LEGISLATIVE COUNCIL

Wednesday, 5 July 2017

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:31 and read prayers.

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

Bills

PUBLIC INTEREST DISCLOSURE BILL

Conference

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (11:32): I seek leave to move a motion without notice concerning the conference on the bill.

Leave granted.

The Hon. P. MALINAUSKAS: I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

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) (11:32): I move:

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

Motion carried.

Bills

CHILDREN AND YOUNG PEOPLE (SAFETY) BILL

Committee Stage

In committee.

(Continued from 4 July 2017.)

Clause 14.

The CHAIR: Amendment No. 5 of the Hon. Mr McLachlan has been moved but not voted on.

The Hon. A.L. McLACHLAN: There were some questions of the minister, and the minister was going to respond.

The Hon. P. MALINAUSKAS: I thank the honourable member. I believe where we left off yesterday was in response to the Hon. Mr Brokenshire's question. Fortuitously, we moved to report progress, and in the interim I have been able to get a more definitive response, which I might just read.

I have been advised by the Department for Education and Child Development, which is leading the work, that, as already stated, an initial meeting was held with stakeholders on 30 June.

Following that meeting and instructions from the department, parliamentary counsel has begun the first draft of the bill. The bill will be part of a broader children, young people and family wellbeing development and early intervention strategy which will position it with other reforms in this area: for example, the Child Development Council Outcomes Framework and the work of the Early Intervention Research Directorate.

As agreed at the first stakeholder meeting, once the draft bill is ready further engagement will occur using the draft as a basis for discussion. It is the government's intention to have the bill through parliament before the end of the year. This will be guided by consultation and engagement with stakeholders but, of course, is ultimately in the hands of members of this parliament.

The Hon. R.L. BROKENSHIRE: I thank the minister for his diligent work in getting that answer as quickly as he did. He is not only the fastest with questions on notice responses he is also fast on those things. The only question I then have is if it is the government's intention to get the legislation through by the end of this sitting year (which I am pleased to hear), and given that no matter what happens at the next election there is still then several months before the government goes into caretaker mode, is it the intention of the government to ensure that all the regulations associated with that are through so that we have a completely gazetted parallel bill?

The Hon. P. MALINAUSKAS: Based on the advice I received during the course of yesterday evening, it would be reasonable to assume that if it is the government's intention to have a bill through the parliament before the end of the year it would also be the government's intention to have the relevant regulations in place as well.

The Hon. R.L. BROKENSHIRE: Then I ask that the minister request the minister responsible for the whole bill in the other place to, at some point in time, advise us when they expect to have it fully completed with regulations. The other question, which can also be taken on notice, is that whilst it is obviously not absolute as to what that bill will be, there will be money required to facilitate some of the initiatives in the parallel bill, so could we get some information brought back to the council, when possible and convenient, as to how that will be appropriated?

The Hon. P. MALINAUSKAS: I am more than happy to pass that request on and seek the relevant information the honourable member is after.

The Hon. S.G. WADE: Just a passing comment, I observe that the Select Committee on Statutory Child Protection and Care in South Australia was also of the view that that second bill could be achieved within this calendar year, so I certainly do not demur from the government's view. Of course, it was the view of that committee that there would be value in this legislation being considered in conjunction with that legislation, and I believe that would be a much preferred approach to produce the best legislation possible.

Amendment carried; clause as amended passed.

New clause 14A.

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

Amendment No 6 [McLachlan–1]—

Page 14, after line 15—insert:

14A—Additional annual reporting obligations

(1) The minister must, not later than 30 September in each year, prepare a report—

(a) detailing the role of the minister, and the extent to which the minister has performed the minister's functions, in respect of the operation of this act for the financial year ending on the preceding 30 June; and

(b) setting out the following information relating to the provision of family support services and intensive family support services to children and young people who are at risk and their families:

(i) the extent to which such services were provided by, or on behalf of, the state (including statistical data relating to the number of times such services were provided) during the financial year ending on the preceding 30 June;

(ii) the amount of resources allocated for the provision of such services by or on behalf of the state—

(A) during the financial year ending on the preceding 30 June; and

(B) during the current financial year;

(iii) the extent to which the allocated resources were, in fact, spent on the provision of such services during the financial year ending on the preceding 30 June;

(iv) benchmarking the resources referred to in subparagraph (ii) and (iii) against those allocated and spent by other states and territories in the provision of such services during the financial year ending on the preceding 30 June; and

(c) providing any other information required by the regulations for the purposes of this paragraph.

(2) The minister must, as soon as is reasonably practicable after preparing a report under this section, cause a copy of the report to be published on a website determined by the minister.

(3) The minister must, within six sitting days after preparing a report under this section, cause a copy of the report to be laid before each house of parliament.

(4) The requirements of this section are in addition to any other reporting obligation of the minister.

This clause follows philosophically from the last amendment. It aims to provide additional annual reporting obligations. The concerns of the stakeholders have been that there has been underfunding, and there is also a risk of inadequate funding going forward. This is a tried and tested technique. It is to provide as much information as possible in annual reports, which allows for public debate about the level of funding—obviously in the year past, not going forward—but it will inform the community discussion regarding the funding of this sector.

The Hon. P. MALINAUSKAS: The government opposes the amendment. Currently, clause 14 of the bill imposes additional functions of the minister that seek to support the wellbeing of children and young people and promote early intervention where they may be at risk of harm. But, at a strategic level, I note for the sake of completeness that separate and additional reporting functions are required of the chief executive, both under this legislation and pursuant to existing measures contained in the Public Sector Act 2009.

This amendment seeks to impose detailed reporting provisions relating to the provision of family support services and intensive family support services to children and young people who are at risk. It seeks to impose a requirement that the annual report specifically addresses benchmarking the resources against other jurisdictions. The government already reports annually on its expenditure in child protection in the Report on Government Services. This report is national and provides the comparisons that this amendment is seeking. I note that other national reporting on child protection occurs annually in the Child protection Australia report. This amendment is at risk of requiring resources to be diverted into meeting these additional reporting conditions on top of our national reporting that already occurs.

Further early intervention measures, as required by the child protection royal commission report, which do not require legislative reform, are already being progressed and have been detailed in the recently released update on the implementation of the royal commission recommendations, entitled 'A Fresh Start—Progress Report June 2017', in particular the establishment of the early intervention research directorate, which is responsible for researching, evaluating and determining the evidence base regarding only early intervention programs and making recommendations to do with funding, in addition to preparing an early intervention strategy for the state.

The state has accepted the recommendation to provide annual reports on the implementation of those recommendations. As stated, there are existing measures in place to ensure ministerial accountability through national reporting. The government opposes this amendment.

The Hon. T.A. FRANKS: The Greens will be supporting the opposition amendment. We believe that it is appropriate that we have additional annual reporting obligations. I am interested in the government argument that says, 'We already do this. We already do this work. We send it federally and it would be too much to report where we are actually held accountable for it to the people of South Australia through the Parliament of South Australia.' I find that an offensive response. I think the reporting to the Parliament of South Australia will make this government accountable for this portfolio in a way that reporting federally does not. That is why the Greens will be supporting this amendment.

The Hon. R.L. BROKENSHIRE: This, to me, follows on from the previous clause, which we did support. As someone who, whenever possible, wants to help protect the government of the day, on behalf of Australian Conservatives, I will be supporting this amendment. The reason is that, at the end of the day, we have to restore faith and confidence in the general community that we are doing everything possible in conjunction with the government—that is, the Parliament of South Australia in conjunction with the government—to protect the children, to look after their personal interests, to help families keep together and all of the things that we are debating, and have for a long time, that follow on from a lot of very expensive multimillion dollar royal commissions, select committees and coronial inquests.

This does not actually hurt the government at all. In fact, it is good for the government. What it does do is actually place some pressure back on the relevant agency to make sure that they are tracking and monitoring and that they are actually conducting their business within the intent of the act. That has not occurred in the past.

I recall when the Hon. Caroline Schaefer chaired a select committee into Families SA—and we have another one on the go now—when I was privileged to take the transition or changeover, whichever way you look at it, from the Hon. Andrew Evans. I was on that committee. I am very happy to put this on the public record because we now have a new chief executive officer, a responsible lady who comes highly recommended from Queensland. I understand it is a good appointment for the government on this occasion. She has a massive job to change the culture underneath her. You do not always know best; sometimes other people actually know a few things, too.

What this does is place some pressure on the department, because the department has failed and failed again. As far as I was concerned, when I sat on that select committee—and I was not the only member of parliament—I believed that Families SA in that instance actually held the parliament in contempt and did everything it possibly could to deliberately deny us information that we were after. So, I have lost total confidence in how these agencies act, and if I have then I am damn sure that a lot of my colleagues in the general community have.

Anything we can do that puts pressure on the department to do proper reporting and tracking through to the minister so that we as a parliament can look at what is going on is a good thing, so we will be supporting this particular amendment.

The Hon. J.A. DARLEY: For the record, I will be supporting the amendment.

New clause inserted.

Clause 15.

The CHAIR: The next amendment is amendment No. 7 to clause 15.

The Hon. A.L. McLACHLAN: I will not be pursuing the amendment. It is my view that it is consequential and therefore there is no need for me to move it, as the chamber did not find favour with my earlier amendment regarding inserting 'minister' instead of 'chief executive'.

Clause passed.

Clause 16 passed.

Clause 17.

The Hon. J.M.A. LENSINK: The minister will be delighted to know that I have some questions about female genital mutilation. Can the minister advise whether FGM is currently a mandatory notification in South Australia?

The Hon. P. MALINAUSKAS: My advice is that the answer to your question is yes, because under the current act FGM would fall under the category of abuse and neglect and therefore would trigger the appropriate response.

The Hon. J.M.A. LENSINK: Is the minister able to provide any data or information about which agency would collect data or estimates on the following matters: the number of notifications that have been received, the number of girls at risk and the number of girls who have undergone the procedure? I think that is probably enough for now. I will leave it at that, but I do have further questions.

The Hon. P. MALINAUSKAS: In terms of getting those statistics for the honourable member, I will have to take that on notice.

The Hon. J.M.A. LENSINK: Can you advise which agency would be responsible?

The Hon. P. MALINAUSKAS: I am advised that there is no one single agency that collates the data as it currently stands, but there are a number of agencies that could potentially do it; for instance, if it was a matter that was investigated criminally by SAPOL, or it could potentially be SA Health if a medical practitioner established that such a procedure had occurred. There are a number of agencies at the moment that would collect data. As it currently stands, under the current regime, there is no one central agency that collates the data.

The Hon. J.M.A. LENSINK: I would like to get this on the record. I do not want to hold up this debate now, but will the minister agree to get back to me in writing on any of the matters that have not been responded to and also to the questions that I asked on 28 February in relation to these matters?

The Hon. P. MALINAUSKAS: I am more than happy to take that question on notice and ensure that the minister responsible in the other place tries to get that response to the honourable member.

The Hon. J.M.A. LENSINK: In relation to some of the debate, in the House of Assembly there was some discourse on this particular matter. The Attorney-General, in responding to one of the other member's questions that was in relation to whether FGM provisions discriminated against boys and children, said the following:

> There does appear to be some difference in the way in which the law presently treats certain cultural practices that affect female children compared with not grossly dissimilar cultural practices that affect male children or, potentially, intersex children.

My question for the minister is: is that the government's official position?

The Hon. P. MALINAUSKAS: I note that the honourable member refers to the Attorney-General's remarks made in parliament, I believe, some time ago. Notwithstanding the fact that, clearly, the Attorney-General is a member of the government, it should not be taken that that position necessarily reflects the government's position generally on the issue.

The Hon. T.A. FRANKS: Where a procedure is performed on an intersex child, is that also subject to mandatory notification?

The Hon. P. MALINAUSKAS: My advice is that should a procedure on an intersex person—or intersex child, I think was the specific question—take place, under this act would that constitute a—

The Hon. T.A. Franks: Mandatory notification.

The Hon. P. MALINAUSKAS: A mandatory notification, sorry. Would it necessitate a mandatory notification under this act? I will simply answer that question by saying that if it falls within the definition of FGM as prescribed in clause 17(4), or more generally as an act that constitutes harm under the meaning of harm in clause 16 of the act, if it fit within that description the answer to that question would be yes.

The Hon. T.A. FRANKS: I do not have any further questions, other than I echo the request for information around the incidence of those that the Hon. Michelle Lensink has asked for and ask

that I also be provided with that information for both FGM and, indeed, for genital procedures for intersex children.

The Hon. P. MALINAUSKAS: Sure. Again, I am more than happy to take that on notice and seek the appropriate information from the responsible minister in the other place and get back to you ASAP.

Clause passed.

Clauses 18 to 29 passed.

Clause 30

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

Amendment No 11 [McLachlan–1]—

Page 25, line 18 [clause 30(1)]—Delete 'in a manner specified by the Minister by notice in the Gazette' and substitute 'in accordance with subsection (3a)'

Amendment No 12 [McLachlan–1]—

Page 25, lines 34 and 35 [clause 30(3)]—Delete 'in a manner specified by the Minister for the purposes of subsection (1)' and substitute 'in accordance with subsection (3a)'

Amendment No 13 [McLachlan–1]—

Page 25, after line 35—Insert:

(3a) A person reports a suspicion under this section by doing 1 or more of the following:

(a) making a telephone notification to a telephone number determined by the Minister for the purposes of this subsection;

Note—

This telephone line is currently known as the *Child Abuse Report Line* or *CARL*.

(b) making an electronic notification on an electronic reporting system determined by the Minister for the purposes of this subsection;

(c) by reporting their suspicion to a person of a class, or occupying a position of a class, specified by the Minister by notice in the Gazette;

(d) reporting their suspicion in any other manner set out in the regulations for the purposes of this paragraph,

and, in each case, providing—

(e) —

(i) in the case of an unborn child—the name and address (if known) of the mother of the unborn child; or

(ii) in any other case—the name and address (if known) of the child or young person; and

(f) information setting out the grounds for the person's suspicion; and

(g) such other information as the person may wish to provide in relation to their suspicion.

The current drafting talks of reporting in a manner as specified by the minister by notice in the *Gazette*. The amendments are seeking to delete that and bring in what is anticipated would be in the regulations to make it absolutely clear in the governing act itself the options for notification. It also has the all-encompassing clause in which the minister can also provide additional means of reporting by notice in the *Gazette*.

Whilst it could be argued that these amendments do not take the existing clause much further, there was concern expressed in the Nyland report on how mandatory reporting should be undertaken. It is the Liberal Party's view that we would like the express provisions that would otherwise potentially be in the regulations to be set out in the body of the act, if proclaimed.

The Hon. P. MALINAUSKAS: The government opposes the amendment. This amendment relates to the implementation of the Child Protection Systems Royal Commission report's recommendation No. 56, which was accepted in the government's response to the royal commission report. Recommendation No. 56, in summary, states that existing legislation should be amended to permit mandated officers to discharge obligations by reporting to the agency's call centre or to a designated child wellbeing practitioner or by referral to a child and family assessment and referral network where the notifier believes a child's circumstances would be adequately attended to by a prevention or early intervention program.

The government is of the view that clause 30 of the bill implements this recommendation. The rationale for the current approach, as set out in clause 31 of the bill, is that it would allow the minister to expand the ways that notifiers are able to discharge their obligations beyond the child safety pathway when alternative notifying pathways, such as child or family assessment and referral networks, are available, ready and appropriate.

By contrast, this amendment is problematic from the outset as it requires a person reporting a suspicion under this section to do one or more of the prescribed actions. This is of significant and real concern in terms of its implications of one person reporting the same matter via multiple means. As was made clear in the royal commission's report, it is imperative that the pressures on CARL are relieved and streamlined to address the lengthy delays for callers and backlogs of reported matters. This amendment, if passed, will only add to those issues.

Finally, the government notes that mandatory reporters are required to undergo mandatory reporting training, which includes details on where notifications are to be made. Further, there are many avenues to find the appropriate notification method for non-mandated officers, including the department's website and other government and non-government websites. For these reasons, I urge members to oppose the amendment.

The committee divided on the amendments:

Ayes 11
Noes 10
Majority 1

AYES

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	McLachlan, A.L. (teller)	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hanson, J.E.	Hunter, I.K.	Maher, K.J.
Malinauskas, P. (teller)	Ngo, T.T.	Parnell, M.C.
Vincent, K.L.		

Amendments thus carried; clause as amended passed.

Clauses 31 to 34 passed.

Clause 35.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 1 [Broke–2]—

Page 28, line 25 [clause 35(1)]—Delete 'may' and substitute 'must'

I advise the council that we have sent emails on this. My first set of amendments, I have advised the Deputy Clerk, were withdrawn and were replaced with another set that was filed on 30 May. We are

dealing with the amendments from 30 May as filed. I seek your guidance on this, but I will go through clause by clause and not try to group them.

Amendment No.1: under clause 35(1) of the bill the chief executive may direct a parent, guardian or other person to undergo an approved drug and alcohol assessment, where there is reasonable suspicion a child or young person is at risk of harm as a result of drug or alcohol abuse, or both, on behalf of a parent, guardian or other person.

The Australian Conservatives believe that too often inaction has resulted in tragic outcomes. The purpose of this amendment is to place a positive duty on the chief executive to act where there are suspicions a young person or child is at risk due to drug or alcohol abuse. This amendment is consistent with the existing Children's Protection Act 1993, which obviously will be repealed by this bill, namely section 20(2) of the act, which states:

> …if the Chief Executive is of the opinion that a child is at risk as a result of the abuse of a drug by a parent, guardian or other person, the Chief Executive must apply for an order under subsection (1) directing the parent, guardian or other person to undergo a drug assessment.

That is in the existing act, which will be superseded by the government's bill that we are debating at the moment. This amendment is in line with the existing policy and is also consistent with clause 7 and the overall purpose of the bill, which is to, above all else, protect children and young people from harm.

The Hon. P. MALINAUSKAS: The government opposes the amendment. The amendment seeks to amend clause 35 of the bill to make it mandatory for the CE of the department to direct persons to undergo drug and alcohol assessments where there is reasonable suspicion that a child or young person is at risk as a result of the abuse of a drug or alcohol, or both, by a parent, guardian or other person.

As the Deputy Premier has made clear in the other place, the bill has been drafted in order to provide appropriate flexibility to the CE in relation to the exercise of powers conferred to administer and enforce the legislation. Consistent with this approach, the government is of the view that it is a matter for the CE and staff of the department, who have intimate knowledge of circumstances and facts pertinent to the particular case, to make the judgement as to whether a parent or guardian should be directed to undergo an assessment.

