.

Bill read a third time and passed.

POLICE COMPLAINTS AND DISCIPLINE BILL

Second Reading

Adjourned debate on second reading.

(Continued from 17 November 2016.)

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:54): I thank everyone for their contribution thus far and look forward to—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I cannot hear the minister.

The Hon. P. MALINAUSKAS: I thank everyone for their contribution thus far and look forward to discussing the bill further in the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: I indicate that the opposition will not be opposing the proposed amendments of the government. However, we will seek an explanation of those amendments for the benefit of Hansard, although I thank the Attorney-General's staff for giving myself and the shadow attorney a brief on the amendments, particularly those which have been more recently filed. For the benefit of the chamber, I think it is appropriate that we understand the effect of each amendment.

The Hon. R.L. BROKENSHIRE: This will be my only contribution, which I am sure will make some members happy. This bill has been handled in a very ordinary way up to this point. My prime focus on behalf of Family First was to ensure that the police officers themselves had fairness within this bill, and I do not believe they had that last sitting week. A secondary benefit from what I advised the house of last sitting week was that I did not want to see the Police Association having to personally take on the Minister for Police in the first instance when we know that we want to support him to grow into his leader's position in another house.

We raised the debacle in the chamber, and we highlighted the fact that the government had an arrow on this in the last sitting week and they were going to push it through. Had it gone through in that last sitting week, probably at least 4,500 of the 4,600 police officers in this state would have been very unhappy, but we have moved on since then.

I congratulate the Attorney-General for listening to the concerns of the police. I also now give support to the Attorney-General's staff. This is not a bill of the police minister, by the way. Of course, he has carriage of this up here as our police minister, but this is a bill of the Attorney-General, and I want to put that clearly on the record as well so that when police read this they understand that this is not a police minister's piece of legislation.

When I was police minister, I always liked to differentiate between the attorney-general and the police minister because sometimes, not that often but sometimes, I had a different point of view as the police minister to that of the attorney-general, and that may well be the case between this police minister and this Attorney-General.

Having said that, so that the community understands, to give credit to the Attorney-General, he did listen, he did sit down with the Police Association and his advisers realised that they would be in all sorts of bother if they had pushed it through last sitting week. I have one amendment, but I am withdrawing that amendment. I give the chamber notice of that now. The reason I am withdrawing that amendment is that the government has now filed amendments which are clearly going to be considered this afternoon.

I am advised by all of the people that I consult with, and also by the Attorney-General's office and particularly by the Police Association of South Australia and Mr Mark Carroll the president, that whilst police are not 100 per cent happy with what is in this legislation—and some of this is fairly tough and Draconian on police. As I said when we last debated this, no scrutiny is put on anyone else, not politicians, not judges, not ministers; I cannot think of anybody else in the workplace that has scrutiny put on it as is the case with this legislation that we are debating today.

But the police are prepared to accept that because they realise the importance of integrity and of keeping South Australia Police as the most respected police force in Australia and, indeed, one of the most respected in the world. So, these amendments here now have agreement between government and the Police Association on behalf of the police, and Family First therefore supports these amendments. I withdraw my amendment and I look forward now to speedy passage of the bill.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 6, after line 6—Insert:

designated officer means a person who is—

(a) a member of SA Police; or

(b) a police cadet; or

(c) a special constable;

This amendment is a response to objections by the Police Association to the definition of 'police officer' in the bill; 'designated officer' will replace 'police officer' in clause 3. It is the term used in the Police Complaints and Disciplinary Proceedings Act 1985.

Amendment carried.

The CHAIR: Do you want to move all your amendments to clause 3?

The Hon. P. MALINAUSKAS: Yes, Mr Chair. They are all consequential. I move:

Amendment No 2 [Police–1]—

Page 6, lines 18 to 21 [clause 3(1), definition of *police officer*]—Delete the definition

Amendment No 3 [Police–1]—

Page 6, line 22 [clause 3(1), definition of *police public servant*]—Delete 'police officer' and substitute 'designated officer'

Amendment No 4 [Police–1]—

Page 6, line 25 [clause 3(1), definition of *party*]—Delete 'police' and substitute 'designated'

Amendment No 5 [Police–1]—

The Hon. A.L. McLACHLAN: As I indicated in clause 1, I would appreciate it if the minister could put on *Hansard* the rationale behind these amendments so that we can have a record of the purpose of them and their effect.

The Hon. P. MALINAUSKAS: I think I just did. The Hon. Mr McLachlan might not be aware but I stated that this is in response to the Police Association's concern regarding the definition of

'police officer' in the bill; 'designated officer' will replace 'police officer' in clause 3. It is the term used in the Police Complaints and Disciplinary Proceedings Act 1985. Then there are a total of 80 consequential amendments as a result of this change.

Amendments carried; clause as amended passed.

Clause 4 passed.

Clause 5.

The Hon. P. MALINAUSKAS: My advice is that amendments Nos 2 to13, 15 to 44, 46 to 54, 56 to 66, 68 to 77 and 79 to 86 are all consequential. I move:

Amendment No 5 [Police–1]—

Page 7, line 8 [clause 5(1)]—Delete 'police' and substitute 'designated'

Amendment No 6 [Police–1]—

Page 7, line 10 [clause 5(2)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 6.

The Hon. P. MALINAUSKAS: I move:

Amendment No 7 [Police–1]—

Page 7, line 31 [clause 6(4)]—Delete 'police officers' and substitute 'designated officers,'

Amendment carried; clause as amended passed.

Clause 7.

The Hon. P. MALINAUSKAS: I move:

Amendment No 8 [Police–1]—

Page 7, line 35 [clause 7(1)]—Delete 'police' and substitute 'designated'

Amendment No 9 [Police–1]—

Page 8, line 2 [clause 7(2)(d)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 8.

The Hon. P. MALINAUSKAS: I move:

Amendment No 10 [Police–1]—

Page 8, line 12 [clause 8(a)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 9.

The Hon. P. MALINAUSKAS: I move:

Amendment No 11 [Police–1]—

Page 8, line 22 [clause 9(1)(b)]—Delete 'police' and substitute 'designated'

Amendment No 12 [Police–1]—

Page 8, line 28 [clause 9(2)(b)]—Delete 'police' and substitute 'designated'

Amendment No 13 [Police–1]—

Page 8, line 30 [clause 9(3)]—Delete 'police' and substitute 'designated'

Amendments carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 14 [Police–1]—

Page 8, line 33 [clause 9(3)(b)(i)]—Delete 'is of the opinion' and substitute 'believes on reasonable grounds'

Clause 9 provides for the complainant and each police officer who is the subject of a complaint to be informed of the progress and resolution of the complaint. However, the commissioner or the ICAC need not keep a police officer who is the subject of a complaint so informed if a complaint is dealt with under clause 15, or the commissioner is of the opinion that so informing the police officer would prejudice the investigation of the complaint, or the complaint raises a potential issue of corruption in public administration that could be the subject of a prosecution. The amendment inserts a higher test for the withholding from an officer who is the subject of an investigation information about the progress and resolution of a complaint.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 15 [Police–1]—

Page 8, line 34 [clause 9(3)(b)(i)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 10.

The Hon. P. MALINAUSKAS: I move:

Amendment No 16 [Police–1]—

Heading to Part 2 Division 1, page 9, line 2—Delete 'police' and substitute 'designated'

Amendment No 17 [Police–1]—

Page 9, line 4 [clause 10(1)]—Delete 'police' and substitute 'designated'

Amendment No 18 [Police–1]—

Page 9, line 7 [clause 10(2)]—Delete 'police' and substitute 'designated'

Amendment No 19 [Police–1]—

Page 9, line 9 [clause 10(3)(a)]—Delete 'police officer (not being a police' and substitute 'designated officer (not being an'

Amendment No 20 [Police–1]—

Page 9, line 12 [clause 10(3)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 11.

The Hon. P. MALINAUSKAS: I move:

Amendment No 21 [Police–1]—

Page 9, line 27 [clause 11(1)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 12.

The Hon. P. MALINAUSKAS: I move:

Amendment No 22 [Police–1]—

Page 9, line 34 [clause 12(1)]—Delete 'police' and substitute 'designated'

Amendment No 23 [Police–1]—

Page 9, line 35 [clause 12(1)]—Delete 'police' and substitute 'designated'

Amendment No 24 [Police–1]—

Page 10, line 3 [clause 12(2)(a)]—Delete 'police' and substitute 'designated'

Amendment No 25 [Police–1]—

Page 10, line 8 [clause 12(3)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 13.

The Hon. P. MALINAUSKAS: I move:

Amendment No 26 [Police–1]—

Page 10, line 11 [clause 13(1)]—Delete 'police officer' and substitute 'designated officer'

Amendment carried; clause as amended passed.

Clause 14 passed.

Clause 15.

The Hon. P. MALINAUSKAS: I move:

Amendment No 27 [Police–1]—

Page 11, line 26 [clause 15(d)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 16.

The Hon. P. MALINAUSKAS: I move:

Amendment No 28 [Police–1]—

Page 11, line 35 [clause 16(1)(b)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 17.

The Hon. P. MALINAUSKAS: I move:

Amendment No 29 [Police–1]—

Page 12, line 17 [clause 17(2)(a)]—Delete 'police' and substitute 'designated'

Amendment No 30 [Police–1]—

Page 12, line 25 [clause 18(2)(a)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 18.

The Hon. P. MALINAUSKAS: I move:

Amendment No 31 [Police–1]—

Page 12, line 27 [clause 18(2)(b)]—Delete 'police' and substitute 'designated'

Amendment No 32 [Police–1]—

Page 12, line 28 [clause 18(2)(b)]—Delete 'police' and substitute 'designated'

Amendment No 33 [Police–1]—

Page 13, line 4 [clause 18(4)]—Delete 'police' and substitute 'designated'

Amendment No 34 [Police–1]—

Page 13, line 5 [clause 18(4)(a)]—Delete 'police' and substitute 'designated'

Amendment No 35 [Police–1]—

Page 13, line 8 [clause 18(4)(b)]—Delete 'police officer' and substitute 'designated officer'

Amendment No 36 [Police–1]—

Page 13, line 9 [clause 18(4)(c)]—Delete 'police' and substitute 'designated'

Amendment No 37 [Police–1]—

Page 13, line 10 [clause 18(4)(d)]—Delete 'police' and substitute 'designated'

Amendment No 38 [Police–1]—

Page 13, line 14 [clause 18(5)(a)(i)]—Delete 'police' and substitute 'designated'

Amendment No 39 [Police–1]—

Page 13, line 16 [clause 18(5)(a)(ii)]—Delete 'police' and substitute 'designated'

Amendment No 40 [Police–1]—

Page 13, line 20 [clause 18(5)(b)(i)]—Delete 'police' and substitute 'designated'

Amendment No 41 [Police–1]—

Page 13, line 26 [clause 18(6)(a)]—Delete 'police' and substitute 'designated'

Amendment No 42 [Police–1]—

Page 13, line 30 [clause 18(6)(b)]—Delete 'police' and substitute 'designated'

Amendment No 43 [Police–1]—

Page 13, line 33 [clause 18(7)(a)]—Delete 'police' and substitute 'designated'

Amendment No 44 [Police–1]—

Page 13, line 34 [clause 18(7)(a)]—Delete 'police' and substitute 'designated'

Amendments carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 45 [Police–1]—

Page 13, line 36 [clause 18(7)(b)]—Delete '6' and substitute '3'

Clause 18 sets out the procedure for management resolution of complaints and reports. As part of a management resolution, the commissioner may, under clause 18(4)(a) and (b), impose a restriction on the ability of the police officer to work in a specified position or to perform specified duties within South Australia Police or remove or impose conditions on any accreditation permit or authority granted by SA Police to the police officer.