Parliament's role in the circumstances of this bill is to prescribe the mechanisms that are available for use by the experts in the field, namely, the CE and the Youth Court. In this respect, I note the comments of Commissioner Nyland in her report at page 200 on the department maintaining a discretion regarding drug and alcohol assessments:

> …it is unrealistic to prescribe by legislation when such an application should occur. This is a matter for professional judgment by trained, experienced practitioners under ongoing clinical supervision and supported by clear organisational policy as to the importance of responding to protect children from all types of abuse and neglect. A legislative mandate would mean that workload management efforts would focus on the need to comply with legislation to address particular kinds of risk, potentially neglecting other, equally serious, types of risk.

On that basis, the government strongly urges members to oppose this amendment.

The Hon. A.L. McLACHLAN: The Liberal opposition will not support this amendment. The opposition's reasoning is similar to those points raised by the minister.

Amendment negatived.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 2 [Broke–2]—

Page 28, line 30 [clause 35(2)]—Delete 'may' and substitute 'must'

My amendment No. 2 is similar to amendment No. 1, but it actually relates to the lack of parenting capacity. Under clause 35(2) of the bill the chief executive may direct a parent, guardian or other person to undergo a parenting capacity assessment where there is reasonable suspicion that a child or young person is at risk of harm as a result of a lack of parenting capacity on the part of the parent. Similarly, the purpose of this amendment is to place a positive duty on the chief executive as I moved in amendment No. 1.

The Hon. P. MALINAUSKAS: Obviously, the government opposes this amendment for the same reasons.

Amendment negatived; clause passed.

New clauses 35A, 35B, 35C, 35D, 35E and 35F.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 3 [Broke–2]—

New clauses, page 28, after line 44—Insert:

35A—Random drug and alcohol testing

(1) This section applies to—

(a) a person who has, in the preceding 5 years, been directed by the Chief Executive to undergo an approved drug and alcohol assessment under section 35(1); or

(b) a person who was, in the preceding 5 years, the subject of an application for an order under section 20(2) of the *Children's Protection Act 1993* (whether or not the application was granted); or

(c) any other person of a class declared by the regulations to be included in the ambit of this subsection.

(2) A person to whom this section applies must, in accordance with the scheme set out in the regulations, take part in random drug and alcohol testing.

(3) Without limiting any other regulations that may be made in relation to the scheme for random drug and alcohol testing, the regulations must include provisions—

(a) authorising the taking of forensic material consisting of hair or blood for the purposes of this Act; and

(b) requiring such forensic material to be tested to identify any drug or alcohol that may be present in the material; and

(c) requiring or authorising the results of such testing to be provided to the Chief Executive or other specified person or body.

(4) The Chief Executive may, in relation to random drug and alcohol testing under this section, by notice in writing, require a person to whom this section applies to take the action, and within the period, specified in the notice.

(5) A person to whom this section applies must not, without reasonable excuse, refuse or fail to comply with a requirement under this section.

Maximum penalty: Imprisonment for 6 months.

Note—

A refusal or failure to comply with a requirement may also result in a child or young person being removed—see section 35C.

(6) A person is not entitled to refuse or fail to comply with a requirement under this section on the ground that the person would, or might, by complying with that requirement, provide evidence that could be used against the person.

(7) To avoid doubt, for the purposes of the *Criminal Law (Forensic Procedures) Act 2007*, the taking of forensic material in the course of a random drug and alcohol test is authorised under this Act.

35B—Chief Executive may direct certain persons to undertake rehabilitation program

(1) The Chief Executive may, by notice in writing, direct a person to whom section 35A applies to undertake an approved drug and alcohol rehabilitation program of a kind specified in the notice.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a direction under subsection (1).

Maximum penalty: Imprisonment for 6 months.

Note—

A refusal or failure to comply with a direction may also result in a child or young person being removed—see section 35C.

(3) A notice under subsection (1) must set out the information required by the regulations for the purposes of this subsection.

(4) For the purposes of this section, a reference to an *approved drug and alcohol rehabilitation program* will be taken to be a reference to a drug and alcohol rehabilitation program of a kind approved by the Chief Executive by notice in the Gazette.

35C—Removal of child or young person at risk as a result of drug or alcohol abuse

(1) If a child protection officer believes on reasonable grounds that—

(a) a child or young person is at risk as a result of the abuse of a drug or alcohol (or both) by a parent or guardian, or any other person with whom the child or young person resides; and

(b) it is necessary to remove the child or young person from the situation in order to protect them from suffering harm or further harm,

the child protection officer may remove the child or young person from any premises, place, vehicle or vessel using such force (including breaking into the premises, place, vehicle or vessel) as is reasonably necessary for the purpose.

(2) If a person—

(a) refuses or fails, without reasonable excuse, to comply with a direction under section 35(1); or

(b) refuses or fails, without reasonable excuse, to comply with a requirement under section 35A; or

(c) refuses or fails, without reasonable excuse, to comply with a direction under section 35B,

a child protection officer may, with the written approval of the Chief Executive, remove a child or young person to whom the relevant direction or requirement relates from any premises, place, vehicle or vessel using such force (including breaking into the premises, place, vehicle or vessel) as is reasonably necessary for the purpose.

(3) A child protection officer who removes a child or young person under this section must deliver the child or young person into the care of a person or persons determined by the Chief Executive.

(4) If the Chief Executive does not already have custody of a child or young person removed under this section, the Chief Executive, by force of this section, has custody of the child or young person until the end of the fifth business day following the day on which the child or young person was removed.

(5) If a child or young person is removed under this section, the Chief Executive must, without undue delay, apply to the Court for the following orders under section 48:

(a) an order placing the child or young person under the guardianship of the Chief Executive for a period of 12 months;

(b) such other orders as the Chief Executive considers necessary or appropriate to protect the child or young person from harm, or further harm, arising out of the suspected abuse of a drug or alcohol (or both) by a parent or guardian, or any other person, with whom the child or young person resides.

(6) The regulations may make further provision in relation to an application under this section (including, to avoid doubt, by prescribing circumstances in which the Chief Executive need not comply with subsection (5)).

(7) This section is in addition to, and does not derogate from, section 36.

35D—Child or young person not to be returned to certain persons unless rehabilitation program completed

(1) Despite any other provision of this Act, a person from whom a child or young person is removed under section 35C is not entitled to apply for an order of the Court placing the child or young person under the person's guardianship or custody, or variation of an order

referred to in section 35C(5), unless the person has successfully completed any drug and alcohol rehabilitation program that the person was directed to undertake under this Act.

(2) Despite any other provision of this Act, the Court must not make an order returning a child or young person removed under section 35C to the guardianship or custody of a person from whom the child or young person was so removed unless—

(a) the person has successfully completed any drug and alcohol rehabilitation program that the person was directed to undertake under this Act; and

(b) the Court is satisfied that the person is no longer abusing drugs or alcohol (or both).

35E—Forensic material and results of drug and alcohol testing etc not to be used for other purposes

(1) Forensic material obtained in the course of an approved drug and alcohol assessment, a random drug and alcohol test or an approved drug and alcohol rehabilitation program must not be used for a purpose other than a purpose contemplated by this Act.

(2) The results of an approved drug and alcohol assessment, a random drug and alcohol test or an approved drug and alcohol rehabilitation program—

(a) will not be admissible in evidence against the person to whom the results relate, other than in proceedings for an order of the Court under this Act; and

(b) may not be relied on as grounds for the exercise of any search power or the obtaining of any search warrant.

35F—Destruction of forensic material

The Chief Executive must ensure that any forensic material obtained in the course of an approved drug and alcohol assessment, a random drug and alcohol test or an approved drug and alcohol rehabilitation program is destroyed in accordance with any requirements set out in the regulations.

This amendment seeks to insert a number of new clauses into the bill. First of all, this amendment seeks to insert random drug and alcohol testing into the bill. The scheme for random drug and alcohol testing will be prescribed by regulation, but to be subject to random testing a person must have been directed by the chief executive to undergo an approved drug and alcohol assessment under clause 35(1) in the preceding five years. Also, a person who is subject to an order under section 22 of the Children's Protection Act 1993 will be subject to random testing.

I note that section 20(2) of the current act relates to an order by the chief executive for a person to undergo a drug assessment. Importantly, random testing will incorporate hair follicle testing, which minimises the possibility of participants manipulating results. Experts advise us that this newer technology (which was probably very new when the last legislation that we are still dealing with at the moment came through the parliament) is now the best way of testing whether or not a person has been using illicit drugs.

The penalty for not complying with the random testing provisions will be up to six months' imprisonment. This is consistent with the penalty for refusing to comply with a direction to undergo a drug and alcohol or parenting capacity assessment under clause 35(3) of the bill. Not complying with random testing requirements may also warrant removal of a child or young person, clearly if they were seen to be at risk.

Secondly, this amendment allows the chief executive to direct certain persons to undertake rehabilitation and, thirdly, this amendment provides further powers to the chief executive and/or child protection officers to remove a child or young person where it is believed they are at risk.

The Hon. T.A. FRANKS: I ask a question of the mover. This section applies to:

(a) a person who has, in the preceding 5 years, been directed by the Chief Executive to undergo an approved drug and alcohol assessment under section 35(1);

What if that assessment found that they did not have a drug and alcohol problem? What happens then? It appears that then they are actually subjected to this regime even if they do not have a drug and alcohol problem. Is that the case? That is my reading of this amendment.

The Hon. R.L. BROKENSHIRE: My intent is that this would be random testing, and the person must have been directed to undergo an approved drug and alcohol assessment in the

preceding five years. It would be random and it is a check and balance on cases that the department has concerns about. They would have that right to go for a random drug and alcohol test. That is the intent.

The Hon. T.A. FRANKS: Who would have the right to go for a random drug and alcohol test?

The Hon. R.L. BROKENSHIRE: The chief executive would have the right to direct that that person go through a drug and alcohol test if there is a concern for the children.

The Hon. T.A. FRANKS: Let me get this straight. The chief executive has directed that an assessment be undertaken. The assessment has found nothing but then, for five years, the chief executive also has the right to randomly drug and alcohol test this person. If this person has alcohol in their system at any stage in that five years and that is detected by a random test, what happens then?

The Hon. R.L. BROKENSHIRE: It gets back to the discretion. Obviously, as there is with most of this, there would have to be a situation where an officer within the department, up to and including the chief executive officer, feel that the child is at risk. Obviously, if the person has just had some alcohol, under .05 and no reported cases, then you would not expect there would be a proceeding. However, if the person is testing high for illicit drugs and there are problems and concerns raised, that gives the chief executive officer a chance to proceed with that test.

The Hon. P. MALINAUSKAS: The government supports some components of the Hon. Mr Brokenshire's amendment but opposes others, and I seek your guidance as to how best to deal with this. The government's position is that it supports new clauses 35A, 35B, 35E and 35F of the Hon. Mr Brokenshire's amendment, but opposes new clauses 35C and 35D.

The CHAIR: We can put all the new clauses individually.

New clauses 35A, 35B, 35E and 35F inserted; new clauses 35C and 35D negatived.

The Hon. A.L. McLACHLAN: My amendments Nos 14 to 31 are consequential.

Clauses 36 to 71 passed.

Clause 72.

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

Amendment No 32 [McLachlan–1]—

Page 44, line 19 [clause 72(2)(a)]—After 'nature' insert '

(and in any event must not exceed a period of 3 months)

This is technically a simple amendment that has a significant effect. After the word 'nature'—which occurs in the phrase 'must be of a temporary nature'—the amendment inserts the words 'and in any event must not exceed a period of 3 months.' Clause 72 sets out a mechanism for temporary placement. The Liberal Party does not oppose this, but the current drafting of the clause will allow, in effect, the temporary nature to be uncertain.

Whilst the existing clause says that a temporary placement must be brought to an end as soon as is reasonably practicable, the Liberal Party holds the view that there should be an outside limit on that. That will then crystallise a decision by the chief executive whether to order a new temporary placement or to find some other mechanism for looking after that child. This is to prevent the mischief of a placement of a temporary nature rolling on and being seen as appropriate in the eyes of the chief executive, but potentially being outside community expectations. So, it is to force, in essence, an administrative decision every three months.

The Hon. P. MALINAUSKAS: The government opposes this amendment. This amendment relates to clause 72 of the bill, which enables the CE to place a child or young person removed under the act, or who is in the custody or guardianship of the CE, in the care of a person, despite that person not being an approved carer, if the CE is satisfied of the matters referred to in subclause (1). Such placements must be temporary, exceptional and must be regularised as soon as it is practicable

to do so. Specifically, this amendment seeks to prescribe an absolute limit of three months in relation to an exercise of this provision by the CE. I draw members' attention to clause 72(4), which states:

> The regulations may make further provisions in relation to the placement of a child or young person in the care of a person under this section…

I am advised that there is no intention by the department to utilise this provision for anything other than a temporary period of time. The time limit should reflect the paramount consideration of the legislation, being the protection of children and young people from harm and other priorities such as stability and permanence for children and young people. Work is currently progressing in the department to prepare regulations, policies and guidelines in relation to the operation of clause 72 of the bill, which provide a time limit.

To place an arbitrary time limit of three months precludes that much-needed flexibility, should there be a need, on a rare occasion, for whatever reason, to go a little beyond the 12-week mark in order to find an appropriate and permanent placement for a child with special needs or behavioural difficulties that are beyond the capacity of some carers. The government submits that regulations are best able to capture the discrete operational application of this clause that will be informed by sound policy development that is currently underway.

Finally, the period of three months does not reflect the time needed for a carer to undergo a full carer assessment. Such a short period could have an unintended consequence of requiring the department to shift the placement of a child every three months until such time as the carer has finalised their assessment. This would undermine the child being at the centre of decision-making and the need for stability. For these reasons, the government opposes this amendment.

The Hon. R.L. BROKENSHIRE: I have a question of the mover, the Hon. Andrew McLachlan. Notwithstanding that most, if not all, people would like to see the best possible placement long term for a young person who needs a placement, in complicated situations it may be in the best interests of that child to be in a certain interim care position for more than a three-month period. Can the mover confirm that this amendment actually takes discretion away, and it would then be absolute that the periods are a maximum of three months, even though what is happening with that child at this point in time is in the best interests of the child?

The Hon. A.L. McLACHLAN: I thank the honourable member for his question. It is my understanding from my conversations with the parliamentary drafter that this in effect crystallises the decision-making, so that the temporary period is over, but a new temporary period could be ordered. The definition of 'temporary' could be six months or it could be eight months. We have had difficulties in the department in relation to making decisions in this context, so the effect the amendment is trying to achieve is to force the chief executive to make decisions every three months about what to do with the child.

I appreciate the government's arguments. They want the framework of the bill to be as flexible as possible for the chief executive, but there is not a lot of trust in the community, particularly from stakeholders in this area. We have also taken advice on the period from the stakeholder group. It really comes down to whether you want total flexibility when it is 'temporary'—how long is a piece of string?—or whether you want to force rolling decision-making. The view of the Liberal Party is the latter.

The Hon. T.A. FRANKS: The Greens indicate that we support this amendment and also ask the government to clarify whether or not, under the child protection act and legislation that we currently operate under, judicial discretion with regard to child protection orders is actually already limited to periods not exceeding three months.

The Hon. J.A. DARLEY: For the record, I will be supporting this amendment.

The Hon. R.L. BROKENSHIRE: I advise that we will not be supporting the amendment.

The Hon. K.L. VINCENT: The Dignity Party is not inclined to support this amendment at this time for reasons that have been quite well outlined by other members. I wanted to ask the mover of the amendment a question and I hope I have heard him correctly across the chamber. I think he said that a person could reapply for another temporary order if the time period needed to be extended for a child or a young person to remain in the same home. Given the speed at which bureaucracy

tends to move, could that not result in a situation where you would almost have to reapply as soon as the child is placed with you; that is, get the second order in place before the order lapsed?

The Hon. A.L. McLACHLAN: I do not have an intimate knowledge of the practices and procedures, so I am taking this on advice, not from my own experience of this area of practice. In essence, it is keeping a clock ticking on what 'temporary' is. Therefore, the chief executive will have to watch the time and make conscious decisions. In essence, a new application or some other response to the child's situation will have to be addressed in that three months.

It is setting a time frame for decision-making, which is what it is there for. It is designed to stop the mischief of 'temporary' then being assessed subjectively by the department to be one or two years. They will be forced to justify themselves every three months. We could go through a whole series of circumstances where that could be seen as torturous upon the chief executive, but we are in an environment of limited trust about this bureaucracy's ability to effect the law, no matter what it is.

The Hon. K.L. VINCENT: Could I perhaps then ask the same question of the minister, given that he has a helper there? How long would it ordinarily take? I know it can vary from case to case. How long would it take for someone to apply for a child to be able to stay with them for a longer period of time at the moment?

The Hon. P. MALINAUSKAS: In response to the Hon. Ms Vincent's question, I am advised that the answer to that is approximately 12 weeks. In regard to the question the Hon. Tammy Franks asked earlier about existing frameworks that are in place, there is that 12-week (or three-month) requirement that is currently in place, but that is in respect to the investigative process in the lead-up to a decision being made, which is quite different from what is being discussed here.

The committee divided on the amendment:

Ayes 11
Noes 10
Majority 1

AYES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
McLachlan, A.L. (teller)	Parnell, M.C.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Brokenshire, R.L.	Gago, G.E.	Gazzola, J.M.
Hanson, J.E.	Hood, D.G.E.	Hunter, I.K.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.
Vincent, K.L.		

Amendment thus carried; clause as amended passed.

The CHAIR: The Hon. Mr McLachlan, are amendments Nos 33 to 41 consequential?

The Hon. A.L. McLACHLAN: I confirm that they are, in the view of the Liberal Party, consequential.

Clauses 73 to 78 passed.

Clause 79.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 46, after line 17—Insert:

(ba) remove the child or young person from the care of a person referred to in a preceding paragraph;

The government amendment seeks to amend clause 79 of the bill, which sets out the powers that the CE may exercise in relation to a child or young person who is in their custody or under their guardianship. Specifically, this amendment seeks to clarify that a chief executive may remove the child or young person from the care of a person. This is necessary, as the government has filed amendments which seek to expand the scope of the jurisdiction conveyed upon the South Australian Civil and Administrative Tribunal. By explicitly including this decision in the powers of the CE, it makes clear that the decision will be able to be reviewed by SACAT.

This has been done in response to feedback received primarily from Connecting Foster Carers SA, which has strongly advocated that foster carers should be entitled to an external and independent review of a decision to remove a child from their care. The government has responded to ensure that any barriers to the recruitment and retention of foster carers are removed and that the concerns have been addressed in the bill.

The Hon. A.L. McLACHLAN: The Liberal Party supports the government's amendment.

The Hon. T.A. FRANKS: The Greens indicate, as I did at clause 1, that we will be supporting this amendment, although I do ask the minister to clarify whether or not the representations he had from those dealing with foster care were completely addressed, or is this only a partial addressing of their requests?

The Hon. P. MALINAUSKAS: I am advised that when you look at this amendment in combination with others, then yes, in their totality they address the concerns.

The Hon. T.A. FRANKS: Could you please clarify that it was all of the concerns addressed by this amendment?

The Hon. P. MALINAUSKAS: My advice is that the answer to that question is yes, it addresses all of their concerns to their satisfaction.

The Hon. J.A. DARLEY: I will be supporting the government's amendment.

The Hon. R.L. BROKENSHIRE: Same here, sir.

The CHAIR: So much love within the room—it is good.

Amendment carried; clause as amended passed.

Clause 80.

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

Amendment No 42 [McLachlan–1]—

Page 47, lines 14 and 15 [clause 80(1)]—Delete 'out at least once in each 12 month period.' and substitute:

out—

(a) if the child or young person, or another person who, in the opinion of the Minister, has a legitimate interest in the affairs of the child or young person, has requested the review—as soon as is reasonably practicable after the request; or

(b) in any case—at least once in each 12 month period.

Amendment No 43 [McLachlan–1]—

Page 47, after line 15—Insert:

(1a) However, the Minister need not cause a review to be carried out under subsection (1)(a) if—

(a) a review of the child or young person's circumstances has been carried out within the 12 months preceding the request; and

(b) the Minister is of the opinion that the request is frivolous or vexatious, or otherwise not made in good faith.

The current drafting of the clause states that the chief executive must cause a review of the circumstances of each prescribed child or young person to be carried out at least once in each 12-month period. The amendments provide that it cannot be later than a 12-month period, so we are keeping the 12-month outside period, but allows an earlier review if the child or young person or another person, in the opinion of the minister, who has a legitimate interest in the affairs of the child requests a review.

However, amendment No. 43 provides that the minister does not need to cause the review if a review of the child or the young person's circumstances has been carried out within a 12-month period or the minister is of the opinion that the request is frivolous or vexatious. I have just noticed, Mr Chair, that amendment No. 43 uses the word 'Minister', so I might seek to orally amend that to delete the word 'Minister' in amendment No. 43 and insert the words 'Chief Executive'.

The CHAIR: 'Minister' appears twice in (1a).

The Hon. A.L. McLACHLAN: We are talking about amendment No. 43. I will remove the word 'Minister' where it appears in (1a) and (1a)(b). I move:

That both references to 'Minister' be deleted and the words 'Chief Executive' be inserted in its place.

The Hon. P. MALINAUSKAS: On the basis of the amendments that the Hon. Mr McLachlan has just described, the government supports these amendments. The government supports the intention of the amendments and submits that there already exists capacity in the bill to have more than one review within a 12-month period due to the inclusion of the phrase 'at least once in each 12-month period'. The government will support this amendment on that basis, but notes the importance of the safeguards provided in amendment No. 43 [McLachlan-1].

This amendment, as currently drafted, contains some ambiguity as to who is considered to have a legitimate interest in the affairs of the child or young person. In order to trigger the operation of this provision, in the government's view this could include the parents or guardians from whose care the child or young person has been removed. Whether this is appropriate would depend on the circumstances of each case. Amendment No. 43 provides the necessary safeguards to ensure that this provision cannot be abused at the expense of the child or young person.

For completeness, I wish to add that there are safeguards already in the bill and other relevant statutes that will provide some comfort should there be a concern or grievance with the CE in not exercising his or her power to cause a second or subsequent review under clause 80. Clause 151 of the bill is a new and important reform which enshrines in legislation that a person who is aggrieved by a decision of the CE or a child protection officer under this act is entitled to a review of the decision under this section. Pursuant to subclause (3), on an application for review the CE may confirm, vary or reverse the decision.

Secondly, if the child or young person is being cared for in a prescribed facility, the said child or young person, or their parent or guardian, may make a complaint to the CE with respect to the care they are receiving in the facility. So, the government supports the amended amendment.

Amendment No. 42 carried; amendment to amendment No. 43 carried; amendment No. 43 as amended carried.

The CHAIR: The Hon. Mr McLachlan, are amendments Nos 44 and 45 consequential?

The Hon. A.L. McLACHLAN: Correct, Mr Chair.

The CHAIR: The next amendment is amendment No. 46, [McLachlan-1].

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

Amendment No 46 [McLachlan–1]—

Page 47, after line 42—Insert:

(2a) A child or young person may, in making submissions to a panel in the course of a review, be accompanied by a support person if they so wish.

This amendment is to clause 80, which relates to a review of circumstances of a child or young person under the long-term guardianship of the chief executive. This provision talks about a review

occurring at least once in each 12-month period, and the review is carried out by a panel appointed by the chief executive. The provision that the Liberal Party is seeking to insert states that a child or young person may, in making submissions to a panel in the course of a review, be accompanied by a support person if they wish. I think the logic behind this provision is self-evident and ties to the principle of the best interests of a child.

The Hon. P. MALINAUSKAS: The government opposes the amendment. The government supports the intention of the amendment, but submits that this specific amendment is of a nature and type that is more appropriately dealt with by regulation pursuant to clause 80(2)(b)(v) of the bill. Unlike amendment No. 42, there are no safeguards in this provision to ensure that it is not abused by adults who may have influence over the child or young person to attend these meetings. The government supports the position that a child or young person should be able to bring a support person if they so wish, and one of their choosing. However, it should be dealt with in regulation to ensure that there are adequate checks to promote the physical, psychological and emotional safety of the child or young person.

The Hon. K.L. VINCENT: The Dignity Party supports this amendment. We think it makes a lot of sense to give children and young people a voice in the bill, given that this is the very point of what we are discussing. I also wonder, given the minister's comments about wanting to make sure—to paraphrase what I think he was saying—that an adult is not putting a child up to making a review request, would that not be covered under the part of the amendment which says that the minister is of the opinion that the request is not frivolous or vexatious or otherwise not made in good faith? Surely, if it could be proven that an adult was exerting undue influence on a child, that would count as vexatious?

The Hon. P. MALINAUSKAS: My advice is that the vexatious provision would not apply in those circumstances due to the way the bill has been drafted or structured, hence the need to oppose this amendment.

The Hon. K.L. VINCENT: Could the minister outline the specific way in which the bill is drafted that is problematic to this idea? It would be helpful to know exactly how.

The Hon. P. MALINAUSKAS: I appreciate the chamber's patience. The advice I have received is that it relates to the amended clause 80 that has just been passed. Amendment No. 43, in the name of the Hon. Andrew McLachlan, states that the review may occur, but not if 'the Minister is of the opinion that the request is frivolous or vexatious, or otherwise not made in good faith.' So, that provision refers to the question of review, as distinct from the question of child support. The vexatious or frivolous provision only pertains to the question of the review as distinct from the child support, so that is the provision.

The Hon. R.L. BROKENSHIRE: Are we still dealing with amendment No. 46?

The CHAIR: Yes.

The Hon. R.L. BROKENSHIRE: I could not quite hear, but I believe the minister said that where the mover is putting here that, 'A child or young person may, in making submissions', which is what we are talking about right now, they were looking to put that into regulation, I understand, rather than in the act. If I heard that correctly, can the minister explain why the government thinks it is better in regulation than in legislation?

The Hon. P. MALINAUSKAS: As I mentioned earlier, we would prefer it in regulation to ensure that there are adequate checks to promote the physical, psychological and emotional safety of the child or young person. Putting those appropriate checks in place is best done via regulation.

The CHAIR: Does the Hon. Mr Brokenshire wish to indicate whether he is happy with that answer?

The Hon. R.L. BROKENSHIRE: Yes, I understand what the minister is saying, and we will be supporting the government.

The Hon. T.A. FRANKS: The Greens will be supporting the opposition amendment. This allows a child who is presenting to the panel to take a support person if they so wish. The child will not do that if they do not wish. The child has the right to pick that person—not the chief executive

and not anyone else. If the child wants that person in the room to support them, the child should get that.

The government says it is worried that children will be coerced or that this support person will have undue influence if this is not in regulations. The government still has the ability to make regulations under this act in this section to safeguard that, but this guarantees the child the support person no matter what the government decides. Given that the government did not decide to let the child have the support person when it brought forth this bill, I do not trust the government to allow that to happen in the regulations.

The Hon. J.A. DARLEY: I will support the opposition's amendment.

The Hon. A.L. McLACHLAN: I am not seeking to have a debate about the drafting preferences of the government, but I would just pick up on one thing, which is the concern by the government that this person may have undue influence over the child. This is a risk that is going to take place in every consideration and every provision of this bill. I have always had confidence in a panel such as this, whether in this context or others, to determine whether a child is being unduly influenced by the person they seek to accompany them.

I do not think there is any evil in this provision and the panel will be in a position, given that they will be conducting the review, to decide whether they accept the behaviours of the person accompanying the child. Ultimately, they govern how the hearing or the review is being conducted, so I do not accept the mischief that has been indicated in the government's submissions to the chamber.

The Hon. K.L. VINCENT: Given, as has been pointed out, that the government has the ability to make and alter regulations of any act, no matter which amendments the department supports or otherwise, and given that I think I am right in saying that the minister or the government support the intent of this amendment, are they willing to give the chamber an undertaking that, no matter what happens to this amendment, particularly in the event that it does pass, they will seek to alter regulations to ensure that this applies to both the child support and the child requesting a review?

The Hon. P. MALINAUSKAS: Yes.

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

Sitting suspended from 13:04 to 14:16.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.E. HANSON (14:16): I bring up the 48th report of the committee.

Report received.

Ministerial Statement

ARRIUM

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:17): I table a copy of a ministerial statement relating to the sale of the Arrium Group made earlier today in another place by my colleague the Treasurer.

Question Time

STATE MAJOR BANK LEVY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:17): I seek leave to make a brief explanation before asking the Minister for Employment a question about the state bank tax.

Leave granted.

The Hon. D.W. RIDGWAY: This morning on radio—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Can you shut him up? Can you chuck him out before we even start?

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Sit down for a moment. I would really like to think that our government ministers will treat question time with a little bit more seriousness than this. The honourable Leader of the Opposition is on his feet asking a question and I expect that to be done and answered as it should be.

The Hon. D.W. RIDGWAY: Thank you, Mr President. This morning on radio minister Hamilton-Smith, the minister's cabinet colleague and somebody he referred to in this place as a very good friend and as a good egg in their team—which may be a view not shared by this side of the chamber; nonetheless, a good friend and a good egg in their team—said, 'I will be raising myself in cabinet the question about whether the Commonwealth Bank should continue to be the bank for the state government.' Mr Hamilton-Smith said this in response to the Commonwealth Bank's opposition to the state bank tax. My question to the minister is: do you agree that the Commonwealth Bank should no longer continue to be the bank of the state government?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:18): I thank the honourable member for his question and for his raising the issue of the bank levy, which is being levied in South Australia in accordance with exactly what his counterparts in Canberra are doing. I have not heard what was on radio this morning; furthermore, we know from the form of those opposite that they take liberties with what they claim has been said.

I thank the member for his questions. A few weeks ago it was, 'Did you watch TV last night? Did you see a couple of ads?', and this morning it's, 'Have you been listening to the radio?' I haven't heard what's been on radio this morning. I am happy to go away and have a look to see if—

Members interjecting:

The PRESIDENT: Order! Have you finished? While the minister is on his feet answering the question, I would like people to be quiet. I want to hear his answer.

The Hon. K.J. MAHER: I am happy to go away and look to see just how misrepresented the situation has been. In relation to anything the government chooses to do, I am not going to comment on a hypothetical question about an assertion about something that may or may not have been said on radio. I have no idea if that's an accurate reflection or not. I am happy to go away and have a look, but I am not going to comment on any possible hypothetical assertion.

STATE MAJOR BANK LEVY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): He said it in parliament also yesterday, Mr President. My supplementary question is: do you agree with minister Hamilton-Smith's comments?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:20): I said I will go and have a look at his comments. I don't know what his comments are, without reading them. I will have a look.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink has the floor.

Members interjecting:

The PRESIDENT: Will both leaders please desist. The Hon. Ms Lensink has the floor.

STATE MAJOR BANK LEVY

The Hon. J.M.A. LENSINK (14:20): I seek leave to make a brief explanation before asking the Minister for Employment a question about the state bank tax.

Leave granted.

The Hon. J.M.A. LENSINK: Yesterday, I asked the minister a question and a few supplementaries about the state bank tax and whether it would hurt jobs growth, business investment and South Australia's reputation. The minister clearly is at odds with hundreds of industry groups, small and large, and medium size businesses and employees who believe that this tax will be a disaster for South Australia. My question for the minister is: would he like to elaborate on his reasons about why he is correct about those matters and all of those employees and organisations are wrong?

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 thank the honourable member for her question very, very much. This is something that we hope they keep raising and keep talking about in the months leading up to March next year. We welcome it very much and I personally welcome this questioning in question time this week.

The facts of the matter are, as we went through yesterday, the big banks made more than $30 billion in profits last year. The federal government estimates that they are undertaxed to the tune of $4 billion. So, it is quite clearly established that this is a levy that they can afford to pay and the money that is being raised by this levy is being put into things that will create jobs in South Australia, like the $200 million Future Jobs Fund. It is that simple.

STATE MAJOR BANK LEVY

The Hon. J.M.A. LENSINK (14:22): Supplementary question: can the minister explain then how South Australia's business reputation and confidence is being enhanced by the tax?

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) (14:22): By creating more jobs in this state.

STATE MAJOR BANK LEVY

The Hon. J.M.A. LENSINK (14:23): Supplementary: can the minister explain how taxing on the one hand leads to jobs growth and, potentially, what universities teach that sort of logic, apart from the London School of Economics?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:23): I am happy to explain it for the honourable member, and I don't think you need to do a couple of years of financial accounting at uni to understand this. What happens is there are revenue measures. You bring tax in through a range of measures and then you apply it to things like programs to create jobs, and you apply it to things like your schools and hospitals. What you do is you have revenue measures.

Just so the honourable member clearly understands: you don't just have spending measures. You need the other side; you need revenue measures as well. You need revenue measures and spending measures. You have measures that create revenue like a levy on the banks, which are undertaxed (according to the federal Liberal government) to the tune of $4 billion, and you have revenue measures that bring in revenue and then you put it towards spending measures like job

creation programs. It is pretty simple and that's how it works. I am happy to see if a briefing can be arranged for the honourable member on basic revenue and spending and just how that works.

STATE MAJOR BANK LEVY

The Hon. J.M.A. LENSINK (14:24): Further supplementary: can the minister then explain how, if its policies impact on businesses so that they have to expend more on taxes than they earn in their own revenues, they do not go out of business?

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Let's have a little bit of order. Minister.

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) (14:25): I have to say it again: the banks, on whose side those opposite seem to be siding, on whose side they seem to be clearly on, made $30 billion in profits last year—$30 billion in profits last year, so undertaxed to the tune of $4 billion.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: This isn't a question of not having the profits to pay the tax. I will repeat again: $30 billion of profits.

Members interjecting:

The PRESIDENT: Supplementary question. Order! The Hon. Mr Lucas.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Will the honourable Leader of the Government please allow the Hon. Mr Lucas to ask a question.

UNEMPLOYMENT FIGURES

The Hon. R.I. LUCAS (14:25): Given that the minister has outlined the rationale behind this year's jobs budget, backed up by the last two budgets, which were also jobs budgets, can he explain why South Australia still has the highest unemployment rate in the nation?

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) (14:26): We have talked about this a number of times. We are facing unprecedented sets of economic circumstances. We have an economy in transition. The unfortunate fact that those opposite don't like is that over the last 12 months we have created more jobs—nearly 7,000 more jobs—than have been lost. That is 7,000 jobs over and on top of any others that have been lost.

The $109 million job accelerator package has had 10,000 applicants for that package. We are putting in programs to create jobs. The other proposition is that you take your hands off the wheel. You sit there and somehow a pie grows and everyone gets a job. It is nonsense. They have no plan, no idea and no chance for South Australia.

SAND CARTING

The Hon. S.G. WADE (14:26): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions in relation to sand carting.

Leave granted.

The Hon. S.G. WADE: Last week saw the resumption of the use of heavy machinery to move sand along Adelaide's metropolitan beaches. Local residents, beachgoers and environmentalists have raised concerns that the use of trucks and excavators on those beaches is dangerous, polluting and expensive. Further, many people have been under the impression that when the government's $23 million sand pumping pipeline was completed in 2013—

Members interjecting:

The PRESIDENT: Order! Go ahead, the Hon. Mr Wade.

The Hon. S.G. WADE: Thanks, Mr President. Further, many people have been under the impression that when the government's $23 million sand pumping pipeline was completed in 2013, the use of trucks and excavators would be a thing of the past. I am advised that all documentation produced by the environment department over several years indicates the use of heavy machinery will be limited to metropolitan beaches immediately surrounding Tennyson, Semaphore and West Beach. Sand erosion on Adelaide's metropolitan coastline has been a longstanding problem; however, the sand pumping pipeline appears to be unable to fulfil its initial aims of eliminating the use of trucks south of Glenelg. My questions to the minister are:

1. Can the minister explain why sand carting trucks have returned to Adelaide's beaches?

2. Does the return of heavy machinery demonstrate that the $23 million sand pumping pipeline built in 2013 has been underengineered and overspruiked?

3. Did the environment department undertake modelling to determine whether or not the pipeline had the capacity to replenish beaches, even in the event of storms occurring?

4. How much does the sand pumping pipeline cost to operate annually?

5. What is the estimated cost of the use of trucks and excavators to move sand during the winter of 2017?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:29): I thank the honourable member for his most important question, although I advise him not to listen to his shadow on informative matters about these issues of the environment, and certainly the coast, because he hasn't got the first clue. When you put in place a program to cart sand through pipelines that only traverse about a third of the distance that we actually truck sand, of course you are going to have trucks continuing to truck sand to the beach.

The pipe itself is designed to take sand along about eight to nine kilometres of a beachfront three times that size. So, it was never going to remove trucks; it was always designed to reduce the number of trucks. This is the looney tunes you get from the opposition. They take a good policy and they twist it because they don't understand the first part of it. The whole process of putting in pipes to mix sand and sea water and create a slurry to pump it along the beaches was to reduce the number of trucks that are actually going along the coastline, not to remove them completely, and it is an absolute furphy for anyone to suggest that was ever promulgated as being the reason for introducing the pipes in the first place.

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

The PRESIDENT: Ms Lensink, learn not to talk with your mouth full, please.

The Hon. I.K. HUNTER: So, at the very first hurdle all of the questions the Hon. Mr Wade relays to us through the council in his question that have been passed on from the shadow in the other place fall. They fall because they do not understand the whole basis of the process of Adelaide's Living Beaches strategy about keeping sand on Adelaide's beaches and reducing the amount of sand carting that was required.

The Sand Transfer Infrastructure project is a component of the strategy involving permanent pipelines and pumping stations constructed along two sections of Adelaide's coastline to manage the movement of sand. The sand is now recycled more efficiently within management cells along our

coastline. Other important aspects of the strategy include the integration of sand bypassing at harbours with beach management, the construction of coastal structures in critical locations and the addition of coarse sand from external sources.