Clause 18(7) requires that the commissioner revoke action taken under clause 18(4)(a) or (b) if the police officer successfully completes the required remedial educational training and has demonstrated to the commissioner that the police officer is competent and capable of carrying out specified duties or a period of six months has elapsed since the action was taken, whichever occurs first. This amendment reduces the period of six months to three months.

The Hon. A.L. McLACHLAN: The opposition supports this amendment.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 46 [Police–1]—

Page 13, line 39 [clause 18(8)]—Delete 'police' and substitute 'designated'

Amendment No 47 [Police–1]—

Page 14, line 3 [clause 18(9)(a)]—Delete 'police' and substitute 'designated'

Amendment No 48 [Police–1]—

Page 14, line 7 [clause 18(9)(b)]—Delete 'police' and substitute 'designated'

Amendment No 49 [Police–1]—

Page 14, line 10 [clause 18(10)]—Delete 'police' and substitute 'designated'

Amendment No 50 [Police–1]—

Page 14, line 14 [clause 18(11), definition of *prescribed determination*, (a)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 19.

The Hon. P. MALINAUSKAS: I move:

Amendment No 51 [Police–1]—

Page 14, line 27 [clause 19(2)(b)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 20 passed.

Clause 21.

The Hon. P. MALINAUSKAS: I move:

Amendment No 52 [Police–1]—

Page 15, line 17 [clause 21(2)(g)]—Delete 'police' and substitute 'designated'

Amendment No 53 [Police–1]—

Page 15, line 25 [clause 21(5)]—Delete 'police' and substitute 'designated'

Amendment No 54 [Police–1]—

Page 15, line 31 [clause 21(7)]—Delete 'police' and substitute 'designated'

Clause 21(7) requires a member of the Internal Investigations Section, before directing a police officer to furnish information, produce property, a document or other record or answer a question relevant to the investigation, to inform the officer of the time and place at which the conduct is alleged to have occurred and the nature of the alleged conduct.

Amendments carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 55 [Police–1]—

Page 15, line 36 [clause 21(9)]—Delete 'is of the opinion' and substitute 'believes on reasonable grounds'

Clause 21(9) provides that if a member of the IIS is of the opinion that so informing the officer may prejudice the investigation, the particulars need not be provided to the police officer. The amendment provides a higher test for withholding of particulars.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 56 [Police–1]—

Page 15, line 37 [clause 21(9)]—Delete 'officer' and substitute 'designated officer'

Amendment No 57 [Police–1]—

Page 15, line 38 [clause 21(10)]—Delete 'police' and substitute 'designated'

Amendment No 58 [Police–1]—

Page 16, line 4 [clause 21(11)]—Delete 'police' and substitute 'designated'

Amendment No 59 [Police–1]—

Page 16, line 14 [clause 21(12)]—Delete 'police' and substitute 'designated'

Amendment No 60 [Police–1]—

Page 16, line 17 [clause 21(12)]—Delete 'police' and substitute 'designated'

Amendment No 61 [Police–1]—

Page 16, line 19 [clause 21(13)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 22.

The Hon. P. MALINAUSKAS: I move:

Amendment No 62 [Police–1]—

Page 17, line 2 [clause 22(4)]—Delete 'police' and substitute 'designated'

Amendment No 63 [Police–1]—

Page 17, line 9 [clause 22(7)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 23.

The Hon. P. MALINAUSKAS: I move:

Amendment No 64 [Police–1]—

Page 17, line 13 [clause 23(1)(a)]—Delete 'police' and substitute 'designated'

Amendment No 65 [Police–1]—

Page 17, line 15 [clause 23(1)(b)]—Delete 'police' and substitute 'designated'

Amendment No 66 [Police–1]—

Page 17, line 16 [clause 23(1)]—Delete 'police' and substitute 'designated'

Amendments carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 67 [Police–1]—

Page 17, after line 16—Insert:

(1a) Subject to subsection (1b), a suspension will be with remuneration.

(1b) The Commissioner may determine that a suspension will be without remuneration if the Commissioner believes on reasonable grounds that a failure to do so would bring SA Police into disrepute.

Currently, a power of the commissioner to suspend a person's appointment or to order suspension includes the power to determine that the period of suspension will be without any remuneration and accrual of any rights and not count as service. Remuneration may only be withheld for more than three months if a person has been committed for a trial for a serious offence or found guilty of a serious offence or has admitted or been found guilty of a breach of the code in respect of which the most probable outcome is termination.

Clause 23 allows the commissioner to suspend a police officer's appointment if the officer is charged with an offence or a notice of allegation is, or will be, served on the police officer. If the suspension is revoked then, subject to any determination of the commissioner under the regulations, he or she is entitled to any remuneration or accrual of rights withheld in consequence of the suspension and the period of the suspension will count as service.

The amendment will allow the commissioner to suspend an officer without pay only where the commissioner believes, on reasonable grounds, that failure to do so would bring the SA Police into disrepute. The amendment is drafted in recognition that there must be a balance between public confidence in the integrity of SA Police and its ability to deal effectively with officers who fail to meet appropriate standards and the impact that suspension without pay has on the officer and his or her family.

The Hon. M.C. PARNELL: A question on the explanation the minister has just given, and this is a technical question: the circumstances that the minister has just described, in which an officer might not be paid during the period of their suspension, is that the same issue that amendment No. 87 relates to? Is 87 a consequential amendment, or is that a different issue?

The Hon. P. MALINAUSKAS: I am advised that yes, that is correct.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 68 [Police–1]—

Page 17, line 17 [clause 23(2)]—Delete 'police' and substitute 'designated'

Amendment No 69 [Police–1]—

Page 17, line 22 [clause 23(3)(a)]—Delete 'police' and substitute 'designated'

Amendment No 70 [Police–1]—

Page 17, line 25 [clause 23(3)(b)]—Delete 'police' and substitute 'designated'

Amendment No 71 [Police–1]—

Page 17, line 27 [clause 23(4)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 24.

The Hon. P. MALINAUSKAS: I move:

Amendment No 72 [Police–1]—

Page 17, line 32—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clause 25.

The Hon. P. MALINAUSKAS: I move:

Amendment No 73 [Police–1]—

Page 17, line 38 [clause 25(2)]—Delete 'police' and substitute 'designated'

Amendment No 74 [Police–1]—

Page 17, line 40 [clause 25(2)(a)]—Delete 'police' and substitute 'designated'

Amendment No 75 [Police–1]—

Page 18, line 7 [clause 25(3)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 26.

The Hon. P. MALINAUSKAS: I move:

Amendment No 76 [Police–1]—

Page 18, line 17 [clause 26(1)]—Delete 'police' and substitute 'designated'

Amendment No 77 [Police–1]—

Page 18, line 24 [clause 26(1)]—Delete 'police' and substitute 'designated'

Amendments carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 78 [Police–1]—

Page 18, line 34 to 37 [clause 26(1)(f)(iv)]—Delete subparagraph (iv)

Clause 26 sets out the sanctions that can be imposed on a police officer by the commissioner. The sanctions under subclause (f) are a redraft of the sanctions provided for in the Police Act under section 40. The redrafting was intended, in part, to address matters raised in the recent South Australian District Court in H. v The Commissioner of Police, concerning the correct interpretation of that section.

Clause 26(1)(f) provides for separate, rather than a combination of, sanctions to be applied and includes a reduction of member's rank and reduction in any increment level to which the member is entitled under an enterprise agreement. This amendment addresses concerns that a reduction in any increment as a sanction could have unreasonable and unfair impact. The amendment removes the reduction of an increment entitlement under an enterprise agreement as an available sanction under this clause.

The Hon. R.L. BROKENSHIRE: I will, just for the public record, clarify this. We would have fought with all the vigour we had to have opposed this, had common sense not prevailed. I still think over $3,000 is more than enough. I have seen no other workplace where you would have been done over in your increments to the level that was proposed and whoever drafted and brought this up in the first place needs to have a good, close look at themselves and think how they would be if they were in some of the positions that police officers are put in and they had to suffer a penalty as was proposed. So, common sense has now prevailed, but it was appalling to think that this was ever passed in House of Assembly.

Amendment carried.

The Hon. P. MALINAUSKAS: I move:

Amendment No 79 [Police–1]—

Page 19, line 12 [clause 26(3)]—Delete 'police' and substitute 'designated'

Amendment No 80 [Police–1]—

Page 19, line 17 [clause 26(4)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clauses 27 to 31 passed.

Clause 32.

The Hon. P. MALINAUSKAS: I move:

Amendment No 81 [Police–1]—

Page 21, line 23 [clause 32(3)]—Delete 'police' and substitute 'designated'

Amendment No 82 [Police–1]—

Page 21, line 24 [clause 32(3)]—Delete 'police' and substitute 'designated'

Amendment No 83 [Police–1]—

Page 21, line 27 [clause 32(4)(b)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clauses 33 and 34 passed.

Clause 35.

The Hon. P. MALINAUSKAS: I move:

Amendment No 84 [Police–1]—

Page 22, line 20 [clause 35(1)(a)]—Delete 'police' and substitute 'designated'

Amendment No 85 [Police–1]—

Page 22, line 40 [clause 35(7)]—Delete 'police' and substitute 'designated'

Amendments carried; clause as amended passed.

Clause 36.

The Hon. P. MALINAUSKAS: I move:

Amendment No 86 [Police–1]—

Page 23, line 37 [clause 36(3)]—Delete 'police' and substitute 'designated'

Amendment carried; clause as amended passed.

Clauses 37 to 49 passed.

Schedule 1.