The total capital cost of the Adelaide Living Beaches strategy, I am advised, is about $25.7 million, including expenditure on the Semaphore Park offshore breakwater, completed in 2009-10. The capital cost of the Sand Transfer Infrastructure project was $23 million, I am advised. The operational costs of implementing the Adelaide Living Beaches strategy are in the order of about $5.8 million per year. This includes the cost of pumping and trucking sand, dredging of Glenelg and West Beach harbours and costs.

I am advised that sand recycling is done each year—of course it is—with sand pumping occurring at West Beach for three to four months over autumn and winter and then at Glenelg for three to four months over winter and spring. This scheduling is designed to minimise the impact that these essential operations have on the public's enjoyment of our beautiful beaches. The whole idea of pumping sand mixed with sea water to form a slurry through pipes, as I said, was to reduce the number of trucks traversing the beaches that the public use. It was never to replace them. It could not ever have been designed to replace them, not in a cost efficient way, anyway. And no-one said it did. It was always about reducing the trucking.

The honourable member opposite relaying without any critical thought the questions from the lower house shadow opposition member is just an example to him of being very, very careful of what that person passes up to him. His lack of understanding is understandable. The Hon. Mr Wade should be a little bit more critical in asking some questions about the questions he was being asked to ask of me.

The Adelaide Living Beaches strategy 2005-2025 is the South Australian government's long-term strategy for managing Adelaide's beaches. An important part of the strategy involves collecting sand from areas where it builds up—obviously—and using this sand to replenish areas of erosion. In accordance with the strategy, beach replenishment operations are occurring at West Beach in May and June of 2017. I am advised that the firm McConnell Dowell constructions is undertaking this work as part of a long-term contract.

Sand is being collected from the River Torrens outlet area and shifted by trucks along the beach to the Adelaide Shores dunes between the Adelaide Shores boat harbour and the West Beach Surf Life Saving Club. Trucks are moving sand instead of the sand pumping system that has been used in recent years. This has been an issue when we had that huge build-up of seagrass wrack at the Adelaide Shores harbour following the big storms in 2016.

Ultimately, if you are trying to make a slurry of sand and sea water, you can't do that with a resource that is choked up with seagrass wrack. It is a good reason to leave seagrass on the shore, of course; you want it to infiltrate into the sand, because in itself it is an important environment, I suppose, for the small critters that live on it and feed birds and other animal life. More importantly, physically by intertwining itself with the sand and becoming part of the structure of the beach, it absorbs the wave energy as it crashes onto the beach and holds down the sand loss. The more seagrass you leave on the beach to become covered by sand, the stronger and more resilient the beach will be when it is attacked by wave energy with winter storms.

The seawater intake for the sand pumping system is located in the Adelaide Shores harbour and, as I said, the seagrass rack could have caused damage to the pumping equipment. The sand carting work is expected to take approximately four to six weeks, I am advised, subject to weather conditions, and the use of trucks instead of the sand pumping system, of course, is evidence that we are very, very flexible in how we manage our Adelaide's Living Beaches strategy.

Coastal conditions can be very variable from year to year—that is something that I think we all recognise. The Living Beaches strategy therefore adopts this flexibility and approach to coastal management. We utilise the tactics that we have at hand and the strategy in the most cost-effective way we possibly can on behalf of our taxpayers.

Both sand pumping and sand trucking will be used to manage the movement of sand along Adelaide's beaches into the future. I can say again that, whilst I can understand the member in the

lower house not understanding this, I find it pretty offensive that in fact he would then try to utilise his ignorance for political advantage because it just shows—

The Hon. K.J. Maher: You've got to let them have something.

The Hon. I.K. HUNTER: They don't do their homework, Mr President. To then go on and confuse the public with baseless and inaccurate claims is a repudiation of the responsibility of being a shadow spokesperson and woe betide the state if they get into government.

SAND CARTING

The Hon. S.G. WADE (14:36): Supplementary question: could the minister—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: Supplementary question: what is the annual budget for the sand movement program and will the estimated cost of the use of trucks and excavators in the 2017 winter come within that budget?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:36): I can't give the honourable member advice about the last financial year, but I can tell him, as I just did in my answer, that the operational cost of implementing Adelaide's Living Beaches strategy is in the order of $5.8 million per year. This includes the cost of pumping and trucking sand, dredging at Glenelg and West Beach Harbour and associated costs. That is the advice that I gave in my original answer and I am happy to repeat it now.

SAND CARTING

The Hon. S.G. WADE (14:37): Can the minister indicate to the house whether he has any reason to believe that that budget will be exceeded in this winter program?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:37): I'm sure that is a question that can be asked to me during estimates or at a later stage.

Members interjecting:

The PRESIDENT: Order!

SAND CARTING

The Hon. S.G. WADE (14:37): I would like to ask the minister whether he has any reason to believe that this year's program for use of trucks and excavators will exceed that budget. I don't attend estimates, so this is my opportunity.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:37): He obviously trades questions and answers with members in the lower house, so he can do exactly the same thing in relation to estimates.

Members interjecting:

The Hon. I.K. HUNTER: I have given you the answer that I have before me. At the close of the financial year, as these reports are made to ministers, we will have more information at hand. What I have before me—and let me repeat it again for the hard of hearing—is that the operational costs of implementing Adelaide's Living Beaches strategy are in the order of $5.8 million per year. This includes the cost of pumping and trucking sand, dredging of Glenelg and West Beach Harbour and ancillary costs. As that information is updated and brought before me, I can advise the house or, indeed, through any other process, estimates or whatever. The Hon. Mr Wade, as he clearly has been given a question to ask today from the lower house member, can pass the question back to him and he can ask it.

ENTREPRENEURS WEEK

The Hon. J.M. GAZZOLA (14:38): My question is to the Minister for Science and Information Economy. Can the minister inform the chamber about the activities being offered through Entrepreneurs Week 2017?

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) (14:38): I thank the honourable member for his question. He is, of course, himself a noted entrepreneur in many respects. Entrepreneurs Week 2017 is running this week from 3 to 7 July.

The Hon. S.G. Wade interjecting:

The Hon. K.J. MAHER: I thank the Hon. Stephen Wade for his outburst of ignorance again. Entrepreneurs Week is running from 3 to 7 July and is an excellent opportunity for South Australian entrepreneurs to connect with mentors, industry leaders and other entrepreneurs from around the world. South Australians, more than ever before, are exploring new horizons to diversify their businesses and to learn new skills, and our state's entrepreneurial ecosystem continues to gain recognition for its creativity, positive thinking and reform.

Over the week, South Australia's rich entrepreneurial system will be showcased. This will include opportunities to highlight the wide range of government programs that support our state's entrepreneurs. This year's program includes events that explore immersive technologies and workspaces, ecosystem leadership, social entrepreneurship and how South Australia is continuing to support this community.

Each year, the events over this week get stronger, and this year's program looks set to be the biggest yet. When it comes to entrepreneurship, there really is something for everyone in this area, and I would like to touch on a few of the events that are on offer. With the state enjoying a surge in the number of high-tech start-ups, TechInSA is presenting High-Tech & Connect. The event will provide an opportunity for participants to engage with a panel of experts providing insights into the highs and lows of innovation and entrepreneurship.

Pitch to Collaborate is an event for entrepreneurs, including intrapreneurs, social entrepreneurs and innovators, which is being co-hosted by Wendy Perry from Workforce BluePrint and Mark Keough of Meechi Road Consulting. Collaboration with others is key if your business is to reach beyond state borders, let alone the world. The Pitch to Collaborate event will assist participants to recognise that collaboration and information sharing is an important mindset for any budding entrepreneur.

The state's higher education sector is involved with the university sector in hosting a range of events across the week. Also, Women in Innovation will launch the 2017 Winnovation Awards, a fantastic initiative that recognises the outstanding contribution that women in South Australia are providing to accelerate innovation in a wide range of areas. The Innovation and Collaboration Centre is delivering a business planning workshop as part of the Start Smart Series. The centre is partnering with Business Models Inc. to deliver workshops that are designed to explore aspects of what is required to create a successful start-up.

Perhaps the premier event of the week, as it has been in previous years, is the SouthStart conference, which runs over two days. I understand last year's event attracted 550 delegates, 42 exhibitors and 25 local, interstate and international speakers. This year's conference is similarly large in scope and is designed to grow the entrepreneurial culture in this state by encouraging more people to become entrepreneurs, and it looks like it might even be bigger this year. Entrepreneurs Week is an exciting time for our state's burgeoning entrepreneurial ecosystem, and I encourage all people in South Australia who have an interest to get involved this week.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to acknowledge the Hon. Mr Neil Andrew, former Speaker of the federal parliament, and the Hon. Mr Tim Fischer, former deputy prime minister. Welcome here. The Hon. Tammy Franks.

Question Time

APY LANDS, POLICING

The Hon. T.A. FRANKS (14:42): I seek leave to make a brief explanation before addressing a question to the Minister for Police on the topic of community safety and police presence on the APY lands.

Leave granted.

The Hon. T.A. FRANKS: As members will be fully aware, one of the recommendations of the Mullighan report saw a police presence on APY lands as essential to ensure community safety. I acknowledge the work that has been done in ensuring those police stations have been built in some communities and that there is now a police presence on APY lands. However, I note that while that recommendation 49 made by Mullighan was accepted and enacted, recommendation 46, which recommended that a corrections facility be established on the lands for prisoners on remand on a short-term basis, was rejected by the Rann government.

In recent weeks on APY lands, concerns have been expressed directly to myself that there are times when, due to requirements such as the fly-in fly-out nature of the rotations, and also the transportation of prisoners off the lands, the police presence, while it is there, often is not able to be maintained to the standard that the community accepts.

Could the minister please provide any advice on what awareness he has of this issue; if it has been identified as an issue, what measures are being taken to address it; and whether the police are working with other groups such as G4S, as they do in other parts of the state, to ensure that prisoner transport is not just the jurisdiction of police officers and that police are freed up to be available and on the lands with that police presence so required for community safety.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:44): I thank the honourable member for her question. She has touched on an issue with which I have a degree of familiarity. I have been fortunate to have been to the APY lands twice since becoming minister. On the first occasion I was able to travel with the Hon. Kyam Maher in his capacity as Minister for Aboriginal Affairs, which was quite an enlightening exercise and gave one a greater comprehension of the complexity of the challenges of remote area policing, particularly in the Aboriginal community of the APY lands.

Let me start by outlining a fact that over a period of recent years there has been a substantial increase in police resources on the APY lands. There are a number of reasons for that, not least of which working collaboratively with the federal government also. As it stands currently, there are now 20 full-time equivalents allocated to the APY lands in the communities of Amata, Ernabella, Mimili, Murputja and Umuwa, and of course there are also five FTEs based at Marla, just outside the APY lands.

That represents a very substantial increase in the SAPOL presence on the APY lands, and it has been a rather substantial increase over a short period of time. There is a large volume of resources on the lands. It is reasonable to say that in some parts of the APY lands there is an appetite for a greater increase in police presence, particularly at Pipalyatjara, and that is something my office and the office of the Hon. Kyam Maher have been discussing on a regular basis, and something I continue to raise with the police commissioner.

Regarding transportations, the honourable member raises two issues: one in respect of the transport in and out, because of the fly-in fly-out nature of policing on the APY lands; and, the second being prisoner transport. To start with the first one: yes, the issue has been raised, again through the

Hon. Kyam Maher's office. There is a concern in some communities that the nature of the fly-in fly-out arrangement means there is an operational gap on the ground when that transport is occurring.

My advice from SAPOL is that contingency arrangements are in place to be able to deal with that, notwithstanding an acknowledgment of the challenge. The logistics of policing on the APY lands, particularly with the fly-in fly-out nature, which I am advised is under review, does present substantial logistical challenges that need to be dealt with.

I have inquired of SAPOL that the timings of the landings, and so forth, or the order in which they are done, potentially could be varied so as to not make the nature of the timing so predictable. Those things have been under active consideration by SAPOL, and SAPOL is conscious of the complexities and is doing everything they can to manage around it, despite the operational difficulties. It is something that is in my consciousness and also in the consciousness of the police commissioner.

The second issue in regard to prisoner transports again speaks to the precise nature of the logistical challenges on the lands. When a prisoner needs to be transported, because of the vast distances, if it is done by a police officer that necessarily means police officers are exercising the function of prisoner transport, which is undoubtedly not the most productive use of a police officer's time. It is a frustration expressed to me not only by members of the community but also by police officers themselves.

I have since inquired, in my capacity as Minister for Correctional Services, whether or not there is not a better way to be able to do that. Of course all these questions ultimately come down to resources. The G4S contract does provide, if my recollection serves me correctly, for some transportation from the lands, but only a very small number. It is quite constricted in terms of the contract.

I have asked the Department of Correctional Services to explore revising that so as to allow more flexibility for police officers, but there are challenges associated with that, not least of which is the cost. The cost of transporting prisoners is a particularly expensive exercise in metropolitan areas, let alone in more logistically challenging areas like remote communities.

So the short answer to your question is yes. The government is conscious of this issue. Inquiries are being made on a regular basis about it. I am more than happy to undertake a further inquiry, particularly in regards to that second issue of the prisoner transports, and find out where my requests of the department have got to.

I will seek a further briefing and share that information with the honourable member as soon as it comes to hand. What I would say is when I was first presented with these problems, I put them in the category of 'This will be easy to fix. Just give me a few moments, and I will bung in a few RDs and get the problem solved,' but the nature of policing, or the criminal justice system on the lands generally, is challenging in every respect. Every action has an equal and opposite reaction. Each one needs to be accounted for and is also expensive. These are all challenges we are conscious of. We are weighing them up. Again, as more information comes to hand, I am more than happy to share it with the honourable member.

The Hon. K.L. VINCENT: A supplementary?

The PRESIDENT: The Hon. Ms Vincent.

APY LANDS, POLICING

The Hon. K.L. VINCENT (14:50): Forgive me if the minister has already stated this, but I am not sure that he did. He has given us the number of police currently on the APY lands, but what is that up from? In other words, how big an increase is this resourcing?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:50): Travelling around the APY lands, I have had the opportunity to speak with the police officer who used to be the sole police officer. There was a period when there was only one active sworn FTE responsible for the whole of the APY lands, which is an extraordinary distance and area. So, there used to be at one point only

one, and now it has, like I said, been ramped up to 20 on the lands plus the five FTEs just outside in Marla.

I should also mention that there are two community constables on the lands as well, which is short of where we would like it to be, which is eight. There are eight funded positions but, as I think I have spoken about previously in this place, there have been challenges in filling those roles. The short answer to your question is it is up from one.

MANUFACTURING WORKS REVIEW

The Hon. R.I. LUCAS (14:51): My questions are directed to the Leader of the Government in relation to the EconSearch review of Manufacturing Works:

1. Did EconSearch in its report raise concerns about the effectiveness of any of the individual programs at Manufacturing Works?

2. Did EconSearch recommend against the continuation of any of the 17 constituent programs of Manufacturing Works?

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) (14:52): That was the review that has occurred after the Frost & Sullivan review of part of the Manufacturing Works program that has been occurring. I don't think a final report has been presented to the parliament yet but, when there is a final report that has been presented to the department and analysed, and I have some results, I am happy to bring something back to the chamber.

MANUFACTURING WORKS REVIEW

The Hon. R.I. LUCAS (14:52): A supplementary arising from the minister's answer: has the minister been briefed on a draft report from EconSearch by his department in relation to EconSearch's review of Manufacturing Works?

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) (14:52): No.

The PRESIDENT: The Hon. Mr Hanson.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Hanson.

BAROSSA VALLEY WATER INFRASTRUCTURE

The Hon. J.E. HANSON (14:52): My question is to the Minister for Water and the River Murray. Will the minister inform the house of the recent announcement regarding water infrastructure in the Barossa Valley and how the government is supporting water research?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:53): I commend the honourable member for his timely question. I don't know how he does it, but I only made this announcement a few hours ago. It's quite amazing. He must be plugged in. He is absolutely on the ball.

South Australia has a proud record of using best practice water management to deliver positive economic and social outcomes across our state. Our significant investments in research and critical water infrastructure have already delivered jobs across our state of course, including in Adelaide's north. Of course, nowhere is that more obvious than in our wine regions, including one of the world's best known—the Barossa Valley.

I am advised that more than 210,000 international and domestic tourists visit the Barossa every year, spending money on accommodation and food while supporting local retail outlets, some of them being cellar doors. I am very pleased today to announce, and I will announce it to the house, that the South Australian government will directly support growth in the Barossa Valley's wine

industries with an additional $11 million investment by SA Water to deliver an additional three gigalitres of irrigation water, in the first instance, to the region's vineyards.

The investment will see SA Water upgrade two major pipelines and a pumping station that will enable more water to be moved from the River Murray and Warren Reservoir to the Barossa Infrastructure Limited transportation scheme. I am advised that this announcement will create 17 new jobs over the 12-month construction period, and another 84 permanent vineyard jobs and potentially 90 roles in wine production are expected. This announcement is underpinned by an additional $7.4 million investment by Barossa Infrastructure Limited towards the capital cost, and I am also advised that BIL will be spending some more of their own capital on upgrading their existing infrastructure to the tune of about $13 million.

This new three-gigalitre allocation is expected to be available by the end of 2018. The original Barossa Infrastructure Limited water scheme was established, I understand, in 2000. It currently supplies more than 300 customers across the Barossa Valley, delivering significant economic activity to the region. This is another example of the government's commitment to developing economic infrastructure right across our state for South Australians. Economic development projects like this help to ensure that our businesses in Adelaide are growing and employing South Australians.

The Hon. J.S.L. Dawkins: In Adelaide.

The Hon. I.K. HUNTER: Sorry—in Adelaide's north.

The Hon. J.S.L. Dawkins: I don't think the Barossa considers themselves to be Adelaide's north.

The Hon. I.K. HUNTER: Well, that is north of Adelaide and I am sure, with people commuting to work, there are a number of people who go up to work in the Barossa who live in the north of Adelaide suburbs. On Tuesday of this week, I also had the pleasure of opening the annual Goyder Institute for Water Research's Water Forum. The forum is an opportunity for industry professionals and scientists to gather and discuss the latest issues, theories and challenges in the water management space.

It is a chance for Goyder to showcase their research and highlight the impact that our state's water science expertise has for policy development and management of our state's water resources. Of course, water is of vital importance to quality of life and also to the economic interests of South Australians, as has been long established and recognised by the South Australian government because we established the Goyder Institute and provided about $50 million for a five-year strategic plan. Following the successful five years, the institute's term was extended again in the 2015-16 state budget for a further four years.

The institute has made a significant investment in developing new knowledge to improve water policy and water management relating to the River Murray, climate change adaptation, urban water management, environmental water and water for industry. This success stems from the way in which Goyder has brought together the combined water expertise of government, the CSIRO, the university sector in this state and business and industry to ensure that water policy development is backed by science and is fit for purpose.