The Hon. P. MALINAUSKAS: I move:

Amendment No 87 [Police–1]—

Schedule 1, page 40, lines 33 and 34 [Schedule 1, clause 53(c)]—Delete paragraph (c)

I might just reflect on the Hon. Mr Brokenshire's remarks earlier and that is, luckily, we have a house of review.

The Hon. R.L. Brokenshire: Hear, hear, minister, and long may it reign!

The Hon. P. MALINAUSKAS: Section 40 of the Police Act was intended to provide for a wide range of sanctions, from serious to less serious. However, in the recent case of H v Commissioner of Police, this section was criticised for its drafting omissions and inconsistencies making the task of construction complicated—luckily for judges.

Clause 26 of the bill adopts section 40 of the Police Act, and addresses the court's comments by setting out, clearly, what sanctions are available and how they can be ordered. The transitional clause is intended to validate certain orders made under section 40 of the Police Act. This amendment will allow certain orders that affected an officer's entitlement to increments under an enterprise entitlement to be addressed.

Amendment carried; schedule as amended passed.

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) (16:26): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 29 November 2016.)

The Hon. J.A. DARLEY (16:29): I agree with the majority of the bill as I understand it is mainly to clarify certain points of administration of the act, but I wanted to put on the public record my concerns and opposition to clauses 9 and 10 of the bill.

Currently, moneys are paid twice a year to parties in special assistance funding. To be eligible for the funding, the political party must be registered, have a member of the party who is a member of the parliament, and submit a claim to the Electoral Commissioner. Small parties, that is, parties with five or less elected members in parliament, are entitled to $7,000, and large parties, those with more than five elected members, are entitled to $12,000.

This fund is currently in the act, and clause 9 of the bill proposes to prescribe it in regulation. The government has been very open that the intention is to increase this funding once it is prescribed in regulation, and I understand the reasoning for this is because other states offer much more. To remove these provisions from the act and prescribe them in regulation with the intention of increasing the amount of public monies that are paid to political parties does not sit well with me. I think that most taxpayers would be unhappy to hear that political parties will be getting more money when these funds could go towards other community priorities. It does not seem to be a good expenditure of public funds, and I will be opposing this clause.

Similarly, clause 10 of the bill will introduce a new one-off payment for special assistance funding. I understand this is a completely new payment which does not currently exist. This funding is only available to those who are eligible for payments under section 130U of the act and will provide for political parties to apply for a one-off payment of either $56,000 for small parties or $96,000 for large parties. I understand these monies are essentially to reimburse parties for the costs associated with complying with the act, and note that this payment, and the payment referred to in clause 9 and section 130U of the act, is only available to political parties, and not groups or individual candidates.

Again, I doubt many taxpayers would be supportive of giving additional monies to political parties just so they can comply with the law. There have been many examples of this parliament passing legislation which imposes a financial impost onto individuals or businesses, and we do not allow for public funds to be made available to assist in these circumstances. I do not see why we should be amending the act to help political parties just to meet their legal obligations. For this reason, I will be opposing this clause.

The Hon. R.I. LUCAS (16:32): I rise on behalf of Liberal members to indicate the Liberal Party's support for the legislation. Whilst some in the community and many in the media have been most unfair to the Attorney-General, referring to him as 'Chairman Rau' or 'Chairman Rau SC' these days, I must pay him due credit for his willingness in relation to the electoral issues generally that I have had the responsibility of negotiating with him, part of which has been the Electoral (Funding, Expenditure and Disclosure) Amendment Bill. Certainly, he has been willing to listen to the arguments and the debate.

I come to this as a Johnny-come-lately to a certain extent. The original legislation passed back in 2013. It was negotiated significantly between the Attorney and the former member for Davenport, Iain Evans, and it has only been since Iain left the parliament that I have taken over the negotiating responsibilities on behalf of the Liberal Party. As the Hon. Mr Darley has indicated, there are significant sections of this which are largely technical in nature, but there are three or four more significant sections to which I do want to refer.

The amendments to 130Q have been designed to try to ensure that no candidate or party obtains a windfall benefit from the public funding scheme. What had evidently been identified, either by the Electoral Commissioner or Attorney-General staff, is that the way the bill was originally drafted had the potential for a candidate or a party to, in certain circumstances, obtain a windfall benefit from the operations of the scheme.

The amendment to 130Q is designed to try to limit or close that particular loophole, and that is a loophole where the political expenditure that was incurred is less than the amount of public funding that was to be payable. In something as complicated as this new public funding arrangement, there are always going to be loopholes and errors in the original drafting. I think it was acknowledged at the time that the parliament may well need to revisit the legislation on a number of occasions. This is the first.

I suspect that after we have seen it operate at the first election campaign, whoever is in government after March 2018 will need to come back and revisit and refine elements of the scheme because in some instances it can be quite onerous, perhaps overly so. Whilst clearly the goals of the scheme are admirable in terms of transparency and accountability for the money that is given to political parties to help them run campaigns, there should be disclosure of the amounts of money parties receive. I am sure that there will be a review and there will need to be refinements of the legislation as we get further down the path.

The Liberal Party certainly supports the amendments to section 130Q. There are some minor amendments to section 130A in relation to rounding arrangements, in terms of how it is paid. They are eminently sensible and we certainly support those. There are some significant amendments to sections 130ZF, 130ZN, 130ZO and 130ZP. I note that it would be wonderful if, at some stage in the future, we could actually redraft the Electoral Act to get rid of all the ZFs, ZOs and so forth and just go from section 1 to section 500. It would make reference to the act much easier.

Putting that to one side, the second reading explanation makes clear that these amendments are not intended to water down the reporting requirements but actually try to make them workable while still providing accountability. Let me identify one of the problems. In that period between 1 January 2018 and the date of the election, weekly reporting is required towards the end of what is called the designated period and, clearly, the bigger the party, the more onerous the requirements will be.

Let us assume that the end of the seven days is on Saturday night at midnight. Parties had to produce a report and an audited report by midnight of the Saturday night. If you were still receiving donations from a Saturday night fundraising dinner all over the state of South Australia on the Saturday night to which that reporting requirement relates, and you are still adding up how much

money is coming in, you are required under the legislation not only to produce a report by midnight but to have actually had it audited. It made no sense at all when you looked at the practical implications of that in the cool light of day.

Credit to Attorney-General Rau. When this was raised with him, he understood the problem and accepted it. He said, 'Let's look at something sensible.' These amendments allow you five days after each period to produce some of these reports. During this period, there were to be onerous requirements in terms of production of audit certificates. There will now be the requirement for two audit certificates during this period, one just before the election and one in the nature of a wrap-up audit certificate after the election, in terms of accounting for all the financial arrangements relating to fundraising and expenditure during that election period. All those amendments make sense to us and we certainly support them.

When we emerge from the 2018 election campaign, everyone—big and small parties—will say, 'This was an unforeseen problem that you didn't realise and this was a particular issue that we had in terms of meeting the requirements of the legislation.' Upon review, I suspect that we will be back here seeking to clarify some of those issues. The amendments also give the Electoral Commissioner discretion to extend the period for providing an audit certificate by up to 30 days outside the designated period. That will be a decision to be taken by the independent Electoral Commissioner.

There is also the 'Keep Reggie Martin and Sascha Meldrum out of gaol if at all possible' clause, which is 130ZZE. It still sets out a range of offences, but it does insert a new defence for a person who can prove that they exercised all reasonable diligence to prevent the commission of the offence. The people who get locked up if this does not all work out are generally the state director in terms of the Liberal Party, Sascha Meldrum, or—

The Hon. T.T. Ngo: Reggie Martin.

The Hon. R.I. LUCAS: Yes, I know, but what is he called?

The Hon. K.J. Maher: State secretary.

The Hon. R.I. LUCAS: —the state secretary of the Labor Party, Reggie Martin. They are the ones who have to put their names to the returns. If someone else or they themselves cause a problem and do not disclose, or make an error, they are the ones who have to take responsibility. This particular provision we think is a reasonable one. It says that if you can demonstrate that you have exercised all reasonable diligence in terms of preventing the commission of the offence, that is at least a defence.

It does not get you off the hook, because in the end that will be a decision that a court will need to take, but at least you will be able to argue that this is what you did to try to ensure that the requirements of the legislation were complied with. As I said, needless to say, both Ms Meldrum and Mr Martin are passionately supportive of this particular amendment to the legislation.

The bill also amends section 107 of the Electoral Act to provide for the Court of Disputed Returns to declare an election void where a person has incurred political expenditure in excess of the applicable expenditure cap during the capped expenditure period in relation to the election. The Court of Disputed Returns has to be of the view that the result of the election was affected by the breach. That is obviously a high threshold; nevertheless, if the Court of Disputed Returns can satisfy themselves that that threshold has been breached, then there is a very significant penalty potentially available, which is that an election might be voided as a result of breaching these provisions of the legislation.

There are two remaining sections I want to refer to. There have been ongoing negotiations in relation to the proposed repeal of section 130C. I think all members have now received an email from the Attorney's advisers indicating that the government—and I can indicate that the opposition will be supporting this—will not be moving to repeal 130C in this particular bill. We will leave 130C there.

Everyone acknowledges that there are potential problems in clarifying exactly what 130C means, and there have been frantic endeavours over the last days and weeks to try to craft a new

130C rather than just removing it completely. In the end, given the desire to see this legislation pass today, we thought it unreasonable to drop that on Independent and minor party members this afternoon when we are still trying to work out what it means anyway.

Essentially, the intention of the government and the opposition will be to leave 130C as it is. We passed it before; it still sits there. We will be honest and say there are now significant questions about what it actually means and how it should be implemented, etc. We have given a commitment to the Attorney-General that, between now and February when we debate the Electoral (Miscellaneous) Amendment Bill, which is still before us and will not pass before Christmas, if there is an agreed 130C provision, that will potentially be added to the miscellaneous bill which we debate in February or March next year, so I just flag that.

The remaining issue is one that the Hon. Mr Darley has addressed. The Liberal Party certainly has no problem with standing up and indicating that, together with the government, we support the provision of one-off special assistance funding to political parties in an endeavour to ensure proper compliance with the disclosure requirements of the legislation.

In the context of the total expenditure, I cannot remember what the number is. It might be out of public funding, which is probably $4 million or $5 million—I might stand corrected on that—to be paid to all political parties. There is potential for one-off special assistance funding of up to $96,000 for, in essence, two major parties, I think, and $56,000 for three smaller parties. The Hon. Mr Hood sticks three fingers up at me, so I assume that means three parties. Lucky it was not two or indeed one.