I want to thank the Goyder Institute for hosting the productive forum and for their ongoing work in positioning South Australia and our water industry to take advantage of the international demand for water management expertise and making sure that our water-using sectors in the state are on the cutting edge of technological change.

SEATBELT BUCKLE GUARDS

The Hon. K.L. VINCENT (14:57): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Education and Child Development regarding seatbelt buckle guards.

Leave granted.

The Hon. K.L. VINCENT: The Department for Education and Child Development (DECD) has a policy, I understand, in relation to buckle guards in DECD-funded taxis which appears to

contradict the rest of the country. To explain, a buckle guard is a small hard plastic sleeve which goes over the seatbelt release button to prevent a child or young person from undoing the seatbelt while the vehicle is in motion. The seatbelt can be released with the use of any key pushed through a slot.

When you purchase buckle guards, they come with shears to cut the seatbelt in case of an emergency. The shears are designed so that they are not sharp in anyway, so they cannot be classified as a weapon. Buckle guards are regularly used for children, including children and young people with disabilities, who undo their seatbelts while vehicles are in motion, creating a safety risk where that young person is not only unsecured but could interfere with the driver operating the vehicle, of course creating a further risk.

The DECD transport section currently states that they do not allow them to be used for safety reasons, being that in case of an accident, it is not the driver's responsibility to undo the seatbelt. Rather than seeking a solution to this issue, it appears that DECD is allowing exclusion of a child from school transport and possibly from school as a result. In every other jurisdiction, I understand that buckle guards are allowed by education departments with varying requirements, including parental permission, doctor approval, shears kept in the glove box and signage on the windscreen, with one state not having any requirements at all. There are many South Australian students with disabilities, and their parent carers, who are currently affected by this policy. My questions are:

1. How does the minister justify that DECD would prefer that a child is unsecured in a DECD-funded tax or bus rather than being allowed to use a buckle guard, with cutting shears present in case of an emergency?

2. Is the minister aware that due to DECD's policy of not allowing buckle guards in DECD transport, children with disabilities may be unable to travel safely to school?

3. Additionally, is the minister aware that as a consequence of this policy children may not be able to travel in DECD-funded transport and parents must be available to take their children to and from school and available to pick them up throughout the day?

4. Is the minister aware that SA Health is a major partner of Kidsafe Australia and that the Kidsafe Australia website itself advertises buckle guards?

5. If SA Health supports the use of buckle guards why doesn't the Department for Education and Child Development?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:00): I thank the member for her excellent, in-depth questions on the subject of buckle guards. I undertake to take that question to the minister in another place and seek a response on her behalf. Without prejudging any of the answers that may be given, of course, I do remind the honourable member that there are sometimes very good reasons why South Australia stands apart from other jurisdictions, and that is usually because we are right.

I only have to think about container deposit legislation that South Australia has had in place for 40 years; it is taken almost 40 years for other jurisdictions to catch up with us and change their own position. There are a number of other examples I could allude to. I am not saying that is the case in this instance, I don't know—and the honourable member seems to be mouthing to me that that is probably not the case—but, as I said, I will undertake to take that question to the minister in another place and get a response for her.

ADELAIDE AND MOUNT LOFTY RANGES NATURAL RESOURCES AND MANAGEMENT BOARD

The Hon. T.J. STEPHENS (15:01): I seek leave to make a brief explanation before asking the Minister for the Environment questions about the Adelaide and Mount Lofty Ranges NRM Board.

Leave granted.

The Hon. T.J. STEPHENS: On 27 August 2015 cattle owned by an 80-year-old farmer, Mr Nicola Pipicella, were rounded up and moved from one paddock to a laneway by NRM compliance officers on Mr Pipicella's farm at 1054 Gawler/One Tree Hill Road, Uleybury. I have been advised

that the cattle required to be moved to get them away from herbicide that the NRM officers were using to control wild artichokes which were growing on Mr Pipicella's property.

On 28 August 2015 seven of these cattle died. These cattle were pregnant at the time, and both Mr Pipicella and his vet believe that the cattle died from exhaustion and stress due to NRM officers spending many hours rounding them up. Mr Pipicella claims to have also suffered damage to fencing on his property as a result of the cattle movement. My question to the minister is: will the Adelaide and Mount Lofty Ranges NRM Board pay Mr Pipicella compensation for his lost stock and property damage?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:02): I thank the honourable member for this very important question. It allows me an opportunity to put on the record some information about this problematic event. The short answer in terms of compensation is no, but let me give some more details.

I am advised that a property located at Uleybury between Gawler and One Tree Hill has been the subject of a longstanding issue relating to the lack of control of artichoke thistle, a declared plant under the Natural Resources Management Act 2004. I am informed that complaints to regional staff in the Department of Environment, Water and Natural Resources have been received from neighbouring properties, the City of Playford, and local members of parliament regarding the control of artichoke thistle on the property. I am told that the first incident report was raised in August 2009.

I am advised that for a number of years DEWNR regional staff have attempted to work with the property owner. Following negotiations with the property owner a formal action plan under section 183 of the NRM act was issued and approved on 11 June 2013. However, in spite of these efforts the requirements of the action plan remained outstanding. On 17 August 2015 the property owner was formally served, with seven days' notice that DEWNR staff would enter the property to undertake weed control works under section 183(9) of the NRM act.

On 26 August 2015 the property owner was again contacted by DEWNR staff to inform him that staff and a contractor would enter the property to undertake weed control. I understand that the property owner was asked to remove livestock from the relevant sections of the property. I am informed that a contractor engaged by DEWNR staff entered the property on 27 August 2015 to begin the spraying efforts, which were completed on 29 August.

I am also advised that since the spraying occurred a number of cows and calves were found dead on the property. I am advised that vets from Roseworthy veterinary school, acting on behalf of PIRSA Rural Chemicals, collected samples from four of the deceased animals to determine the cause of death. Samples of the feed and water were also taken for analysis. I am informed that expert interpretation of results of the pathology analysis indicates that neither the herbicide nor artichoke thistle contributed to the death of the cows but that the most likely cause of death was the result of kidney failure thought to be due to the ingestion of plants containing oxalates. This toxin is found in plant species such as soursob and the goosefoot family.

I am also advised that since that time the landholder has been offered assistance by way of services of a specialist contractor (at no cost to him) to work beside the landholder to improve his spray application techniques. Since the action plan expired on 1 October 2016, observations by staff from the adjoining roadside indicated that little or no control had been undertaken and that further action would be required. On 10 November 2016, DEWNR staff undertook a thorough on-site assessment of the property. The assessment established that there remained extensive areas of well-established, uncontrolled wild artichokes across much of the property.

A protection order under section 193 of the NRM act was issued requiring the landholder to engage an expert to develop a plan for the eradication of wild artichoke from the property as far as can reasonably be expected. This plan was required to be provided to NRM staff before 31 March 2017. I am advised that as of 10 April 2017, the landholder had not provided a plan of action to NRM staff. In line with procedures under the act, the DEWNR investigations and compliance unit subsequently sent a formal request for the landholder to attend an interview relating to the alleged breach of section 193 of the act.

I am advised that on 18 May 2017, the landholder agreed to participate in a formal interview with a representative from the DEWNR compliance unit. I am advised that this meeting took place at the landholder's property on 29 May 2017. I can also advise the chamber and the honourable member that the next steps in dealing with this matter are currently to be determined. Clearly, there have been complaints about the landholder's attempts to control artichoke thistle from a range of sources, including neighbours and members of parliament. DEWNR has tried to work proactively with the landholder to get the appropriate level of control. To date, that hasn't been forthcoming. We will continue our efforts to make sure the landholder has the capacity and the ability and the desire to do what responsible landholders are supposed to do.

FIREARMS LEGISLATION

The Hon. G.E. GAGO (15:07): My question is the Minister for Police. Can the minister outline what changes to South Australia's firearm legislation came into effect on 1 July this year?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:07): Let me thank the honourable member for her question. I know the honourable member is passionate about community safety, generally, and I appreciate her question. I am pleased to advise the council that on Saturday 1 July the new firearms legislation and regulatory scheme came into effect, following three years of extensive consultation. The underlying principles of the act now in effect confirm that possession and use of firearms is a privilege conditional on the overriding need to ensure public safety.

Improved public safety will be achieved by promoting the safe and responsible storage and transport of firearms and ammunition per new provisions in the regulations. The Firearms Act 2015 and Firearms Regulations 2017 have attempted to simplify the responsibilities of firearms owners. As such, it is imperative that every licensee or applicant makes themselves familiar with their obligations under this legislation.

South Australia Police has commenced a comprehensive education and awareness campaign targeted at firearms owners and has created an information brochure, entitled 'Firearms Changes 2017—What do I Need to Know?' The brochure, which has been sent to all firearms licence holders, clearly outlines and summarises the key provisions of the new legislation and accompanying regulatory regime. Also available on the SAPOL website are fact sheets that explain the transition from the Firearms Act 1977 to the Firearms Act 2015 and how law-abiding firearms owners can comply with the new security provisions and responsibilities and the time frames allowed for these changes to come into effect.

I would encourage any member of the firearms community to visit the SAPOL website to access this information or, alternatively, access the new act and regulations online at legislation.sa.gov.au. I firmly believe that the new act and regulations ensure a regime that does not unduly burden responsible firearms owners, but enhances community safety in a generational change to our state's firearms laws. In closing, I want to give credit to my predecessor, the member for Light, for the extensive processes he undertook—

The Hon. J.S.L. Dawkins: He doesn't give you much credit. He gives you no credit in the community.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: The Hon. Mr Dawkins, please show a little bit of respect for the person on his feet. Will the honourable minister allow the Minister for Police to finish his answer.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Will you desist immediately.

The Hon. D.W. Ridgway: Yes; chuck him out.

The PRESIDENT: There will be two of you chucked out in that case. Minister, continue.

The Hon. P. MALINAUSKAS: Thanks, Mr President. The Hon. Mr Dawkins interjects regarding the member for Light. He is an outstanding member of parliament, a champion of the north. The Hon. Mr Dawkins might not be aware that the Hon. Mr Piccolo and I are very good friends. The Hon. Mr Dawkins said earlier today that Mr Piccolo had somehow caused us a problem. Well, the Hon. Mr Piccolo has caused a lot bigger problem for you over the years, and I suspect that may well continue for many years to come.

I was in the process of complimenting the Hon. Mr Piccolo, before the Hon. Mr Dawkins served that alley-oop up, for his extensive hard work in the process that he commenced with the Firearms Act and the repeal of the 1977 act. The second person I want to acknowledge is my colleague in this place, the Hon. Mr Brokenshire, for his feedback and advocacy.

Members interjecting:

The Hon. P. MALINAUSKAS: That's alright. He has given the Liberal Party a few challenges over the years as well. Also, I thank the members for Stuart and Schubert for their bipartisan approach to community safety through what has been a very extensive project. Thanks go to members of the South Australian Firearms Branch, who worked with my office and that of the previous minister, the firearms community and also parliamentary counsel for the assistance they gave the government to deliver this important reform to the state's firearms legislation. I want to credit members both of the firearms community and SAPOL for their pragmatic attitude towards resolving many issues that were rather complex and detailed.

These changes have been a substantial effort to make sure that we preserve a balance in South Australia between the interests of legitimate firearms owners, who only seek to do the right thing, and community safety. That is an ongoing challenge. It is unfortunate that the Hon. Tim Fischer is no longer in the chamber. I think it's a piece of reform that, despite my substantial political differences with the Howard government, commenced at a national level with the Howard government and that deserves much credit. I think the Hon. Tim Fischer played quite a substantial leadership role in that exercise as the leader of the National Party. It was a particularly difficult issue for him in his own constituency.

I remember, as a young fellow, post the Port Arthur massacre, watching this debate quite passionately, albeit as a city slicker and not a firearms holder, and actually thinking quite a fair bit of the Hon. Mr Fischer for the leadership that he displayed in very difficult circumstances. Since that rather challenging period when it comes to firearms legislation in this country, we have had somewhat of a bipartisan approach to achieving that balance. I think that's an admirable thing and I think it was on show here. For members of the South Australian public who sometimes look for bipartisanship occurring in this place, this is a classic example of where it has worked in the interests of all concerned, both members of the firearms community and the South Australian public's safety, generally.

DRUG-RELATED CRIME

The Hon. D.G.E. HOOD (15:14): I seek leave to make a brief explanation before asking the Minister for Police a question relating to a recent incident in Rundle Mall.

Leave granted.

The Hon. D.G.E. HOOD: Early Saturday morning of last week, two young men were stabbed while walking down Rundle Mall. The attack was unprovoked and it is alleged the attacker was under the influence of an unknown illicit substance. This attack is similar to the unprovoked attack that occurred at Paradise Interchange a few months ago, which I have raised in this place previously, where a person was stabbed without warning by an attacker also under the influence of an illicit substance and unknown to the victim. My questions to the minister are:

1. Is the minister concerned about the recent trend in unprovoked attacks fuelled by illicit substances in South Australia?

2. With the offender at Paradise Interchange set to serve just over one year in prison, is the government confident that an appropriate sentence will be handed down following the latest incident?

3. Is the Ice Taskforce considering tougher penalties for those committing violent offences whilst under the influence of such illicit substances?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:15): Firstly, let me thank the honourable member for his question and also pass on my sympathies to those individuals who have been stabbed. It is a tragedy whenever an act of violence occurs within our community, but one that occurs in unprovoked circumstances is particularly unfortunate and should not occur.

We are lucky that we live in a relatively safe community. Here in South Australia and metropolitan Adelaide, we are one of the safer parts of our country and certainly one of the safer parts of our world, and it is fortunate that these incidents are relatively rare. Of course, their relative scarcity also means that they stand out when they do occur and, in turn, shock the public, particularly in a location as publicly available and widely used as Rundle Mall. It particularly captures the state's attention.

Let me state firstly that I think it is a good thing—and I think our men and women in uniform should be congratulated—the fact that I understand an apprehension has been made by SAPOL of the people who are allegedly responsible for this. Obviously, I can't comment on it further, being a matter before the courts, but clearly it appears as though the wheels of justice are turning when it comes to this particular incident.

Regarding the Hon. Mr Hood's question about sentencing, of course, sentencing is a matter for the courts. There is, of course, the sentencing act review which is underway at the moment, and I understand we will be continuing to debate it, potentially later this evening, if not tomorrow. Sentencing is a matter for the courts and principally we hope that we put the right frameworks in place for sentencing and the courts make their decision accordingly. What I would say is that if members of this place have reservations around our particular sentencing arrangements at the moment then, of course, there is an opportunity to express those views during the course of the debate on the sentencing act.

Regarding ice: we don't know necessarily, as it stands, whether or not the illicit substance that the alleged offenders allegedly have taken is ice, but we do know that ice consumption in the community is on the rise. We also know that ice is a particularly insidious drug by virtue of the fact that it does create a propensity for people to act in ways that are violent, in many instances uncharacteristically aggressive or violent, which is a different side effect that we see from many other illicit substances in the community, for instance, cannabis. Cannabis is not a drug that is regularly associated with spontaneous acts of violence, but ice is, which presents all the more reasons why, as a community, and indeed this government being a leader within it, we have to do as much as we can to try to mitigate ice consumption.

The Ice Taskforce was a comprehensive exercise to try to look at what we can do in the short term to address the ice challenge. As I have said previously when talking about the response and the Ice Taskforce, we seek to come up with a policy that addresses both the demand side and the supply side of the equation. The supply side of the equation speaks specifically to a law and order response and there are a number of measures we have put in place to try to do that, not least of which is giving police the tools and resources they need, whether it be an increase in the size of the dog squad or new pieces of equipment for SAPOL to be able to use to go out there and catch people doing the wrong thing.

We are also, of course, investing in campaigns, like the Dob in a Dealer campaign, for instance, to apprehend more low-level dealers. Of course, one of the things that we are also doing is increasing police powers to ensure that police have the capacity to apprehend these people.

Sentencing arrangements were not specifically looked at in the context of the Ice Taskforce. That, of course, we see as being appropriately dealt with through a review of the sentencing act. Nevertheless, we are committed to doing what we can to reduce the supply of ice, including giving police the powers and tools that they need to be able to do that.

Matters of Interest

ENTREPRENEURS WEEK

The Hon. J.E. HANSON (15:20): This week is Entrepreneurs Week in Adelaide. Entrepreneurs Week is a collaboration between the Adelaide Entrepreneurship Forum, Brand South Australia, the Adelaide city council, the state government and a broad range of stakeholders who are interested in hosting events with an entrepreneurial focus. The aim is to position South Australia as the destination of choice for creativity, innovation and enterprise, a place, of course, where entrepreneurs can thrive.

The 2017 program includes events that explore immersive technologies and workspaces, ecosystem leadership, intrapreneurship, social entrepreneurship and how South Australia will continue to support entrepreneurs. As a member of the millennial generation, albeit only just, I often take umbrage at articles, such as some you might find in today's local paper for Adelaide, which decry my age cohort as lacking the skills they need for the workplace. These are the same workplaces, mind you, that thrive, and indeed rely, on the entrepreneurial and innovative capability of—you guessed it—millennials. I was particularly disappointed to read an article in the local Adelaide paper, printed during this year's Entrepreneurs Week, which decried millennials as 'scared of conversation, cooking and eye contact'.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! There are too many conversations in the chamber. The Hon. Mr Hanson has the call.

The Hon. J.E. HANSON: Thank you, Mr Acting President. The article placed millennials as 'unable to order a pizza, take part in a university class or even plan a holiday in person, because they usually do so via apps on their phone'. I find such commentary, which is frustratingly prevalent, even in this chamber, not only unhelpful to facilitating the creation of an innovative and creative city and state, but also inaccurate in my experience of young people in this state. To quote one millennial to whom I spoke about the article, 'I just don't have time to read that rubbish.'

I am encouraged to see commentary from others in the world who view millennials as key players in the coming wave of social entrepreneurship, as professionals and innovators who will place great value on improving society rather than emphasising profit as a core function of any business. I note in particular the comments of the Don Dunstan Foundation's current Thinker in Residence, Suzi Sosa, who recently spoke to open Entrepreneurs Week in Adelaide. She stated:

> We see this generation putting pressure on not just creating social enterprises…but putting a lot of pressure on big corporations, like Dell, like MetLife, like Nike, like IBM.
>
> Millennials are saying we will not shop from you, we will not work for you, unless we believe your commitment is to improving society as well.

As a long-time believer in the capacity of young people to make a difference, and a more than casual observer of the catastrophic events of the global financial crisis and the subsequent austerity measures imposed on many who must now commence their working lives with previously unimaginable burdens, I admire those in our younger generations who are displaying wisdom beyond their years in benefiting the many before the few.