In the scheme of things, if we are spending four or five million, or whatever that total amount of money is, on a one-off up-front expenditure it is modest in terms of that particular context and there is a genuine argument for it. I know, from the discussions I have had with Ms Meldrum and Mr Martin, that both major parties, and I am sure it is the same for the minor parties—certainly, in our case, if I can plead the case, it is a much more complicated animal than, for example, the Labor Party. I am not sure about the Greens and Family First, for example, but the Liberal Party has been structured on committees and branches all over the state, and trying to herd them together has been a bit like herding cats.

Unlike the Labor Party, which has, for at least a period of time, had a very centralised fundraising control arrangement, the Liberal Party has been very decentralised, consistent with our Liberal philosophies and principles, but they are inconsistent with the tenor of disclosure and expenditure for a public funding regime. So, the Liberal Party has had to implement a complicated new software arrangement in terms of trying to ensure compliance up-front and there will be ongoing costs in terms of trying to herd the political cats, if I can use the colloquial expression, of branches of the Liberal Party all over the state in terms of ensuring compliance with the legislation.

Whilst I acknowledge the concerns the Hon. Mr Darley has raised, I stand up on behalf of the Liberal Party and support the government amendments in relation to that one-off special assistance funding. Regarding the issue of the ongoing special assistance funding being done by regulation, the government will do that by regulation and if it is out of kilter with what a majority of people in the parliament are prepared to support, then clearly it will be a disallowable instrument in terms of whatever is proposed from that viewpoint. Again, the power will rest with the parliament, ultimately, should they so wish to disallow that particular regulation. With that, I indicate that the Liberal Party supports the second reading.

The Hon. D.G.E. HOOD (16:47): I rise to speak on the Electoral (Funding, Expenditure and Disclosure) Amendment Bill before the chamber at the moment. I think the Hon. Mr Lucas has very eloquently, as he often does, put forward the case for supporting this bill and, in a nutshell, it is essentially Family First's position as well. There may be some cynicism in the community that this is political parties receiving more money from the taxpayers' purse.

I think members in this chamber would acknowledge that our party, and not exclusively our party, of course, has had a record of encouraging frugality where possible with taxpayers' funds, but when it comes to the funding of political party expenditure, it is fair to say, and I do not think this is a contentious statement at all, that political parties have never been forced to be more transparent than ever in this state.

Certainly, in my 11 years (almost) in this place, the expectations, the requirements, the legal requirements on the reporting of political donations, for example, and the finances of political parties have never been more rigorous than they are today. With that comes a cost, as the Hon. Mr Lucas outlined. There are quite onerous, although legitimate—I do not mean the word 'onerous' in a negative way, but 'stringent' perhaps is a better way of putting it—requirements with respect to auditing of donations in particular for political parties, and especially in the period immediately preceding and immediately after a general election.

We support the stringency of those measures but they do come at a cost because they require very regular audits. At the moment, I think the current requirement is a weekly audit and, in fact, not only is a weekly audit required but the audit is required to be done immediately upon the cessation of the particular designated period, which is seven days. So, what you get is the situation the Hon. Mr Lucas has just outlined.

I will not labour the point but, just to touch on it briefly, what you get is a situation that is actually impossible to meet under the act; that is, that the donations could still be coming in and yet they were required to be audited almost in a future tense or, certainly, right at the moment when they came in. So, compliance was impossible. As the Hon. Mr Lucas pointed out, it is a credit to the Attorney-General for acknowledging this and looking to address the matter in a way that was acceptable to all of the parties. He has discussed that with our party as well, and we were happy to try to work towards a solution.

I will turn to my notes that are in more detail to touch on the bill more generally, but that is our general view. I indicate that we will be supporting the bill. I might touch on the concerns raised by the Hon. Mr Darley. I acknowledge the Hon. Mr Darley's concerns and I think all members of this chamber, certainly those involved in any way, whether directly or indirectly, with the organisational side of their party, would acknowledge that the Hon. Mr Darley's points raised should be treated with respect. They should be treated as serious concerns and concerns that would be raised in the community, and he is quite right in raising them. However, I can assure you, sir, and our constituents that this is something that we have agreed to because we believe it will heighten transparency, and not the contrary.

Changes made to the Electoral Act, when we passed that legislation not that long ago, included a range of new obligations imposed on political parties that have opted in for public funding. Part 13A of the act places particular emphasis on maintaining financial equality, transparency and upholding public confidence. Periodic reporting and disclosure was introduced, as well as political expenditure caps and an obligation to disclose large donations, in particular, and any gifts.

Weekly reporting during designated periods was another responsibility that was introduced. Under the current act, weekly political party returns during the designated period must be provided with audit reports. There is consensus that complying with this obligation would be very challenging, as I have just outlined—and I think the Hon. Mr Lucas makes a good point—not only for minor parties, as we would raise in this place, but probably more so for the major parties, but certainly the requirements placed on minor parties are not insignificant either.

This bill proposes that, instead of weekly audit reports, two audit certificates covering the designated period will be required. This proposal is a lot more realistic and workable but, at the same time, does not compromise the core values of accountability and transparency, which we wholeheartedly support. This bill also makes provisions for an additional one-off payment of special assistance funding. I understand the amount will be in accordance with the number of members of parliament a registered political party has elected at the time of the claim.

Parties with six or more members—that is, Liberal or Labor, essentially—will be eligible for a $96,000 one-off payment, and $56,000 would be applicable to those parties with five or less members. This payment will provide needed financial assistance, especially to smaller parties, with the administrative costs involved in complying with this act. Overall, this bill proposes sensible amendments to the current disclosure scheme and the public funding model that applies under this act. It addresses some deficiencies under the current regime and provides for sensible improvements.

I might, in my final comments, make a few remarks regarding the specific amounts that have been allocated. We think the amounts are reasonable. I would like to allay any constituents' concerns that the amount is excessive. Auditors are very expensive. Given the quantity of audits that are required, in many cases these amounts will not go anywhere near covering the expenses that will be incurred. Transparency comes at a cost. I think these are very modest costs, which should give the public a great deal of confidence that they can be certain, through these measures, that political party operations are highly scrutinised and well and truly audited and, as such, not subject to any questionable practices.

The Hon. K.L. VINCENT (16:53): I would like to take to the floor very briefly to indicate Dignity for Disability's support for the second reading of this bill and, of course, thank the Attorney-General in the other place and his staff for briefing my office on it. Other members have outlined—quite reasonably, I think—why this bill is beneficial. I do not intend to reiterate those comments that have been made, but I would like to point out a couple of things; namely, that this is about transparency and making sure that funds are being spent on the correct things, including expending funds on making sure political parties' websites are up to date with accessibility requirements and are compliant with accessibility standards, which is certainly a positive thing. Given that people with disabilities already face so many barriers to political and social participation, that is something that we welcome, and we would love to see other members striving as hard as we do to provide an accessible website, as well as other materials, of course.

I would also, while it is not directly necessarily related to this bill, hasten to add that I believe that if the Attorney-General really cared about democracy and participation and diversity within it, he would amend the Electoral Act further to remove the now outrageous $3,000 deposit required to run for the lower house in this state. This is between five and eight times more than what it costs in the majority of other Australian jurisdictions to run for the lower house.

There are many minorities which experience economic and social disadvantage and therefore face significant barriers to having their voices heard in this place, but just to give one example, 45 per cent of people with an identified disability live at or below the poverty line in 21st century Australia. That is four million of us nationwide (45 per cent) at or even below the poverty line.

For this particular group, just as one example, $450 is already a significant indication of our commitment to a cause and our commitment to standing up for our beliefs and working to make South Australia a better place. We do have very serious concerns that the now $3,000 deposit will further impede many so-called minority groups, including people with disabilities, in running for parliament and having their voices heard by this place, and therefore we think it is a sad indictment on democracy.

There are certainly many other measures, of course, that the Attorney-General could look at, such as the proposals which Dignity for Disability has put forward for electronic voting, for making sure that there are more wheelchair accessible polling booths, and for the banning of corflutes so that we can focus on policy and not on photographs and what people look like, but on what they are actually offering to the community; banning those visual blights on our landscape, a danger to drivers and, of course, a danger to our environment.

I will leave those comments there. We welcome this bill for transparency and for the efficient running of political parties and thereby the efficient running of this place, but it certainly does not end here. We look forward to continuing to work with the Attorney-General and the government and whoever else we must to make sure that our democracy becomes truly inviting of everyone to participate.

The Hon. M.C. PARNELL (16:57): I have added myself to the speaking list now that the time pressure to pass all these bills this afternoon has gone and we are coming back next week. I have now decided that I will take an opportunity to speak briefly on this bill. My first observation very much follows on from what the Hon. Kelly Vincent has said. I am very keen to see that we have another Electoral (Miscellaneous) Amendment Bill coming next year, because that will be our opportunity to fix up some of the outrageous impositions that the Attorney-General has put on small parties in particular.

The worst of those is the $3,000 deposit for the lower house seats. I know there is an argument that it is too high for the upper house as well but, from the Greens' perspective, we did support a modest increase, less than what was put forward, but we agreed with a modest increase in upper house deposits. The idea that lower house deposits should also be increased to $3,000 was sprung on us without consultation. It was snuck through in regulations in a very sneaky manner, and the Greens will take every opportunity we can to oppose them. I am sure we will have allies in the Dignity for Disability party in relation to that. I do not think the name change has gone through?

The Hon. K.L. Vincent: About four more days.

The Hon. M.C. PARNELL: Okay. In four more days, the Hon. Kelly Vincent will be representing a new party, but I will leave that announcement to her; I do not need to pre-empt that. The consequence for small parties wanting to contest every seat is that you have to find in cash, up front, $150,000 to contest a state election: that is, 47 lower house seats at $3,000 per seat and perhaps a team of three contesting the upper house at another $9,000.

It is $150,000 in cash up-front. Bear in mind that for small parties that might not reach the threshold of 4 per cent to get electoral funding, that is effectively money that they will never get back. It is not something that the big parties have to worry about. They always get their deposit back in every seat, but for small parties, that is not the case. The Hon. Dennis Hood's party, certainly the Greens, whilst we aspire to reaching the threshold in every seat, the reality is that we do not, and so those deposits are gone and there is no public funding. We really do need to address that issue of the up-front deposits. The opportunity to do that, I think, will be in the miscellaneous amendment bill that we see next year.

The Hon. S.G. Wade: You don't run in every seat, anyway.

The Hon. M.C. PARNELL: The honourable member has interjected that the Greens do not run in every seat, we do. In the last three elections the Greens have contested every seat in the state parliament. It is making it harder, with the $3,000 deposit, but certainly that has been our aim and I hope we can do it again at the next election. That brings me—

Members interjecting:

The Hon. M.C. PARNELL: I am not going to be baited by any honourable members. I will not be responding to any of these unruly and out of order interjections. I do want to reflect very briefly on some of the comments that the Hon. John Darley made, when he indicated that they would be opposing clauses 9 and 10, I think it was, of the bill, which deal with special assistance funding.

The case, as I understand the honourable member put it, is that around the water cooler or in the front bar, people do not like the idea that they are paying money to political parties for administration. I think we need to be a bit careful about how far we take that argument, because the last time I looked, the Nick Xenophon Team has collected all of the public funding that has been offered to them in terms of federal elections, and I am expecting that they will accept the public funding that is offered to them at this next state election. The idea that the taxpayers are funding elections and funding political parties is something that is already in our federal system and it is soon to be in our state system.

From the Greens' perspective, we certainly accept that when you put it to people out of context, 'Do you think it's okay for the taxpayers to be funding political parties contesting elections?' most people would probably say no. But if you offered them a choice and said, 'If we got rid of corporate political donations, if we stopped pokey companies or tobacco companies or armament companies or asbestos companies, if we prevented corporations from donating to political parties, if we banned that, would you accept the taxpayers funding elections?' I am sure the hands would all go up. So really we have to be a bit careful about taking a purely populist line and going out there saying 'We're trying to save the taxpayers' money,' when in fact the vast bulk of the money that political parties will receive is in public election funding and it will not be in the special assistance grants.

The onerous obligations on political parties to comply with these new reporting requirements does, I think, reasonably require some assistance of the state to allow us to meet those obligations. If you look at a worst case scenario, that is a small party that is going to have to find $150,000 cash

if they want to contest every seat, they are not going to get public funding because they are a small party, they will not get the 4 per cent threshold, yet they still have the same onerous reporting requirements, and if we were to remove those special assistance grants, then effectively you are saying small parties are not welcome in South Australia, not welcome to contest elections. I think that is a bad result for our democracy.

Having got that off my chest, most of the bill is fairly innocuous. In fact, probably I should be more generous than that. It is quite sensible. It actually improves the ability of parties to properly comply with the law by making sure that reporting and auditing requirements are clarified so that the circumstances that the Hon. Rob Lucas described, with people having to not only report pretty much in real-time but having to audit in real-time, is not imposed. We have to bear in mind that there are serious consequences for not complying with these rules, and those consequences are financial in terms of missing out on public funding. It does make sense for the law to make it as easy as possible for political parties to comply with their reporting and their auditing requirements.

We certainly do not intend to oppose this bill going through now because the sooner we clarify the accounting and the bookkeeping and the administrative requirements the better, but we do put the chamber on notice. I expect I will have some support on the crossbench and I hope on government and opposition benches as well, that when we deal with this next bill we are going to have to do tackle the more serious fundamental issue about whether small parties are indeed welcome to contest elections in this state. If the answer is 'Yes, we are a democracy; small parties should be able to contest,' then we have to reduce some of these barriers to entry, and the highest of those is, in fact, the $3,000 per seat.

I made the point that I said it was done in a sneaky and underhanded way: the point is that there was never any problem identified with enormous numbers of people abusing the electoral process by nominating for lower house seats without the intention of taking the election seriously. For the vast majority of seats, it is the major parties and the smallish number of minor parties that contest it. We do not see any abuse of the process. There was no case made for increasing lower house deposits: the Greens objected to them at the time.

My recollection is that they were done in regulations after parliament had risen with no ability to disallow them. That is my recollection. They came in, parliament was not sitting because we were in a pre-election period—there was no ability to disallow those regulations. No such excuses this time. Whilst the window to disallow the regulations might have passed, the ability of parliament to set a cap on the deposits is open. It will be open next year with the miscellaneous amendment bill and the Greens will certainly be taking that opportunity.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:06): I would like to thank those members who have contributed to the debate on this very important bill. The bill will provide clarity on a number of issues that have arisen in relation to the operation of the funding expenditure and disclosure scheme in part 13A of the Electoral Act. There is one issue that was raised in discussions on this bill outside the parliament, namely the process for applying for one-off special assistance funding and what sort of evidence will be required to support a claim.

The bill provides that claims for one-off special assistance funding will be in a form determined by the Electoral Commissioner. The bill is not yet law and so, the Electoral Commission has not yet developed any form. However, it is anticipated that the form will be along the lines of the form that is used for the half-yearly special assistance funding claims. It will most likely require the agent of the party to declare that. The amounts claimed relate to prescribed administrative expenditure, being administrative expenditure incurred for the purposes of complying with part 13A, and the amounts have not already been claimed in previous special assistance funding claims.

Clause 17 of the bill requires that the claim be accompanied by an audit certificate. Section 130ZV of the Electoral Act provides that the audit certificate must set out that the auditor was given full and free access at reasonable times to the accounts and documents of the agent responsible for the return, examined the accounts and the documents, and received all the information and explanations that the auditor asked for in relation to any matter required to be stated in the certificate.

I am aware that there are a number of amendments that will be moved to this bill. The amendments have been filed by the Hon. Rob Lucas to clause 6 of the bill, which relates to section 130C of the Electoral Act. The government proposes to continue to consult on the amendments that may be required to 130C. For the time being, while those issues are worked through, it is proposed that no amendments should be made to section 130C and that clause 6 of the bill should be opposed in committee stage. Any amendments required to 130C of the Electoral Act will be dealt with in the Electoral (Miscellaneous) Amendment Bill, which I understand is being considered in the other place. I commend the bill to honourable members.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. R.I. LUCAS: I am not proceeding with my amendment.

Clause negatived.

Clauses 7 to 16 passed.

Clause 17.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 10, line 12 [clause 17(5), inserted subsection (2a)]—Delete 'during' and substitute 'in respect of'

This is the first of two government amendments which relate to the audit certificate requirements in a designated period. The designated period will commence on 1 January, prior to a general election. In the designated period, there is weekly reporting. The bill makes changes so that an audit certificate is not required in relation to each weekly report.

Instead, two audit certificates are required in relation to the designated period as follows: the first audit certificate is due a week before polling day and relates to all returns furnished up until that time. In relation to the second audit certificate, the intention is that it will be required on the day on which the last return is required to be furnished in relation to the designated period.

The issue is that the last return, or sometimes the last two returns, for the designated period will be due after the end of the designated period. Currently, the second audit certificate is only required in relation to returns due during the designated period. Two minor changes are made to clause 17 of the bill to address this: 'returns furnished during or in the relevant period' becomes 'returns furnished in respect of the relevant period.'

The Hon. R.I. LUCAS: It is an eminently sensible amendment, and we support it.

Amendment carried.

The CHAIR: Amendment No. 2 is consequential.

Clause as amended passed.

Remaining clauses (18 and 19) and 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) (17:13): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (PLANNING, DEVELOPMENT AND INFRASTRUCTURE) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 November 2016.)

The Hon. M.C. PARNELL (17:14): I can feel a chill wind blow through the chamber when the leader of the Greens rises to speak to a planning bill. No doubt members fondly remember the discussions that we had at this very time last year. In fact, the optional sitting week was taken last year for the sole purpose of continuing debate on the planning bill. It is with some pride that I think we accomplished about 50 clauses in that week. Clearly, the Legislative Council was hard at work.

I will disappoint members today because my contribution on this planning bill will be relatively brief. As much as I know members want to revisit the glory days of December 2015, I am going to disappoint. I mainly want to speak about one aspect of this bill, and that is the part of the bill that relates to the preparation of state planning policies. In relation to the rest of the bill, it is mostly of an implementation nature. We always knew that once the planning, development and infrastructure bill passed, there would need to be a number of other pieces of legislation to give effect to, and to implement, what we had passed, and that is what most of this bill does.

I am as keen as anyone to see the new system take shape. We need to get the planning commission appointed so they can get down to work. The parts of the bill that I am not happy with, as I said, relate to state planning policies. As members would recall, these are high-level documents that deal with overarching principles to which subordinate planning documents must comply or be consistent. Those planning policies include things like the design quality policy, policies that relate to special legislative schemes, and also some policies that the upper house inserted into the legislation.

One of them is a Liberal Party policy, which I think was a good idea, to ensure that, as far as possible, buildings are adaptively re-used. In other words, rather than demolishing buildings, if it is possible to fix them up for a more modern use then that should be embraced—a good policy. The Greens put forward the idea of a policy to make sure that climate change was taken into account in the preparation of planning documents. So, we have a number of these high-level documents.

The idea always was that those state planning policies would be the responsibility of the planning commission. They were going to be the planning commission's job, to write these policies and present them to the minister, but ultimately the planning commission would have control. That is the model that was proposed by the expert panel. Deputy Premier John Rau, in his capacity as planning minister, commissioned Brian Hayes QC to lead an expert panel to look at planning reforms. They recommended that we have this planning commission. They recommended that the planning commission be responsible for state planning policies.

So, what do we see in this bill? We see the government striking out the words 'planning commission' and reinserting the word 'minister'. In other words, they have gone back to the bad old days where these policies are purely political documents controlled by the minister. That is not what the expert panel suggested. It is also not what the Western Australian government implemented. If I had a dollar for every time the Hon. David Ridgway referred, in glowing terms, to the Western Australian model, I would be rich. If you look at how the Western Australians do it, their planning commission has responsibility for these planning policies, but under this bill, that power is taken away from them and put back into the hands of the minister.

My amendments, which I will speak to in more detail when we get into the committee stage, and that will not be today, are basically to return control to the planning commission. The government does make a good point, in one sense. I will refer to one paragraph from the minister's second reading speech and then explain why I think they have a good point, but I will propose an alternative way of dealing with it to that the government has chosen in the bill. In the second reading speech, the minister said:

> It is also important to note that a substantive amendment to the Act is proposed through this Bill. That amendment is to clarify that the responsibility for and ownership of State Planning Policies rests ultimately with the Minister for Planning and Government of the day, notwithstanding that their policies will be informed by the Commission and its consultations. This amendment corrects an inconsistency between different State Planning Policies and the

responsibilities for the same, which occurred due to an amendment of the Planning, Development Infrastructure Bill in the Legislative Council.

In other words, the government is saying, 'There is an inconsistency. The inconsistency is brought about by the Legislative Council and we need to fix it.' He has a point.

When the Liberal Party and the Greens put forward our amendments to create these new state planning policies, the Liberals' were to do with adaptive re-use, the Greens' were to do with climate change and we actually gave that responsibility to the minister, but the rest of the planning policies were the responsibility of the commission. So, the government makes a point: it is inconsistent. Two policies are the minister's responsibility and all the rest are the commission's responsibility. There are two ways to solve that inconsistency. Either you give everything to the minister or, as my amendments propose, you put it all in the hands of the commission.