Entrepreneurs Week this year will also feature the popular SouthStart conference, where hundreds of local and national entrepreneurs, investors, experts and students will once again gather at the Adelaide Convention Centre for a conference aimed at inspiring the next generation of entrepreneurs and business owners. Established in 2013, the SouthStart conference is the largest event of its kind in South Australia and one of the largest in the country. The conference highlights emerging entrepreneurial themes, such as start-up investment, commercialisation, disruptive banking and the myths of innovation. I am encouraged by the comments of the SouthStart managing director, who said of last year's event:

> The SouthStart Conference has put Adelaide on the map as one of Australia's leading cities for entrepreneurial thinking. During the past three years, we have showcased some incredibly diverse, innovative, and exciting start-ups.

> We're hoping the ideas and the technical knowledge shared at SouthStart will inspire the next generation of start-ups, and also help established businesses to stay motivated and well connected with peers, investors, and mentors to help them succeed.

I look forward to attending this year's event with much anticipation. Indeed last year's event was such a great success, with TCPinpoint and EcoJet Engineering both being awarded $50,000 dollars in funding through the Venture Catalyst program, a joint initiative of the state government and the University of South Australia. Both of those companies are a great example of the kind of innovation we want to encourage and the kind of innovation that can find an ideal base of operations right here in Adelaide.

This is the kind of innovation that needs to be nurtured and encouraged, not talked down by those who do not understand new enterprise or those who do not share the same optimism about our younger generations and their ideas or their capabilities. Those people will ultimately be left behind by history. They could instead make the conscious choice to play a part in creating a better future for our whole community. I suggest they could start by heeding the example of the millennials, who are doing just that by benefiting the many before the few.

AUSTRALIA JAPAN ASSOCIATION OF SOUTH AUSTRALIA

The Hon. J.S. LEE (15:25): As the shadow parliamentary secretary for multicultural affairs, I am honoured to rise to speak about the Australia Japan Association of South Australia—the AJA of SA—in parliament today. The AJA belongs to the National Federation of Australia-Japan Societies. The AJA was founded in 1967 by Toyohiro Tanaka to foster and promote friendship and understanding between Australia and Japan. I am sure the Hon. Rob Lucas would know this association very well, with his Japanese heritage.

I have had the great privilege of getting to know the AJA over the years, and I am always grateful for their warm friendship and generous hospitality at every meeting and event I have attended. The year 2017 marks an important and special year for the Australia Japan Association, because it is celebrating its 50th anniversary. I would like to put on the public record my heartfelt congratulations and best wishes to my friends, including the hardworking president, Jim Stewart; the two vice-presidents, Ruriko Jordan and Kyoko Katayama; Ali Rawling, the public officer; the committee; and AJA members, business supporters and volunteers for promoting Japanese culture and connections, making wonderful contributions to enrich South Australia as a proud multicultural state in the last 50 years.

Their achievements and contribution can be clearly demonstrated through many activities. The association is an integral part of two significant Japanese cultural events in South Australia. For instance, their collaboration with the City of Salisbury has enabled our South Australian community to enjoy the Matsuri on Mobara festival in Mawson Lakes since 2008. They have also worked with the City of Burnside to host the Japanese Cultural Day at the Burnside Library since 2009.

Last week I was honoured to be a guest speaker at the 2017 annual Japanese Cultural Day at Burnside. It was wonderful to see the support of mayor David Parkin and the City of Burnside together with the endorsement by the newly appointed Japanese Consul-General, Mr Kazuyoshi Matsunaga, who made the special effort to be in Adelaide to open this event. It was a memorable first visit for him to Adelaide. We look forward to welcoming him back in the near future.

Cultural events organised by the AJA allow participants a window of opportunity to experience the rich Japanese culture through information sharing, martial arts demonstration, traditional kimono dressing, arts and craft workshops, tea ceremonies and Japanese food culture, as well as Japanese performances such as music and dance.

I would like to personally acknowledge and commend the AJA for their active participation in South Australia. I just love their passion and energy in the way they immerse themselves by participating in the annual OzAsia Festival and the Australia Day parade. They have also in the past helped two libraries hold an origami night to celebrate Harmony Day. Their resilient community spirit of making things happen has built a reputation beyond metropolitan Adelaide, as the AJA was invited to participate in the 25th anniversary of Port Lincoln's sister city relationship with the Japanese city of Muroto as part of the iconic Tunarama Festival.

As honourable members know, South Australia's relationship with Japan has been longstanding, and Japan is South Australia's fifth biggest export market. When the earthquake and tsunami hit Japan in 2011 the AJA of SA was strongly involved in local Japanese memorial and fundraising activities. On 11 March every year since then, the AJA has held a tsunami memorial gathering to commemorate the tragedy and to raise money to help in projects dedicated to local schools and communities in the Tohoku region.

Ms Keiko Haneda, former Japanese Consul-General, honoured the AJA with an official commendation for their distinguished service in contributing to the deepening of mutual understanding and friendship between Japan and Australia. In her presentation, Ms Haneda highlighted the important work of the president, Jim Stewart, as one of the driving forces for the success and longevity of the AJA. Small businesses in Adelaide have also supported AJA in many ways: special thanks to Rob Del Duca of Caffe Amore for providing a home for AJA conversation meetings, and to Ginza Miyako Japanese Restaurant for hosting AJA annual dinners for a number of years.

It is very humbling to know so many community-minded members in AJA who are doing amazing work to build a vibrant multicultural South Australia. In closing, I am delighted to wish the Australia Japan Association of South Australia a very happy 50th anniversary.

OUR LADY OF THE RIVER SCHOOL

The Hon. R.L. BROKENSHIRE (15:30): I rise as a matter of interest to place on the public record my appreciation, and also to state how impressed I was recently, when on a regular visit to the River Murray Riverland region I was privileged to be able to inspect and spend some time at Our Lady of the River Catholic School at Berri. First and foremost, I commend the principal, Ms Ros Oates, and the staff for their absolute commitment to positive education outcomes for the students. I want to congratulate the students not only on their capacity with music and the general curriculum but also on the way they are a very community-minded and strongly-spirited school that is focused on good outcomes for all the students in that school.

Last year, 2016, celebrated 80 years of Catholic education at Berri with our Lady of the River School, which is a reception to year 7 school. It is located centrally in the Riverland, overlooking the River Murray, and has quite a rural space, great opportunities, resources and modern learning environments for teachers and students. There is a personal atmosphere, and caregivers know the door is always open so that parents and caregivers are encouraged to integrate directly with teachers, staff and the students, where appropriate, in a rounded education, including a very strong focus on sport.

The school is also seen as a public space, and it invites and is willing to share its resources with the community. It has a diverse range of family cultures and caregiver engagement and participation, which is vital in understanding and valuing the Catholic values and traditions, as well as other traditions of families in the local community.

The enrolments, I am pleased to say, at this school are growing, and I can see why they are growing. I visit a lot of schools, and have done for the 20-plus years that I have be in this parliament, and this particular school is an absolute shining beacon when it comes to the focus it has on the education and development of our young people. It also has accommodation for a community play group, breakfast programs and after-school workshops for the children.

I commend in particular the principal. I have known Ms Oates for a very long time. She has been a dedicated educator ever since she graduated with her degree. She is not only focused on the best outcomes for the children in the Catholic school at which she is principal, but she is also heavily involved in the National Catholic School Education Principals Organisation, which is focused on improving Catholic education throughout Australia. Her husband is also a dedicated police officer in the Riverland, and I commend him for the good work that he has done for a very long period of time right across South Australia in policing.

Importantly, I wanted to hear what was happening with respect to the impacts that were alleged, arguably very true impacts, on Catholic education as against other independent and state schools when it came to Gonski 2.0.

I was given some very good briefing papers while I was up at Berri to better understand the situation regarding what is a negative impact on Catholic schools, they are saying, compared with improvements to other independent and state schools. I know at the moment that the federal government are conducting a review of funding arrangements for Catholic education, and I will watch that very closely.

I also received a paper when I visited the school. It was interesting to read that, of the six states and two territories, according to this document, we rate eighth out of eight when you look at the comparisons around funding per student in Australian non-government schools in 2012-13. In fact, independent schools in South Australia get $1,605 per head; Catholic, $1,988; and non-government, $1,804. That is against a national average of independent, $2,138; Catholic, $2,542; and non-government, $2,378. It shows that there is an injustice here in South Australia, and this is something that we will need to continue to look at into the future.

NAIDOC WEEK

The Hon. T.T. NGO (15:36): I rise today to speak on NAIDOC Week 2017. As honourable members may be aware, NAIDOC originally stands for National Aborigines and Islanders Day Observance Committee. NAIDOC Week is a national celebration of Aboriginal and Torres Strait Islander history, culture and achievements.

The national NAIDOC theme in 2017 is 'Our languages matter', which highlights the importance, resilience and richness of Aboriginal and Torres Strait Islander languages. We know that language has a tremendous influence on cultural identity. Alongside a rich diversity of cultures and customs, Australian Indigenous people have always had a strong connection with language. They traditionally pass on their sacred history through word of mouth from older to younger generations. It is therefore fitting that recognising and reviving Australian Indigenous language remains a major priority across sectors including education and community services.

My understanding is that only about 120 of more than 200 Indigenous languages are still spoken today. The unfortunate reality is most Aboriginal languages spoken today are endangered, and so the campaign to maintain those still being actively spoken and revive dormant languages is being fought on many fronts.

Indigenous communities themselves are championing the fight. I am told that a series of lessons on YouTube is one of the innovative methods being used to ensure language is being preserved. Furthermore, a mobile language team based at the University of Adelaide is doing great work to record and document Aboriginal languages in South Australia.

Jack Kanya Buckskin is a part of the Kaurna Warra Pintyanthi team who are working to share knowledge of the Indigenous language spoken by the Kaurna people. On the significance of preserving the language, Mr Buckskin has said: 'I started understanding more of who we actually are and what our country and our culture actually means to Aboriginal people by learning language; it's a massive identity purpose for Aboriginal people.'

It would be remiss of me not to acknowledge the fantastic work of the NAIDOC SA committee in bringing five major South Australian NAIDOC events to fruition, including the NAIDOC church service, the NAIDOC SA awards and Lord Mayor's morning tea, the NAIDOC march and family fun day, as well as the NAIDOC ball.

This year, I had the pleasure of attending the NAIDOC SA awards presentation. These awards showcase the outstanding contributions of South Australian Aboriginal people. One such person is author, Doris Kartinyeri. She received the lifetime achievement award for her dedicated service as an advocate for the stolen generation, having touched many lives by sharing her personal journey.

The 2017 NAIDOC Person of the Year was awarded to Paul Vandenbergh, Aboriginal Programs Manager at Port Adelaide Football Club—the best football club in this state considering all the premierships they have won over the years. We can see that the beauty of this program is its role in not only training potential AFL or SANFL players but also mentoring youth and supporting participants with their future pursuits, whether they be further education or employment. At an awards ceremony held last night, Frank Wanganeen was named the Premier's NAIDOC Award winner for

2017. As a Kaurna elder, Mr Wanganeen has shown strong leadership with a passionate commitment to reconciliation, social justice and preservation of the Kaurna culture and language.

Dr Alice Rigney, who recently passed away, was also recognised for her important legacy as the first female Aboriginal school principal in Australia, with the Dr Alice Rigney Prize established in her honour to recognise young Aboriginal students for excelling in education. The inaugural recipient was Tayla Karpany, a Kaurna Plains School year 11 student. My warmest congratulations go to all the award winners and finalists. NAIDOC Week serves as a welcome opportunity to recognise and pay tribute to the outstanding contributions that Indigenous Australians make to our great country, and I encourage all Australians to participate in this week's activities and celebrations.

MINISTER'S REMARKS

The Hon. R.I. LUCAS (15:41): It was a sad day yesterday when minister Martin Hamilton-Smith, a man who used to be the leader of the Liberal Party in South Australia, ended up an object of ridicule, acting like an angry, petulant schoolchild unable to get his own way. What happened was that minister Hamilton-Smith said in his speech to parliament yesterday that he was going to take to cabinet a policy proposal to rip up a multimillion dollar contract that had been written between the government, the Treasurer and the Commonwealth Bank of Australia.

The reason was that this particular organisation had had the temerity to actually be critical of the government and its policy in relation to the new state bank tax. What we had was a senior minister—by his own description—in the Weatherill government cabinet responding with a kneejerk policy response formed out of spite and revenge because someone had had the temerity to criticise the government's position.

He had obviously done the work to look at page 42 of the contract between the government and the Commonwealth Bank which gives the power to the Treasurer to terminate, for convenience, the contract with the Commonwealth Bank. Notwithstanding any other provision in this contract, the Treasurer may terminate this contract with respect to the provision of any service to government or in toto by providing three months' written notice to the supplier. No reason has to be given. The treasurer of the day can just terminate for convenience that multimillion dollar long-term contract with the Commonwealth Bank.

That is the policy of the minister, who travels often and regularly and expensively interstate and overseas trying to attract investment and business to South Australia. He is actually saying, 'If you dare to criticise this government or its ministers, then we may well tear up your multimillion dollar long-term contracts that you've got with the state of South Australia.' Let us remember that his best and closest friends, as we are often reminded, are people like minister Maher and minister Malinauskas in this chamber and the Premier and the Treasurer in another chamber, who often say that they are very good friends with this minister and are great admirers of his capacity.

We have often heard—and I have seen reports in the other place—of minister Hamilton-Smith making threats in the assembly about tipping a bucket on some Liberal MPs during particular debates. I think that is unfortunate, but let me issue a warning to minister Hamilton-Smith that he is not the only person who can record, if so pushed, behaviour of former Liberal MPs—in this case, minister Hamilton-Smith. He is not the only person who has a record of documents and notes of meetings and discussions that were held from the mid-nineties, prior to minister Hamilton-Smith being a member of parliament, in terms of his attitudes and actions on a variety of issues. So, there is a warning shot for minister Hamilton Smith; if he wants to play the schoolyard bully there are others prepared to engage if he chooses to go down that particular path.

This is the man who, if we remember, was widely derided on the front page of *The Advertiser* as a traitor as a result of his actions. This is a man who sold out everything he said he believed in for 40 pieces of silver in terms of salary, for a lot more pieces of silver in terms of superannuation, for a government car, for a government driver and for the status of being a minister. This is a man who has been on the record, both in private and public discussions, who lobbied and argued for major policy changes to advantage childcare operators at the expense of funding for kindergartens, within the Liberal Party.

This is a man who said he believed in lower taxes right from his first days of being elected as a member, but who is now supporting a bank tax, a foreign investor tax and any other taxes the government might want to introduce. This is a man who said he believed that government should not spend money on picking winners, and often criticised the former Liberal administration and Labor administrations for picking winners, who is now supporting policy spending tens of millions of dollars on doing exactly that, as a minister and a proponent of Weatherill government policies at the moment.

Sadly, at this stage I indicate that, given the statements he made yesterday and his actions over the last period of time, there is really only one response which should occur: he should be sacked as a minister of the Weatherill Labor government.

MURRAY RIVER

The Hon. T.A. FRANKS (15:46): I rise on behalf of the Greens to speak about the importance of a flowing and healthy River Murray and Murray-Darling Basin. The River Murray is our traditional water source for Adelaide and it is in a critical condition. Necessity is the mother of invention, and as the driest state in the driest inhabited continent on earth, it is little wonder that South Australia has taken the lead on water innovation, water security and, of course, on resilience.

Unsustainable extraction means that not enough water is flowing to the Lower Lakes and Coorong in dry periods. All forecasted climate change scenarios show this will only get worse. Meanwhile, millions of litres of wasted water in the form of stormwater is diverted out to sea, where silt and nutrient load damages the marine environment. Billions of litres of additional nutrient-laden wastewater is flushed out to sea every year, killing our seagrasses. The mighty river supports farming communities, with over 20,000 farms relying on water from the Murray-Darling Basin, as well as over 30,000 wetlands that are nurseries for fish, frogs, turtles, water, migratory birds and animals.

This is a vital ecosystem and one that is under threat from overexploitation and the impacts of climate change. We need a healthy river from source to the sea. That is why hashtag #sourcetosea is the catchcry of the group called Rivers Fellowship, a program being run by the Australian Conservation Foundation (ACF), where river advocates—some of whom I met with recently, including Kate McBride, Bethany Koch and Tracey Hill, who are a passionate group of dedicated people—are demanding a plan that leaves enough water in the river to keep communities and nature healthy and resilient all the way from where the rain falls to the Murray Mouth.

Kate McBride, in fact, wrote to me from Tolarno, Peppora and Wyoming Stations recently. For those of you who are familiar with the Facebook video, that is where my federal leader Senator Richard di Natale and my New South Wales counterpart Jeremy Buckingham MLC were able to kick a football up and down the dry riverbed where the water once flowed. Kate wrote to me with deep concerns that the voices of the basin communities, the traditional owners and South Australians are not being heard.

I want to assure Kate, Tracey and Bethany, and all the rest of the members of the Rivers Fellowship, that the Greens are hearing their voices loud and clear and that we will keep talking about the need for a healthy river from the source to the sea until we make it so. The situation is dire and we need solutions. In Kate's petition to the federal government she stated:

> My family and I run a pastoral property on the Darling River in the far-west of NSW. We run over 20,000 merino sheep, and Australian rangeland goats. The Darling River is our lifeblood—it sustains our families, our animals, our businesses and our community. As a Basin, it produces 40% of Australia's agricultural production and is home to almost every one in two sheep in Australia.
>
> But right now, the Murray-Darling River is stressed.
>
> In 2015-16, we had no water in our river for 8 months. We watched the water we and our animals drink go stagnant and then dry up, and our sheep, goats and native animals struggle to stay alive. The water has returned, but because our underground aquifers couldn't replenish, our bores are now saltier than ever before.
>
> There was no drought. There was no water in the river because greedy, unsustainable irrigators upstream take too much water. It is destroying the livelihoods of established, sustainable farmers along the Murray-Darling.
>
> The river is our lifeblood and we need a healthy Murray-Darling river that flows from source to sea, supporting sustainable farming communities along its way.

The Greens know how crucial the Murray-Darling Basin is for Australia's food production, environment and, of course, economy. We will support and fight for reforms to keep the system healthy all the way to the Murray Mouth, winding back the overallocation of water and restoring precious ecosystems so they can keep sustaining Australia. We want to see the return of water to environmental flows and note the South Australian government's commitment to 450 gigalitres through improved water efficiency measures for irrigated agriculture and the buyback of water entitlements in severely degraded and overallocated systems.

With those few words, I commend the river fellowship and endorse the hashtag #sourcetosea and look forward to working with all of my colleagues in this place to have a healthy river have a healthy flow from source to sea.