That is how you solve the inconsistency. That is the approach I have taken. All the state planning policies will be under the firm and independent hand of the Planning Commission. It is consistent with the government's expert panel recommendations. It is consistent with the Western Australian model that the Liberal Party championed right through the debate. I look forward to debating that when we get to it. Whilst I know I am disappointing members by not speaking at greater length on this important topic, I will leave my remarks there and look forward to the committee stage in February, when I expect we will be resuming debate on this bill.

Debate adjourned on motion of Hon. S.G. Wade.

LOCAL GOVERNMENT (MOBILE FOOD VENDORS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 15 November 2016.)

The Hon. T.A. FRANKS (17:22): I rise on behalf of the Greens to speak to the Local Government (Mobile Food Vendors) Amendment Bill 2016. I do so noting that the opposition opposed this bill in the other place, but that it is here before us, so it is what we call in politics in this place a live issue, where crossbenchers have to pay close attention. I note that in the position paper 'Food trucks in South Australia', in answer to the question 'What is the issue?', one respondent states:

> If you had to explain the difference between a food truck and a restaurant to an 85-year-old grandmother, you'd probably start out with the most obvious difference: a food truck has wheels. Then why impose restrictions on where a food truck can travel within metropolitan Adelaide?

Indeed, the notion of the option of some provision of catering on wheels gives rise to the proposed laws before us. Food trucks of course are a little flavour of the month. Like small bars, they appeal to hipsters and housewives alike in this state. While I do not think we will see a food truck and small bar led economic revolution, they certainly do allow small businesses and entrepreneurs to get their foot in the door.

They are not anything new. Recently, I went to see a Bertolt Brecht play put on by AC Arts—*Mother Courage and Her Children*. Mother Courage pushes her little food cart, a food truck without an engine, around the war-torn community, for some (it almost seemed like) decades. It just shows that this is not a new concept. Taking food to where people are, rather than expecting people to come to where the food is, is not a new concept and it is not a concept that should cause such consternation.

Unfortunately, I think, in some ways, the way this has been handled rather than the issue itself has caused the consternation. I know there is some opposition, particularly from reading the media before having a discussion with the minister and seeing what are now the draft regulations. I shared some of the concerns that perhaps this was a blunt instrument where a more nuanced approach was necessary.

Certainly, the idea that each and every single council in this state would be expected to map where food trucks could be as a result of this bill is not something the Greens could countenance. However, that issue has been addressed, and I understand that councils need not do that mapping exercise, particularly where they do not have a food truck culture or any small entrepreneurs wishing

to operate a food truck within their jurisdiction, as they can move a simple motion. That is a common-sense solution to one of the huge barriers originally identified as part of the problem with this bill.

I understand that there are still some concerns within local councils and within the LGA itself regarding issues such as the potential opening hours of food trucks and the type of food that can be sold as well as the number of permits issued and those sorts of provisions. I am going to put on the record that the Greens do not believe that anybody should be in the business of telling a food truck whether or not you can have soy lattes if the restaurant around the corner has soy lattes.

If a council chooses to issue a directive through either a mapping exercise or a motion that a food truck cannot operate within a certain distance of their bricks and mortar operations—their restaurants and cafes—then that is the business of the council and that will be supported. However, we will not be dictating whether or not you can have an alfalfa sprout sandwich, a wrap, or whatever type of smashed avocado that potentially stops you getting a mortgage, sold either over the counter from a food truck or a cafe.

We will not be in the business of dictating to those small businesses what sort of produce and what sort of product they sell to their consumers. If the consumers do not want it, they will not buy it. If the consumers want it, we should be providing more of it and just getting out of their way. That certainly seems to be a common-sense solution.

I think we have ended up with this being somewhat intractable between the opposition and the government in some ways because of that lack of consultation. I sat down with the LGA a few weeks ago, and I would particularly like to thank Andrea Malone for her time. I had a conversation with her about some of the fine details. It increasingly emerged that there is not the great resistance from the LGA that has been reported in some news outlets. As I say, the Greens certainly will not be entertaining any sort of restrictions on the type of food sold.

I have asked that the issues with operating hours be the subject of consideration by the LGA and that they come back to the Greens with a firm position on what their concerns around the opening hours might be. With that, the LGA said, 'We would love to do that. We need about six weeks to consult with our members.' I would like to put on the record that the Greens, in that meeting with the LGA, said, 'We think that is fair.'

The summer break is upon us. When we come back in February and debate this issue, the LGA will have had time to come up with a position that has been consulted on within their membership, and sit down with the minister with these regulations we now have, which were not present in the early stages of this debate. We have quite extensive draft regulations which, in my time in this place, has been a rare occurrence.

Having the regulations already here to inform our debate will I hope ease the concerns of both members of this place and the LGA. I would hope that members of the opposition might take another look at this legislation because I would be greatly concerned that any party of business would get in the way of small businesses operating in this state.

With those few words, we look forward to a more productive conversation on this issue after summer and after the LGA has had the ability to sit down with the regulations, consult with their membership and come back to both members of this chamber and to the government with a consensus and an informed position.

I hope that we will be able to see those food trucks from the time of Mother Courage, which have been around for so many decades, if not centuries, able to operate across our state in an appropriate manner. Get out of the way of these small businesses who simply want to make somebody a sandwich for their lunch, or indeed serve a cup of coffee to a builder on a construction site where there are no other businesses around. Food trucks are very popular. They are very popular because people like them. If they do not like them, they will not buy from them. Simply, get out of the way of the business of these small operators and let them get on with it.

Debate adjourned on motion of Hon. A.L. McLachlan.

STATUTES AMENDMENT (COURTS AND JUSTICE MEASURES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 November 2016.)

The Hon. A.L. McLACHLAN (17:30): I rise to speak to the Statutes Amendment (Courts and Justice Measures) Bill. I indicate that I speak on behalf of my Liberal colleagues and advise the chamber that we are supporting the second reading of the bill. This bill has been introduced by the Attorney-General in the other place and provides for amendments to various acts to achieve efficiencies and consistency with other pieces of legislation. There are also amendments just filed this afternoon which relate to technical repair of the Judicial Conduct Commissioner Act and other legislation.

In the original bill before the chamber, part 2 seeks to amend the Bail Act to permit an expanded class of people to act as witnesses to bail agreements or as a guarantee of bail. This is designed to allow the Registrar or Deputy Registrar to perform these functions. The opposition has been informed that this amendment is supported by the Chief Magistrate. We support this reform and hope it achieves increased efficiency in the administration of our criminal justice system. The bill also seeks to amend the Criminal Law Consolidation Act to expand the range of circumstances in which audio and audiovisual links can be used for court appearances of defendants who are in custody.

The amendment provides for an increased use of these links if the court determines it is suitable, which has the potential to minimise cost of transportation and supervision of defendants who are in custody. The bill, once passed, will also enable audiovisual links to be used in appeal hearings, applications for permission to appeal, or other proceedings incidental to an appeal if the court determines it to be appropriate. The Liberal opposition supports the expanded use of technology, for not only can it help achieve efficiencies, but it can also be used to enhance protection for victims. I note that the Attorney-General has stated in his second reading that this particular amendment is supported by both the Chief Justice and the Chief Magistrate.

Part 5 of the bill relates to amendments to the Evidence Act to extend the application of section 13B which prohibits cross-examination of vulnerable victims by self-represented litigants to apply to other proceedings involving the victim. The bill also extends this prohibition to apply to offences of recklessly or intentionally causing harm as this has been previously omitted. The Liberal opposition supports this reform, recognising that without this amendment, victims can be unfairly subjected to aggressive and inappropriate cross-examination by unrepresented litigants, causing them further stress and humiliation.

There are amendments which have been filed this afternoon. The Liberal opposition indicates that it is has an opportunity to review these amendments and will support the amendments and the proceeding of the bill through committee today subject to the will of the council. The amendments also relate to the Judicial Conduct Commissioner Act 2015 and effectively repair an omission that, when there is a complaint against the Chief Magistrate or Chief Judge of the District Court, it can be referred to the Chief Justice.

I also note in these amendments that the Attorney-General is not proceeding with his original proposed amendments regarding the position of the Solicitor-General, and he will intend to legislate in relation to that, potentially in the new year. Whilst the Liberal Party will support the passage of second reading and the amendments in committee, once again, I find myself on the last day of sitting—with the House of Assembly still in session and able to receive a message from this chamber—having to review a bill immediately outside the chamber, with briefings in the afternoon both to myself and the shadow attorney-general.

I would like to thank the staff of the Attorney-General's department, but I would send this message to the Attorney, if he reads his *Hansard* and when I see him next: increasingly, the tolerance of the Liberal Party is waning for last-minute amendments on the last day of sitting. I am particularly mindful of ones relating to the operation of the ICAC and warrants. However, because these amendments are specifically technical and because I have received briefs in the afternoon from the

Attorney's staff, and I am also familiar with the bills being amended, I can indicate to the chamber that we will not be opposing the amendments. I commend the original bill to the chamber.

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) (17:36): I thank the Hon. Andrew McLachlan for his contribution, his understanding and his ability to read very quickly and understand issues very quickly to allow what were oversights in previous processes to be rectified. I thank him for his forbearance and look forward to a swift committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. M.C. PARNELL: I did not make a second reading contribution. The Greens, in our party room meeting, resolved that this was a fairly routine bill. The amendments that it introduced were fairly non-contentious. I do want to quickly echo the comments of the Hon. Andrew McLachlan that, whilst we are appreciative that, at the last minute, we have been given an advance copy of some of the remarks the minister is going to make and an explanation of clauses, I think it is a recipe that, if repeated too often, is going to end in tears because we are going to mess something up.

I have had a good look at this, and I think it is okay. When I go through it, I think, 'Well, there is an amendment to the victims of crime legislation.' I saw the commissioner earlier today. If I had known we were doing this, I would have asked him. He was at a domestic violence event. I would have said, 'Commissioner, have you seen the amendments to this act? What do you think of them?'

As it turns out, I think they are fairly routine. They relate to the costs that solicitors are able to charge for working in this jurisdiction, so they are probably fairly safe, but I am really nervous when we start doing this sort of thing at the end of the session. I am happy to give the government the benefit of the doubt. I guess, if there is a mistake made, I am hoping that it will be discovered sooner rather than later.

We are also prepared, in the Christmas spirit, to let this bill go through now with these additional amendments, but do not make a habit of it. It is an insult, I think, to those of us who are in parties and have party rooms. I am sure the Liberal party room has not discussed these amendments.