MULTICULTURAL YOUTH SA FILM EVENT

The Hon. J.M. GAZZOLA (15:51): Recently, I was fortunate to be invited to and represent minister Bettison at a wonderful film event presented by Multicultural Youth SA and the City of Marion. The event was held at the Glandore Community Centre, where we were welcomed by Angela Powell, the new service manager of MYSA, and the Mayor of the City of Marion, Kris Hanna. The film, *Through Our Eyes*, is a movie that was written, filmed, created by and starring a number of the youths and young adults who are supported by MYSA. The MYSA film project was delivered with the assistance of the youth development partnership funded by the Marion council.

The official screening of the film project coincided with Refugee Week. Approximately 90 guests attended the event, where the stories of some of the young refugees, who now reside in Adelaide, were presented in the film. Those featured come from various countries and have all arrived in Australia within one to five years. They spoke of the media scare that can impart a discriminatory image on new rivals and how this does not depict their aspirations of positively participating and contributing to Australian society.

We heard the story of a young Afghani woman named Asma, whose mother stood up for the right for women to be educated in their home country. The consequential volatility and threats to their lives lead them to flee Afghanistan. Asma now desires to become a policewoman in order to do good and protect the safety of women. Asma is looking to apply to become a police officer in 2018 and, if successful, Asma may be the first female Middle Eastern police officer in Australia. The Deputy Mayor of Port Adelaide Enfield, Vanessa McCluskey, who attended the event, has since invited Asma to visit the Police Academy.

We also heard from Ali and Awale, who have developed an interest in film, producing a number of narratives, which they have posted on social media. They have approximately 100,000 followers and they are particularly keen to further foster their skills in film and production. MYSA's team leader, Mariloly Reyes, told the story of a refugee who had the heart-wrenching scenario of having to leave her toddler behind in Africa when coming to Australia on a humanitarian visa. MYSA assisted her and guided her through the extensive migration paperwork to enable her son to finally reunite with his mother in Australia.

The consistent theme in the stories of these teens and young adults was the support and friendships that they were able to form through engaging with MYSA. The MYSA clients spoke with pride about their involvement with the film project and I hear that since the film screening, TAFE SA has approached MYSA to present the movie to students of the migrant English program.

The staging of the event was delivered by Miss MYSA Events, which is due to be officially launched as a MYSA social enterprise this November. MME is an event management business comprised of caravan bars and an event planning service. It hires young people from refugee and migrant backgrounds and provides them with training, work experience and references to find future employment.

Mayor Hanna spoke passionately on the night about the Marion council's desire to integrate and support young refugees into their community. One of the MYSA clients described how he was reluctant to go outside of his home, having few English skills, but was welcomed and later introduced to some of the youth community services. He spoke of how much this had meant to him and how it helped him connect to his new community. Approximately 15,000 people aged between 12 to

25 years reside in the City of Marion, roughly 25 per cent of residents are born overseas and 14 per cent are from countries where the first language is not English.

Congratulations to all of the clients, volunteers and staff involved in the project, including Ali Al-Dulaimi, Alwale Hassan, Hussain Mahdi, Henry Kettor, Faith Lawrence Abio, Asma Safi, Aref Ahmadi, Mehdi Al-Dulaimi, Chance JB, Amadou Mayaba Kromah, Tom Messenger, Rory Clark, Aicha Keita, Mohammed Keita, Reuben Gore, Cristian Pinto, Nicole Wolf, Tamara Stewart-Jones and Elizabeth Hansen.

I would like to acknowledge the great work of Mayor Hanna and the City of Marion's youth partnership in helping to make this project come to fruition. The MYSA team would also like to thank everyone for the support they have received leading up to and following the project. MYSA hope to make the inaugural movie night an annual event and host a multicultural music festival next year, should funding be secured. MYSA is doing a wonderful job to provide such services, and I hope that all levels of government back the great work that MYSA is doing in this area.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE: GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT ACT

The Hon. J.E. HANSON (15:59): I move:

> That the report of the committee, entitled Inquiry into the Operation and Impact of the Graffiti Control (Miscellaneous) Amendment Act 2013 (SA) Amendments to the Graffiti Control Act 2001 (SA), be noted.

The Graffiti Control (Miscellaneous) Amendment Act 2013, which I will refer to as the amending act, inserted section 14 into the Graffiti Control Act by way of the following text:

> As soon as practicable after the expiration of three years from the commencement of this Act, the Legislative Review Committee must inquire into, consider and report to the Parliament on the operation and impact of this Act, including the effectiveness of sections 10A and 10B of the Graffiti Control Act 2001 (as enacted by this Act) in reducing offending for prescribed graffiti offences (within the meaning of those sections).

The amending act commenced on 3 August 2013. Consequently, the committee was required to conduct the inquiry under the terms of reference set out in section 14 of the act as soon as practicable on or after 3 August 2016.

On 6 August 2016, an invitation to make submissions to the inquiry was published in *The Advertiser*. The committee invited 34 organisations and individuals to make submissions to the inquiry. Eight submissions were received and three public hearings were held. Resulting from a public consultation process undertaken in 2012 by the Attorney-General's Department, the amending act inserted new offences, sentencing options and a new power to seize graffiti implements into the Graffiti Control Act. Respondents to the 2012 public consultation included agencies of the government of South Australia, local government, non-government organisations, retailer associations and members of the public.

The Attorney-General noted in another place during the second reading of the Graffiti Control (Miscellaneous) Amendment Bill that submissions generally supported tougher legislation measures to minimise graffiti vandalism and to deter potential offenders. They also noted that respondents supported wider programs to reduce incidences of unlawful graffiti, including education and rapid removal. In summary, section 4 of the report notes the new offences introduced in 2013, including:

- marking graffiti in a cemetery, public memorial or place of worship or religious practice;
- failure by a retailer to securely store all graffiti implements, extending the obligation from spray cans only;
- the sale of a graffiti implement to a minor, extending the obligation from spray cans only; and

- supplying a spray can to a minor, not including the sale, which was intended to dissuade persons 18 years of age or above from purchasing spray cans on behalf of younger associates.

Section 4 also notes a number of further matters introduced by the amending act, such as increased maximum penalties for the offences of mark graffiti and carrying a graffiti implement.

In relation to a prescribed graffiti offence, where the offence is not a first offence, courts were empowered with a discretion to disqualify a graffiti offender from holding or obtaining a driver's licence for between one month and six months. Courts were also empowered to order a graffiti offender to participate in the removal of graffiti from any location, amending the provision so that a court was no longer restricted to ordering the removal of the graffiti marked by the offender, and to order a graffiti offender to pay a person who has removed or obliterated graffiti a reasonable sum for that removal or obliteration.

Police were empowered to seize graffiti implements in the possession of a person in a public place without charge on the basis of a reasonable suspicion that they would be used in contravention of the act.

Section 5 of the report considers matters of importance, as set out in the submissions received and evidence heard, including:

- the suggested causes of graffiti;
- finalised graffiti offences from 2011 to 2016 in South Australia;
- finalisation of new offences enacted in 2013;
- the power to seize graffiti implements without charge;
- issues arising as a result of disqualifying graffiti offenders from holding or obtaining a driver's licence under section 10A of the act;
- other sentencing options under the Road Traffic Act 1961 (SA), the Young Offenders Act 1993 (SA) and the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007 (SA);
- the penalties considered most likely to deter graffiti offending;
- other programs which may reduce graffiti offending;
- the compliance costs of the 2013 amendments;
- online sales of graffiti implements;
- the impacts of licence disqualification upon offenders located in regional areas; and
- the difficulties with assessing the operation and impact of the amending act.

As a result of the submissions and evidence received, the committee made four recommendations. Recommendation 1 noted that there was limited available information upon which the committee could justifiably base findings regarding the operation and impact of the amending act in reducing incidences of prescribed graffiti offending as defined by the act. As a result, it was recommended that the Attorney-General give consideration to conducting a further review after the passage of six years from the commencement of the amending act, that is, as soon as practicable on or after 3 August 2019.

Despite recommendation 1, the committee's second recommendation was that consideration be given to increasing the funding available to provide crime prevention and community safety grants for the purposes of reducing incidences of prescribed graffiti offending. The committee accepted evidence to the effect that whatever the status of the criminal law, it must operate in conjunction with broader strategies that seek to address the causes of graffiti offending.

Thirdly, the committee recommended that consideration be given to identifying ways to increase the number of sites available for the marking of graffiti with lawful authority. The committee

considered that this had the potential to reduce incidences of graffiti in the vicinity of the legal space, to improve the quality of works where the content is managed and to improve the safety of participants.

Finally, the committee recommended that consideration be given to providing educational material to learner drivers with respect to all offences that may result in the disqualification of a person's right to hold or obtain a driver's licence, or which may result in the imposition of restrictions regarding the use, or possession, of a motor vehicle. At present, that information is limited to driving offences, and the evidence suggested that a proportion of offenders may be unaware of the potential for such penalties to apply in relation to graffiti offending.

In conclusion, the committee would like to thank the committee secretary, Mr Matt Balfour, and the committee's research officer, Mr Ben Cranwell, who provided helpful support to the committee throughout the conduct of the inquiry. I would also like to thank the other members of the committee for their contributions to the inquiry: the Hon. John Darley; the Hon. Andrew McLachlan; the member for Little Para, Lee Odenwalder; the member for Fisher, Nat Cook; the member for Davenport, Sam Duluk; former presiding member of the committee, the Hon. Gerry Kandelaars; and former member of the committee, the member for Heysen, Isobel Redmond. I commend the report to the council.

Debate adjourned on motion of Hon. T.J. Stephens.

Motions

LE CORNU SITE

The Hon. M.C. PARNELL (16:08): I move:

That this council—

1. Notes with concern the fact that the land formerly occupied by Le Cornu in O'Connell Street, North Adelaide, has been vacant for over 25 years, despite numerous development authorisations being granted; and
2. Calls on the state government to intervene to ensure that the land can be used for public purposes until a final development approval is secured and building work commences.

We learnt this week that the owners of the old Le Cornu site in O'Connell Street, North Adelaide, have decided to abandon their development plans for a mixed-use retail, commercial, hotel and residential complex. The abandoned project is in fact the latest in a long line of developments that have been approved for the site over the last 28 years since the furniture store closed. The site has received local council approval, Development Assessment Commission approval, and even state government approval as a major project for various types of development, and yet it remains a vacant eyesore surrounded by ugly hoarding, and this situation looks set to continue.

The problem is that despite the owners of the site, currently the Makris Corporation, having been given approval to build on the site, for reasons known best to themselves they have decided not to go ahead. The Adelaide city council I think has been fairly clear and vocal over a period of decades that they want this site to be developed; they want something to happen there.

But the council has also said to the developer, the owner, 'If you're not going to use that land, could we have it and we'll turn it into a park temporarily until you are ready to go ahead with the development.' But, whenever those overtures have been made, the owners have declined. That, to my way of thinking, is what we refer to as a dog in a manger situation. They are not ready to proceed with their own development but they will be blowed if anyone else is going to have the use of that land.

In a system where the ownership of land is something that is fairly highly valued—we have all seen *The Castle*—we know that there are constitutional protections against arbitrarily taking land away from people, but we do in this state and in this nation have mechanisms for solving an impasse such as this, and that is what I want to explore in this motion.

In my view, if common sense prevailed, the Makris Corporation would say to the City of Adelaide, 'Look, we're not ready to go ahead with our development'—whether they don't have finance or there is some other cause, I don't know—'we're not ready to go ahead,' they could say, 'and we're

happy for you, the council, to take responsibility for the land, to take the fences down, to lay some turf, to be legally responsible for what happens there, and the council on its part would put in some playground equipment, put some street furniture, some picnic tables—

The Hon. D.W. Ridgway: What about council rates?

The Hon. M.C. PARNELL: The Hon. David Ridgway helpfully interjects—they could relieve the owner of paying council rates. There is all manner of arrangements that common sense would suggest might lead to a better outcome than a fenced, vacant eyesore on a prime city site for a quarter of a century. I think it really is quite remarkable.

If we go back a year to when this debate last hit the news, that is previous to this last week, we see in InDaily, under the heading, 'Lease Le Cornu site to the public, city council urges'—an article published on 11 August—councillor Anne Moran, who is never lost for a word on matters to do with city governance, is quoted as saying that it should be opened up for community use and that that would be good relations for the company. The article states:

> 'That would be a really good show of goodwill,' she said.
>
> 'We could have a lot of fun with that site, using it for community [purposes].
>
> 'We could do with a few swings and some seats—we could have a 12-month community garden…'

The article goes on to say:

> She said the council would be willing to pay insurance and associated costs if the Makris Group allowed it to temporarily lease the site, and would be able to vacate it quickly if construction began sooner than expected.
>
> She said she could not 'fathom' any reason the company would not allow public use of the site.

The article concludes by saying that the council, in fact, voted to ask the Makris Group for a temporary lease of the site. That was a year ago. The headlines this week, including again from InDaily, 'Back to the drawing for Le Cornu site as Makris withdraws $200 million project', and *The Advertiser*, '$200 million Le Cornu development abandoned by Makris Group', once again outline that the debate about whether as a community we are happy to see this site remain a vacant, blighted eyesore for another quarter of a century has emerged.

Ideally, Makris would negotiate with the council. If they will not negotiate or if they will not agree, there are really two options available to the community. One is that we can throw our hands in the air and say, 'Well, we tried; it's their land and, if they want to keep it in a vacant, undeveloped, ugly state, then that's their right.' That is one approach we could take. I do not like that approach; I think we can do better.

A second approach would be that we could act in the public interest and we could push the issue by taking control. By taking control I am not advocating for one minute that the state government would need to compulsorily acquire the freehold title to the land, that the council or the state government would pay the presumably tens of millions of dollars to acquire the freehold. What I want the government to explore are options for acquiring a leasehold interest in the land, on a temporary basis, so that the impasse can be broken and the land can be used for community purposes until the developer finally gets another approval, they get the finance, and they are actually ready to start work. In the meantime, the community should have the use of that land.

There is one mechanism that leapt immediately to mind, and that was the use of the Land Acquisition Act 1969. Members are familiar with that act. It is an act that has been used to acquire properties along various road corridors. In this place, we have debated the fairness or otherwise of the terms of acquisition for properties acquired during the Torrens to Torrens project on South Road. We have also debated in this place compulsory acquisition of land along South Road at Darlington for the roadworks there.

One thing I think the government should explore is whether that act can be used to acquire less than a freehold title, on a short-term basis, for the Le Cornu site. In my view, I think they probably can. Looking at the definition of land in the Land Acquisition Act 1969, it refers to an interest in land. That is broader than just freehold. I think that is certainly an avenue that the government could explore but, wait, there is more.

In times to come, people will stop their colleagues in the street and ask them where they were when Mark Parnell in the Legislative Council uncovered the secret, hidden act of parliament that no-one has ever heard of, and this is the moment. I refer honourable members to the Lands for Public Purposes Acquisition Act 1914.

I mean no disrespect to other members of the chambers who I asked if they had ever heard of this act. I will not name anyone, but I have not had anyone who has said they have ever heard of this act. I will come clean with you, Mr Acting President. Until I happened to stumble across it in the hard copy of the legislation, I was not aware of it either, but it is relevant to the matter in point.

The title pretty much explains what the act is for: it is the Lands for Public Purposes Acquisition Act. It establishes a mechanism for the Crown to be able to acquire interests in land where it is in the public interest to do so. Whilst the language of this 103-year-old act is somewhat dated, the mechanism seems to be pretty clear. If the Governor believes that there is some work or undertaking that the government of the state is empowered to carry out, but for which there is no other power, except this act, to acquire the land, then a mechanism can be put in place for that acquisition to occur.

I am very grateful to the parliamentary library, who have tracked down the *Hansard* from 1914, which I have now read not quite from cover to cover, but I have read the relevant bits. I originally thought it was probably a wartime measure, given that it was 1914. I do not know if it predates the declaration of war, but it was in August 1914, which I think is around the time that the First World War kicked off. Anyway, it was more to do with the government acquiring properties on Victoria Square that were needed for government offices.

Regardless of that original purpose, this act has stayed on the statute books for the last 103 years. The clincher I think for this chamber is that the act is committed to the Minister for Sustainability, Environment and Conservation, so minister Hunter is responsible for this act of parliament, which distinguishes it from the Land Acquisition Act 1969, which is committed to the Attorney-General. He is responsible for that act, but minister Hunter, in this chamber, is responsible for the Lands for Public Purposes Acquisition Act 1914.

I expect that his staff are listening closely to these proceedings because we do have other question times coming up in coming weeks, and the minister may or may not get a question from me on this topic. I am also grateful to the Parliament Research Library for their quite quick research. I posed the question: has this act ever been used? Whilst I did not give them all that long, their search of the indexes of the *Government Gazette* did not disclose that it has ever been used before. So, here we have a 103-year-old act still on the statute books, still committed to the environment minister and ready to be used, I believe, in cases such as this.

It is a very roundabout way of saying, Mr Acting President, that the government has the power to break the impasse in relation to the Le Cornu site. If the Makris corporation will not come to the party and talk turkey with the local council about leasing that land, taking the fences down, allowing some turf to be laid and some playground equipment to be installed—if they are not prepared to do that voluntarily—then I think we have the mechanism to do it compulsorily. It really is a second option. I would far prefer negotiations to proceed and for a mutual agreement to be reached.

That is the intent, Mr Acting President, of the motion. The operative provision is that the motion calls on the state government to intervene to ensure that the land can be used for public purposes until a final development approval is secured and building work commences. So I will just say again: I am not calling for a permanent compulsory acquisition of the freehold title. I do not think that is necessary, but I would like the government to vigorously pursue whether the community could get some benefit from this land which will otherwise, perhaps for another quarter of a century, sit idle, unused, ugly and barren on one of the most prime pieces of real estate in the city of Adelaide. So I commend the motion to the council.

Debate adjourned on motion of Hon. J.E. Hanson.

Bills

PARLIAMENTARY COMMITTEES (PUBLIC ASSETS COMMITTEE) AMENDMENT BILL

Introduction and First Reading

The Hon. R.L. BROKENSHIRE (16:21): Obtained leave and introduced a bill for an act to amend the Parliamentary Committees Act 1991; to provide for the establishment of the Public Assets Committee; and to make a related amendment to the Parliamentary Remuneration Act 1990. Read a first time.

Second Reading

The Hon. R.L. BROKENSHIRE (16:22): I move:

That this bill be now read a second time.

Sir, this bill will establish the Public Assets Committee. The committee will consist of six members: three from the other place and three from this council. Ministers will not be eligible for appointment to the committee. Public asset is defined as any asset held by or on behalf of the Crown or a state instrumentality. Assets will include a present, contingent or future legal or equitable estate or interest in real or personal property.

The functions of the committee will be to inquire into, consider and report on any proposed sale of public asset referred to it. The committee will consider the stated purpose of the proposed sale and the necessity or advisability of the proposed sale and the present and prospective value of the asset and any other advantages or disadvantages related to the proposed sale. It is proposed that public assets valued at more than $50 million must not be sold unless:

- the committee has inquired into the proposed sale,
- the final report of the committee has been presented to both houses, and
- the proposed sale has been approved by resolution of both houses.