The Hon. R.I. Lucas interjecting:

The Hon. M.C. PARNELL: The Greens party room certainly has not. Whilst you can get away with it on a fairly routine bill, if it was anything of any more substance then we would be putting our foot down and saying, 'We're not dealing with it today.' You are lucky this time, but do not make a habit of it.

Clause passed.

Clause 2.

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

Amendment No 1 [Police–1]—

Page 3, lines 5 to 18—Delete clause 2 and substitute:

2—Commencement

(1) Subject to subsection (2), this Act will come into operation on the day on which it is assented to by the Governor.

(2) Section 18 of this Act will come into operation immediately after section 4 of the *Statutes Amendment (Youth Court) Act 2016* comes into operation, or on the day on which this Act is assented to by the Governor, whichever is the later.

There are a number of amendments to this bill that require swift implementation. This amendment provides that the bill will come into operation on assent. The only part of the bill that will not

commence on assent is linked with the commencement of the Statutes Amendment (Youth Court) Bill, which commences on 1 January 2017.

Amendment carried; new clause inserted.

Clauses 3 to 9 passed.

New clauses 9A and 9B.

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

Amendment No 2 [Police–1]—

Page 5, after line 24—After Part 5 insert:

Part 5A—Amendment of *Judicial Conduct Commissioner Act 2015*

9A—Amendment of section 4—Interpretation

Section 4(1), definition of *relevant jurisdictional head*—after '*Courts Administration Act 1993*' insert:

and includes, in a case where the judicial officer who is, or is to be, the subject of a complaint is a jurisdictional head, the Chief Justice of the Supreme Court

9B—Amendment of section 18—Referral of complaint to relevant jurisdictional head

(1) Section 18—after subsection (2) insert:

(2a) If a complaint is referred, under this section, to the Chief Justice of the Supreme Court because the complaint relates to a jurisdictional head, the Chief Justice may take action in relation to the complaint by—

(a) making recommendations to the jurisdictional head the subject of the complaint (including, for example, recommendations as to caseloads, record keeping, medical examinations or counselling); or

(b) counselling the jurisdictional head the subject of the complaint in relation to any conduct that has the potential to undermine public confidence in the court.

(2) Section 18—after subsection (3) insert:

(3a) If any recommendations have been made to a jurisdictional head the subject of a complaint in accordance with subsection (2a)(a), the jurisdictional head must, within 28 days after the making of the recommendations (or such other period as may be agreed between the Commissioner and the jurisdictional head), give the Commissioner written notification of the action taken by the jurisdictional head in response to the recommendations.

This amendment inserts a new part 5A into the Judicial Conduct Commissioner Act 2015 to address concerns raised by the new judicial conduct commissioner about a lacuna in the act in respect of complaints about a jurisdictional head.

The Hon. R.I. LUCAS: I think I made comment by way of interjection—which was out of order—that the Greens were lucky: they had 50 per cent of the party who had been briefed on this issue. In relation to the Liberal parliamentary party room, it is a significantly lower percentage who have been briefed on the issue. The rest of us know nothing about what is being done here. I echo the comments of the Hon. Mr McLachlan and the Hon. Mr Parnell in relation to these issues. I will briefly, before addressing some questions, say that these issues could have been resolved sensibly if the lower house and the Premier were prepared to do what they are paid to do and that is, sit next week in the optional sitting week.

The Legislative Council members are going to be sitting next week and working on behalf of the taxpayers of South Australia, but because the Premier, the minister and the Attorney-General and others want to put their feet up and head off on their Christmas holidays or whatever we get this sort of circumstance being raised in the house at the last moment, where most of the members in this chamber, with the exception of two or three of you, know nothing about what is being moved, the reasons for the amendment, or whatever it might happen to be.

I place those comments on the record, that not only is it poor practice but the reality is that there was an easy solution to it. Clearly, the government could have sat in the optional sitting week in the House of Assembly. There are many other bills that some members of the government are anxious to get through this week and next week. It was always an optional sitting week and that would have been the easy way of doing it.

The Premier and the government clearly did not want to face three more question times in the House of Assembly. The Leader of the Government and the ministers here will be facing up to three question times next week, as a sitting week, and they are prepared to do it so why should not the Premier and the others be prepared to front up and take questions during question time for the three sitting days next week, and also then process either errors, bills or whatever else needs to be done?

My question to the minister is: what is the real reason for this particular late change? Has there been a complaint against a jurisdictional head that, upon reflection, the bill has found that there is a deficiency and there needs to be a change in the legislation?

The Hon. K.J. MAHER: I thank the honourable member for his question. I turned over the page as soon as he started speaking and I think I can give an explanation. The Judicial Conduct Commissioner Act operates on the presumption that a complaint will be referred to the relevant jurisdictional head. That presumption is displaced where the commissioner dismisses the complaint or takes no further action in respect of the complaint.

Where the complaint is referred to the jurisdictional head, the commissioner can make recommendations to the action taken. Where the commissioner is of the opinion that the complaint is not able to be satisfactorily dealt with by the jurisdictional head, the commissioner can advise the jurisdictional head of that fact and proceed to make an immediate report to parliament or recommend to the Attorney-General that he or she convenes a judicial panel.

In the case of both an immediate report to parliament or a recommendation to convene a judicial conduct panel, the commissioner must be satisfied that the judicial officer concerned could be subject to removal from judicial office. Where a complaint is made about a jurisdictional head but relates to conduct that is not of the sort that would lead to removal from a judicial office, there is nowhere for the complainant to go. The amendments will provide a mechanism to deal with complaints about jurisdictional heads that would not warrant removal from office but would still require some action by providing that complaints about the conduct of a jurisdictional head are addressed by the Chief Justice.

The Hon. R.I. LUCAS: I thank the minister for that explanation but my question remains: has there been a complaint against a jurisdictional head that has required the urgent amendment to the legislation?

The Hon. K.J. MAHER: I am advised that there has been no such complaint prompted by a request from the Judicial Conduct Commissioner.

The Hon. R.I. LUCAS: I am wary of the caveat you put at the end of that. My question simply is: is the government aware of any complaint against a jurisdictional head—I am not saying whether it has been prompted by the Judicial Conduct Commissioner or not—that requires this amendment?

The Hon. K.J. MAHER: I am advised that there is no such complaint that the government is aware of, but the amendment has been prompted by a request from the Judicial Conduct Commissioner.

The Hon. R.I. LUCAS: When did the Judicial Conduct Commissioner first raise with the Attorney-General the concerns about this deficiency in the legislation?

The Hon. K.J. MAHER: I do not have an answer to that, but I can take that on notice and bring back a reply about the date. I do not have advice on when it would have been formally first raised.

The Hon. R.I. LUCAS: The minister and the government are asking for this chamber to do them a huge favour in terms of getting this thing rushed through without anyone knowing anything about it, except for two or three people who have been briefed in relation to the circumstances. I am

sceptical that no-one amongst the government's advisers has any idea as to when this issue was first raised. I am wary that maybe the answer to the question is that it has been some time, and the government and the minister do not want to put on the public record, for fear of inflaming the situation, that the government and the Attorney-General have been aware of this issue for some time, but have not been prepared to act and have left it to the last moment to try to rush an amendment through in relation to the issue.

The minister has parked behind the adviser's bench all of the key people who have been involved in the drafting of the legislation, in the background, and I do not accept that that no-one has a rough idea as to how long ago it was. I am not looking for, 'It was 4pm on 17 October,' or something, but someone must know whether it was this week, last week, or a month ago, or whenever it might be that the issue was first raised by the Judicial Conduct Commissioner that there was a major flaw in the legislation and it required urgent corrective action to be rushed through the parliament.

The Hon. K.J. MAHER: I understand the honourable member's question. I am advised that the official who would usually have conduct of this matter, as an adviser, is absent today. I can undertake to bring back an answer to that so that the honourable member can be aware of when it was first raised.

The Hon. R.I. LUCAS: There is such a thing as a telephone and it would not take very long for someone to contact the missing adviser to find out roughly when it was. As I said, I am not looking for an indication of the precise date and time, but I think this house is at least owed an explanation. If the Judicial Conduct Commissioner has raised the issue only this week and the Attorney-General, the government and the minister have had to respond, and respond quickly, that is fair enough. But, some of us would be a bit grumpy if the Attorney-General and the government have been aware of this for a few weeks and no action has been taken in relation to the issue.

The Hon. K.J. MAHER: I thank the honourable member for his question. I am advised that the Attorney only became aware of this in the last 48 hours and only discussed it with the Judicial Conduct Commissioner today.

The Hon. J.S.L. DAWKINS: As a humble Whip in this place for some time, I just want to indicate my concern about this. I think, too often, particularly at this time of the year or just before the midyear break, this sort of thing happens. We are told that it is absolutely vital and has to happen, and all this sort of important stuff, and we take it on good faith. I take good faith from the minister and his advisers today, but to me it seems bizarre that we are doing this as we are now.

I have seen too many occasions where this happens, then suddenly early next year we will have to come back and fix something up that was missed here today because we did not have the time to look at it. It will not do a lot of good to have me looking at some of this stuff because I am not an expert in that area, but there are other minds in our party and in the crossbenches who are very good at analysing that stuff, and they are able to only analyse those things when they have time to do it. This does not provide the time to do it, and I just wanted to register my sincere concern about continually doing these sorts of things.

The Hon. S.G. WADE: I would like to clarify: is it the Attorney who has sought the urgency on this matter, or is it the Judicial Conduct Commissioner?

The Hon. K.J. MAHER: I thank the honourable member for the question. I am advised that these particular amendments were requested by the Judicial Conduct Commissioner.

The Hon. S.G. WADE: I would like to reiterate my question to the minister. My question was not: who requested them? I asked: who declared this matter was a matter of urgency? Has the Judicial Conduct Commissioner indicated that he requires these amendments as a matter of urgency? I remind the minister that this is a question I have made, and we are in the parliament.

The Hon. K.J. MAHER: I thank the honourable member for his question. I am advised that the Judicial Conduct Commissioner advised that these amendments were required urgently, and the Attorney-General sought to have them implemented this week.

New clauses inserted.

Clauses 10 and 11 passed.

Clauses 12 to 15.

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

Amendment No 3 [Police–1]—

Part 7, page 6, lines 1 to 30—Delete Part 7

This amendment deletes part 7 of the bill. Given the recent appointment of the Solicitor-General, these amendments are no longer urgent. The government will therefore remove these amendments from the current bill and introduce a packet of amendments to the Solicitor-General Act in the new year.

The Hon. S.G. WADE: I do not understand this. These are not late amendments that we are no longer intending to proceed with: this was part of the bill. We had notice of this. Why would we not deal with it now?

The Hon. K.J. MAHER: I just stated that, given that there has been an appointment of a Solicitor-General, they are no longer urgently needed, so they can be discussed in a bill to be introduced that will have a package of amendments to the Solicitor-General Act.

The Hon. S.G. WADE: Is the minister telling us that the government intends to redraft them and present them in a different form?

The Hon. K.J. MAHER: I am advised that, with the appointment of Dr Bleby this week as the new Solicitor-General, these amendments are no longer absolutely necessary. We will look at what is necessary, and any other amendments that may be necessary, in the new year.

Clauses deleted.

Clause 16 passed.

New clause 16A.

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

Amendment No 4 [Police–1]—

Page 6, after line 37—After clause 16 insert:

Part 8A—Amendment of *Victims of Crime Act 2001*

16A—Amendment of Schedule 1—Repeal and transitional provisions

Schedule 1, clause 2—after subclause (3) insert:

(4) Without derogating from section 37, the Governor may make regulations under this Act for the purposes of applications referred to in subclause (1) (including any regulation that could have been made under the repealed Act as in force immediately before its repeal).

(5) The *Criminal Injuries Compensation Regulations 2002* continue to have effect for the purposes of subclause (1) until revoked by regulations made under this Act (and Part 3A of the *Subordinate Legislation Act 1978* does not apply, and is taken never to have applied, to the *Criminal Injuries Compensation Regulations 2002* as so continued).

This amendment is the transitional provision in the Victims of Crime Act. The amendment provides that the regulations can be made under the Victims of Crime Act for the purpose of the Criminal Injuries Compensation Act. The Criminal Injuries Compensation Act was repealed when the Victims of Crime Act commenced on 1 January 2003.

However the Criminal Injuries Compensation Act continues to operate in relation to compensation applications that relate to offences committed prior to that time. Regulations made under the Criminal Injuries Compensation Act set out the cost payable to lawyers who provide legal services associated with compensation applications under the Criminal Injuries Compensation Act.

Those regulations need to be updated to increase the costs payable. This amendment will allow updated regulations for the purposes of the Criminal Injuries Compensation Act to be made under the Victims of Crime Act. The amendment also provides that (a) the current regulations under

the Criminal Injuries Compensation Act continue to be in force until revoked by new regulations under the Victims of Crime Act and (b) the Subordinate Legislation Act does not apply, and is taken to have never applied, to the Criminal Injuries Compensation Regulations.

The Hon. S.G. WADE: I would like to approach parliamentary counsel and work out where this goes in the act. I cannot see where it is referenced.

The Hon. R.I. LUCAS: I have not followed this legislation closely—

Members interjecting:

The CHAIR: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: Were these new amendments filed today or were they filed previously? Are these part of a rushed package?

The Hon. K.J. MAHER: I am advised that this issue was brought to our attention after the bill was drafted. Had this bill been put through at a later date, even next year, these amendments would have been filed with it then.

The Hon. R.I. Lucas: When were they filed? Today?

The Hon. K.J. MAHER: They were filed as part of this package.

The Hon. R.I. Lucas: Today?

The Hon. K.J. MAHER: Today. They would have been filed, had this bill proceeded at a later date.

The Hon. R.I. LUCAS: The minister has given me an explanation of the urgency of the Judicial Conduct Commissioner amendments and I understand that. What was the urgency of these amendments on victims of crime?

The Hon. K.J. MAHER: I am advised that, with the passage of this bill, it was an opportune time for these amendments to fix this problem that had been identified. They would have been passed at a later date had this bill been passed a later date.

The Hon. R.I. LUCAS: The minister says they would have been passed at a later date. They would have been offered at a later date.

The Hon. K.J. Maher: Sorry, they would have been proffered.

The Hon. R.I. LUCAS: Yes. I do not understand the intention of them. I do not understand the urgency. With the others, at least I understand the urgency but I am not sure who is saying we have to rush these through this afternoon without any consideration of the implications.

The Hon. K.J. MAHER: I am advised that it was reasonably recently brought to the government's attention that this has created significant confusion, and this is attempting to fix that confusion.

The Hon. R.I. LUCAS: Can you clarify the confusion? Have payments been made about which there is some legal doubt as to the authority for those payments having been made? I know you are waiting for advice on that question, so I will put another question at the same time. If these amendments are passed, is there any wider capacity for applications to the Victims of Crime Fund for a wider variety of issues that can be made as a result of this?

The Hon. K.J. MAHER: Are you asking if the result of this amendment enlarges the pool of those who might benefit from the fund?

The Hon. R.I. LUCAS: That is my second question, yes. Given the minister is changing advisers, my first question concerns the reason for this being included at the last minute in this legislation. Has there been any concern raised that some payments that have been made out of the fund have been made without legal authority, and are these legislative changes in some way seeking to correct that?

The Hon. K.J. MAHER: I will answer the first question. I am advised that there have been concerns raised about the attempts to increase the costs of the elements that can be paid by way of

regulation. I am advised that, in relation to your first question, these regulations seek to put the ability to increase the costs beyond doubt. My advice is it is not that there have been concerns raised that claims have been paid without the legislative backing to do it. This is to make it abundantly clear that being able to increase those costs that can be paid under the criminal injuries compensation scheme is beyond any doubt.

In relation to the second question, I am advised that, no, this does not enlarge that pool of potential victims who may be able to apply or benefit under the criminal injuries compensation scheme. This goes to the legal costs that are payable under the scheme and the ability to make sure that the increasing of those legal costs is done without any doubt whatsoever.

The Hon. R.I. LUCAS: You probably will not have an answer to this and you might need to take it on notice, but from what the minister just said, there is now going to be the capacity to, without legal doubt, pay increased legal costs out of this fund. Has Treasury or the Attorney-General's Department done some estimate of what the increased payments this year and in the forward estimate years will be coming out of the fund as a result of this legislative change?

The Hon. K.J. MAHER: I do not have the figures before me and I am happy to take that on notice as suggested and bring back a reply. I am advised, though, that I think earlier this year the regime was set for increased costs that they would take into account back then, but I am happy to go back to the figures that were done, whenever it was earlier this year or thereabouts.

The Hon. S.G. WADE: I understand that what these transition provisions relate to is a matter that:

> …applies to an application for compensation in respect of an injury arising from an offence committed before the commencement of this Act [being the Victims of Crime Act].

Considering the Victims of Crime Act commenced on 1 January 2003, are we talking about matters here that are at least 13 years old?

The Hon. K.J. MAHER: I think this might be the question, but I am sure that I will be asked another question if it is not. It applies to offending that occurred in the past, even prior to 2003, but to claims lodged more contemporarily.

The Hon. S.G. WADE: Are we talking about a significant number? I would be surprised that matters would be raised so long after their occurrence.

The Hon. K.J. MAHER: I am advised that it is not a significant number in the whole victims of crime scheme. I am advised that, in the last year, it was in the order of, and it may not be completely accurate but as a ballpark figure, somewhere around 90 in the last year. So, we still see them trickling through although they are not a significant number in the context of the whole scheme.

The Hon. S.G. WADE: If I understand the minister's answers to the Hon. Robert Lucas, when we say 'purposes', we are particularly saying 'costs'. Are there any matters that might be covered in the regulations under this act for the purposes of applications? Are we thinking of any matters that might be the subject of regulations that do not relate to costs?

The Hon. K.J. MAHER: Yes, almost. I am advised that the only other thing that is contemplated here is the form for the application for compensation under the criminal injuries compensation scheme, and that form will essentially be cut and pasted and put into the new regime.

The Hon. S.G. WADE: Clause 5 seems to be of a different nature. It seems to be, if you like, trying to save regulations that might otherwise be seen to have lapsed. Have there been issues raised with that?

The Hon. K.J. MAHER: I am advised that the Legislative Review Committee has twice raised concerns with it as it was dealing with repealed legislation.

The Hon. S.G. WADE: I am going to be slightly disorderly, but we are completely deleting the commencement clause, and the reference to section 18 is the only one of the current bill that is retained. I was wondering why proposed clauses 2(4) and 2(5) are no longer required?

The Hon. K.J. MAHER: I am advised that subclauses (2) and (3) were tied to the commencement of the Youth Justice Administration Act, which commenced today, so there was no need to have a commencement date for those, given it is tied to that act.

The Hon. S.G. WADE: Thanks. That deals with the commencement issues. Why do we no longer see the need to not have the Acts Interpretation Act apply, which is what was proposed after the bill under clause 2(5)?

The Hon. K.J. MAHER: I am advised that this was a suggestion from parliamentary counsel as a drafting suggestion, out of an abundance of caution, as this act seeks to vary a number of acts to make absolutely certain that the commencement dates would be when the act intended for them to commence, given the interaction with a number of other acts.

New clause inserted.

Clauses 17 and 18 passed.

Title.

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

Amendment No 5 [Police–1]—

Long title—After '*Evidence Act 1929*;' insert:

the *Judicial Conduct Commissioner Act 2015*;

Amendment No 6 [Police–1]—

Long title—Delete 'the *Solicitor-General Act 1972*;'

Amendment No 7 [Police–1]—

Long title—After 'the *Summary Procedure Act 1921*;' insert:

the *Victims of Crime Act 2001*;

Amendments carried; title as amended passed.

Bill reported with amendment.

Third 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) (18:19): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL) BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT AND REPEAL (SIMPLIFY) BILL

Introduction and First Reading

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

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

ELECTORAL (LEGISLATIVE COUNCIL VOTING) (VOTER CHOICE) AMENDMENT BILL

Introduction and First Reading

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

PUBLIC SECTOR (DATA SHARING) BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

POLICE COMPLAINTS AND DISCIPLINE BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT (COURTS AND JUSTICE MEASURES) BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

At 18:24 the council adjourned until Tuesday 6 December 2016 at 10:00.

Answers to Questions

ABORIGINAL POWER CUP

In reply to **the Hon. R.I. LUCAS** (24 May 2016).

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): I am advised:

The South Australian Government currently provides funding of $170,000 to the Port Adelaide Football Club for the Aboriginal Power Cup. Funding is made available through the Attorney General's Department ($100,000); the Motor Accident Commission ($60,000); and SA Dental Service – SA Health ($10,000).

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

In reply to **the Hon. A.L. McLACHLAN** (18 October 2016).

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): I am advised:

The South Australian Government is tracking program participants from the time they register, through each stage of the program, to support workers to transition into jobs. These jobs may be full-time or part-time depending on the workers individual choice and circumstances. The system used to track participants does not separate employment outcomes into full-time or part-time.

RUSSELL, DR D.

In reply to **the Hon. R.I. LUCAS** (20 October 2016).

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): I am advised Dr Russell provided a comprehensive explanation to the Legislative Council's Budget and Finance Committee on 24 October 2016.