Examples of sale of public assets include ForestrySA. South Australian taxpayers are now $100 million a year worse off as a result of the sale of ForestrySA. The government sold off ForestrySA in 2012 for $670 million. Documents lodged with the financial regulator show that the new owner has managed to generate annual profits as high as $125.5 million in one year. It looks like they will get a full return on their investment in just a few years and then look forward to something like 95 years of recurrent handsome returns—money which will go to the private sector which could have been coming into Treasury to assist the taxpayers of South Australia. The new owners are in fact generating four times the profits than under government management. This is clearly an example of the Labor government choosing quick cash over long-term gains.

Another example is the Motor Accident Commission. The sale of the Motor Accident Commission was announced in 2014. It is estimated that the Motor Accident Commission has assets worth more than $2 billion, and the board of MAC did urge the government to dump plans to privatise the compulsory third-party market and offered the huge one-off windfall in addition to an annual budget payment of up to $150 million in recurring dividends—in other words, ongoing, year in, year out—but we saw that this government rejected that.

The Lotteries Commission was sold to Tatts for $427 million in 2012, and they have exclusive rights to sell South Australia lotteries products for the next 40 years. We now see in the budget papers that the government is intending to sell something that in my wildest dreams I would never have thought would be sold by any government. It would never have come across the radar because it was untouchable. It belongs to the South Australian community. That is the Lands Titles Office. You would have to ask how they are going to secure all the intellectual property—very complicated and very confidential property.

They will probably sell it off to a Chinese-backed, government-backed company. They are estimating the sale price at $400 million. Industry organisations are concerned that the sale will lead to exploitation of valuable private information. We have the Public Service Association, the Law Society, the institute of surveyors, the Institute of Conveyancers and the Real Estate Institute all

arguing against the privatisation, describing the Lands Titles Office as one of the most efficient government agencies.

I raise these points in my second reading speech because, although this government may have had some changes in cabinet and a change of Premier, this is a Labor government that has been continually in office for 15 years. By March next year, it will have been in office for 16 years. When they go to the next election, I know that 16 years prior to that, this same government made a pledge about taxes and about privatisation. We will not talk about taxes today because that will occur at another time when we debate the budget bill, but we will for a moment talk about privatisation.

This government promised and made a pledge to the South Australian community that there would be no more privatisation, yet I have highlighted here four examples of privatisation. If you add up those figures from the four examples I have highlighted, there is something over $3 billion worth of assets that the government has sold. Iconic assets that could give regular returns on their asset value to the South Australian community have all been sold. What makes it even worse is the broken promise and the fact that there has been no democratic process, unlike with ETSA.

This government won two elections hitting the opposition on privatising ETSA rather than actually being focused on fixing the problems that were looming with electricity, which they were told about. This government promised no more privatisation but in the case of ETSA, the sale did have to go through the democratic process—a very tough one and very drawn out process through both houses. There was due diligence and democratic process under the Westminster system for ETSA, but they found loopholes to avoid any scrutiny from the parliament on the privatisation of the assets I have just highlighted.

Unlike the sale of ETSA, where the money went into reducing core debt, a significant debt after the previous Labor government had overseen the debacle of the State Bank, none of these assets are going off core debt. They are going into a recurrent budget and, if these assets were not in that recurrent budget, instead of having $70 million or $80 million surplus this year we would have had hundreds of millions of dollars of deficit. So it is being squandered, and it has not had the scrutiny and democratic microscope over it that it should have.

When I go right across the state and talk to the communities—as I am sure my colleagues do, too—they express real concern about privatisation. They particularly express concern that this government has broken a promise and privatised their assets without even letting the parliament have any input. There are not a lot of assets over $50 million left in the ownership of the state government.

The reason why, after deliberation and consultation, we chose $50 million is that over on Yorke Peninsula, as a case in point at the moment, there is a chance of a good, strong economic development at Wallaroo and all it needs is a small, unused government reserve to be freed up and sold off for a fairly insignificant amount of money for a major development. We are not going to restrict the government and the minister from having the authority to sell those off, but when you start talking about assets of $50 million and above that should be scrutinised properly by the parliament.

So, I appeal to my colleagues to have a close look at this bill and the intent of this bill. I look forward to some good debate on it, and give notice that when we come back after the winter recess I will be advising colleagues of the date on which I will be putting this up for a vote. Without taking anything for granted, if passed here I want to see this bill put into the lower house so that it can be voted on before we get up at the end of this year before the next state election. I commend the bill to the council.

Debate adjourned on motion of Hon. J.E. Hanson.

LOCAL NUISANCE AND LITTER CONTROL (ILLEGAL DUMPING ON CONSTRUCTION SITES) AMENDMENT BILL

Introduction and First Reading

The Hon. R.L. BROKENSHIRE (16:32): Obtained leave and introduced a bill for an act to amend the Local Nuisance and Litter Control Act 2016. Read a first time.

Second Reading

The Hon. R.L. BROKENSHIRE (16:34): I move:

That this bill be now read a second time.

The reason the Australian Conservatives are bringing the Local Nuisance and Litter Control (Illegal Dumping on Construction Sites) Amendment Bill before this council is that in recent years there has, unfortunately, been an ever increasing illegal dumping situation on building sites. This is actually costing builders and, therefore, as it is always passed on, obviously costing those who are building homes and commercial properties a considerable amount of money.

Illegal dumping is a very serious offence. Under the current act, individuals can be penalised up to $500,000 or, indeed, imprisoned for four years. Body corporate penalties can be as high as $2 million. Illegal dumping not only impacts the environment, but what most fail to realise is that, more often than not, builders and landowners are left to bear the cost.

Despite not being under the Criminal Law Consolidation Act 1935, illegal dumping is a criminal offence. According to section 44 of the act, offences constituted by the act lie within the criminal jurisdiction of the Environment, Resources and Development Court. Despite these deterrents, illegal dumping still remains a major issue for the building industry.

This bill creates a new offence for disposing litter on a construction site, attracting a higher expiation fee, with on-the-spot fines ranging from $420 to $2,000. According to council, small operators are the most likely source of illegally dumped construction and demolition waste, with householders contributing to a lesser extent.

Urban councils nominated the unwillingness of offenders to pay as the main reason for it; that is, the cost avoidance of otherwise taking hard rubbish to a waste disposal site. We know how much the cost of doing so has increased. The councils are now saying that this is the main reason for illegal dumping of construction and demolition waste. Most rural councils nominated unwillingness to pay as the main reason, but considered an uncaring attitude and convenience (that is, access to a convenient dumping location) as other important explanations.

Therefore, it is proposed under this bill that where a building work contractor is found guilty of illegal dumping, they face further disciplinary sanctions from the Commissioner for Consumer Affairs. Under the Building Work Contractors Act 1995, the commissioner may (1) suspend or cancel the person's licence or registration, or (2) impose conditions on the licence or registration.

I advise colleagues in this council that the Australian Conservatives undertook a very wide consultation for this bill, including consulting with the Housing Industry Association and Consumer and Business Services. Consumer and Business Services, in correspondence sent to our office, recognise that illegal dumping and theft on construction sites is problematic for the building industry and the need for a mechanism to inform the commissioner about offences of illegal disposal of material in order for disciplinary action to be pursued.

According to the Housing Industry Association, builders consider illegal dumping as theft of the space within the waste bin. Where there is a nine cubic metre bin placed on site for construction waste, the cost of disposal can be approximately $450 for one bin. One builder recently reported an empty bin delivered to site on Friday was full by Monday morning with ordinary household material. Of course, the builder had to empty that bin at his cost of $450.

According to the Housing Industry Association, a custom-built domestic house in South Australia could now end up having five bins on site during construction and, depending on the number of houses built per year, the cost accumulates. One builder reported their cost at $600,000 a year. Another reported their cost at $400,000, and another reported their cost at $200,000. Large-volume builders complete about 1,000 homes per year, so the cost of dealing with illegal dumping can be quite considerable. Based on estimations, there are around 10,000 houses built in South Australia every year, so we are talking about millions of dollars.

Theft and dumping are widespread and a major issue. Building companies are now paying $30,000 excess on their insurance premiums, which is an expense that would have to be passed on to the consumer. It has come to the point that SAPOL's crime prevention coordination unit and the

industry are working together to address the issue, and I commend South Australia Police for the work they are doing with the building industry. They had a workshop on 27 October 2015 and have now decided to organise a building site network group made up of industry and SAPOL members. The first of which was held on 23 February at police headquarters.

Dumping on building sites is a major problem that is now probably worse than thefts from sites, although thefts from building sites is another problem. People dump carpets, televisions, car engines—you name it. They come on the site with four-wheel drives and trailers and dump it in the skips. Even temporary fences do not seem to stop people from doing so. Some builders have resorted to staking out sites at night. According to reports from the Housing Industry Association, on one site a supervisor actually confronted the intruders and unfortunately was bashed.

There are legitimate concerns that not enough is being done about illegal dumping and that current legislation falls short of addressing the issue. Supporting this bill sends a message to the community that illegal dumping will not be tolerated. I look forward to contributions from colleagues during the course of the debate before a vote on this in the last session of this particular parliament.

Debate adjourned on motion of Hon. J.E. Hanson.

RETAIL AND COMMERCIAL LEASES (RENT THRESHOLD FOR APPLICATION OF ACT) AMENDMENT BILL

Introduction and First Reading

The Hon. J.A. DARLEY (16:41): Obtained leave and introduced a bill for an act to amend the Retail and Commercial Leases Act 1995. Read a first time.

Second Reading

The Hon. J.A. DARLEY (16:42): I move:

That this bill be now read a second time.

This bill seeks to clarify the parliament's intentions with regard to the Retail and Commercial Leases Regulations. In 2011, changes were made to the Retail and Commercial Leases Regulations. One of the changes made was to increase the threshold at which the Retail and Commercial Leases Act will not apply. Under section 4 of the regulations, if the annual rent of a retail shop lease is more than $400,000 the provisions of the act do not apply. Prior to 2011, this amount was $250,000.

Section 30 of the Retail and Commercial Leases Act outlines that lessees who have an annual rent that is higher than the threshold can have land tax recovered from them by the owner. That is to say that lessees would be liable to pay for the land tax if this was outlined by the lease. The threshold increase has resulted in a situation whereby owners who had previously passed on land tax to their tenants prior to the change were now held liable for the land tax. Through no fault of their own, as a result of a change of the regulations, owners were suddenly faced with having to pay land tax bills to the tune of tens of thousands of dollars.

In May this year, in the case of Diakou Nominees Pty Ltd v Gouger Street Pty Ltd, the Hon. Justice Stanley confirmed that, in the above circumstances, the owner is liable for the land tax. Prior to 2011, the rent for Gouger Street Pty Ltd was $250,500, which was $500 over the threshold at that time. As lessee, Gouger Street Pty Ltd knew it was liable for land tax as part of the outgoings.

The existing lease commenced on 1 September 2006 for a period of five years, with six options to renew for a further five years per option. The lease was renewed on 1 September 2011, but the court held that a renewal of a lease is considered to be an entry into a new lease and not an extension of a pre-existing lease.

As the threshold had increased on 4 April 2011 to $400,000, Gouger Street Pty Ltd argued that, as their rent was now under the threshold, they were now protected by section 30 of the act, which outlined that land tax is not to be recovered from the lessee. This saved them thousands in land tax, but put the burden of the account onto the owners.

The court found in favour of the lessees, but I do not believe that this was the intention of the government or this parliament. When a lease is entered into, both parties are aware of the terms and

obligations as outlined in the lease agreement. A change in the regulations has resulted in the terms of the lease agreement being changed significantly for both parties and this is not fair.

This bill would clarify that if a lease was entered into or renewed before 4 April 2011, which is when the threshold increased, and that the rent at that time was more than $250,000, then the act will not apply. The bill will have no financial implications to the government as the land tax will be paid no matter what the outcome. It will only affect the existing leases and protect the existing rights and obligations of owners and lessees.

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

INDEPENDENT COMMISSIONER AGAINST CORRUPTION (SERIOUS OR SYSTEMIC MISCONDUCT OR MALADMINISTRATION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 21 June 2017.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:47): I rise to speak to the Independent Commissioner Against Corruption (Serious or Systemic Misconduct or Maladministration) Amendment Bill. I indicate also that my colleague the Hon. Andrew McLachlan will also be making some comments on behalf of the opposition, so there will be two speakers from the opposition. This bill mirrors a previous bill introduced in the other place by my colleague, the member for Bragg. The bill was defeated by the Labor government and a number of so-called Independents earlier this year, but I will touch on that more shortly.

The bill seeks to amend the ICAC Act 2012 to provide the ICAC with the powers of a commission as defined in the Royal Commissions Act 1917. One of the effects of this bill is that it will ultimately allow the commissioner to hold public hearings for matters relating to the investigation of serious or systemic misconduct or maladministration. It would provide greater transparency throughout the ICAC process, while maintaining the ICAC's integrity, and that is a prospect that terrifies the incompetent, secretive and dishonest Labor government sitting opposite.

The Weatherill government is lurching from one crisis to another, from South Australia's record unemployment rate, this government's failed Transforming Health policy, child protection, Oakden, electricity crisis, overflowing prisons, and the list goes on. The South Australian Labor Party is fighting for its political survival, and those opposite know that, if their scandals keep being exposed at the same rate they are currently are, they will suffer political annihilation at the next election. But that is what this bill is about for the Labor Party—political survival. South Australians are fed up with the constant deceit, lies, spin and rhetoric that this government churns out on a daily basis, and rightly so.

Let's look at the genesis of this bill before the chamber. The recommendation that the Independent Commission Against Corruption (ICAC) be permitted to hold open hearings if it was in the public interest when investigating matters of potential maladministration came from the commissioner himself following his investigation of the scandalous Gillman land deal. The Gillman land deal was a failure of monumental proportions. This is a deal that the Supreme Court ruled unlawful and irrational that cost taxpayers of South Australia $2.2 million just to cover the legal costs of Adelaide Capital Partners and IWS (Integrated Waste Services) and then cost another $20 million because Labor botched the compulsory acquisition of the Gillman land from the Adelaide City Council.

This is a deal that saw more than half the Renewal SA board resign in protest, and if that was not bad enough, the light was also shone on the state's treasurers. ICAC heard evidence that Treasurer Koutsantonis swore at public servants and that he used the c-word. The Treasurer sought to intimidate and bully these public servants. This kind of behaviour is rife within the Labor Party. Who could forget minister Hunter's dummy spit at Rigoni's? He used inexcusable language towards a female in that instance—or any human being—and then went out to celebrate with an ice-cream. Is this man fit to be a minister? You have got to be kidding.

Let's look at Oakden. We could have public hearings by the end of this month if Labor wanted to grant commissioner Lander's wish and vote to support these public hearings. Yet another incompetent, failed Labor minister has overseen the most profound abuse of South Australia's most vulnerable since the child protection crisis came to light a couple of years ago. To call minister Vlahos incompetent would insult the other incompetent people out there.

This minister received the Oakden report, as we all know, on Monday 10 April. She did not read the Oakden report until the following weekend and no public statement was made for 10 days until 20 April. Instead of reading and acting, the minister was taking selfies in the Qantas Club lounge and drinking gin and tonics. When the minister finally read the report, she did not raise it with the Premier. He, too, was busy on holidays. Did she raise it with the mental health commissioner? No. Luckily, she caught him at Bunnings at Mile End. The extent of the conversation was—and I quote from the minister in question time earlier this year:

> …he said, 'Seen the report?' I said yes, and that is the limit of my involvement.

Again, you have got to be kidding. It troubles me that the Labor Party has awarded this most incompetent and underperforming minister the number one spot on next election's Legislative Council ticket. This speaks volumes about the shallow pool from which the Labor party is now plucking their future members of parliament. This government is petrified of having the spotlight shone on it. The families of the victims of Oakden, and all South Australians, have the right to know what happened at Oakden and how their elected representatives were involved or responsible.

The argument is simple: if this government has nothing to hide, then why oppose the bill? The culture of cover-up will continue as long as the Weatherill government is in office, because this government cannot afford to have the light shone on some of its dealings. In the wake of the Oakden scandal, commissioner Lander said:

> Since publishing the Gillman report, I have consistently said there are very good reasons to provide me with the discretion to conduct maladministration investigations in public. My views have not changed. However, this is ultimately a matter for Parliament, which I note still does not have an appetite for it.

Well, I think this parliament does have an appetite for it. The anti-corruption commissioner wants open hearings, the families of Oakden victims want public hearings, the state Liberals want open hearings, and the people of South Australia want public hearings. The only people who do not want public hearings are this secret and cowardly Labor government and a couple of weak Independents who have been bought off with ministerial offices.

Looking at those ministerial Independents, the member for Waite and the member for Frome, if you could measure their independence, you could put it in an egg cup and still have room for the egg. The fact that all MPs support public hearings for maladministration except those in bed with the government speaks volumes. The member for Waite should in particular hang his head in shame. As opposition leader, the member for Waite advocated for an ICAC, advocated for public hearings, and now he has become the Labor government's puppet. The member for Waite may call himself an Independent Liberal, but at the end of the day he is a minister in the Labor government and takes his marching orders from Premier Weatherill and the faceless men who control the Labor Party.

The member for Waite's lack of independence is only superseded by his ego and his ambition. He would never do anything that would potentially jeopardise his ministerial office. The member for Waite fought admirably to establish South Australia's ICAC, but has quickly changed his tune after he got a bit of a pay rise, a chauffeured car and an office overlooking Victoria Square.

The Hon. J.S.L. Dawkins: And the title 'honourable'.

The Hon. D.W. RIDGWAY: My colleague interjects—and I know they are out of order—'and the title "honourable"'. The member for Waite, as we all know, was a political traitor, and what else would we expect from him. The people from Waite will not stomach him any longer. As we saw in *The Advertiser* a year or so ago, he was down at 5 per cent popularity. At the next state election, I have no doubt that the people of Waite will see through this selfish, duplicitous man, and I would be surprised if he managed much of a vote at all.

As for the member for Frome, I was perhaps a little harsh on minister Vlahos when I called her the most incompetent Labor minister. The member for Frome is nothing short of weak. The

Premier barely lets him answer a question at question time. He has achieved absolutely nothing as minister and, like the member for Waite, he is just another Premier Weatherill puppet.

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: The members for Waite and Frome will have one more chance to redeem themselves, as the Leader of the Government interjects, on this matter at least before the next election. I expect this bill will pass this place and will end up in the other place in due course, and they will have one more chance to show their independence and stand up for their local community and stand up for the victims of Oakden and support this bill. If not, everyone at the next election will know they are both nothing more than Labor puppets, and I have every faith they will vote according to this Labor puppetry. With those few words, I commend the 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) (16:55): The government opposes this bill. The government remains unconvinced that this would provide an improvement in the operations of the ICAC Act. There is no evidence that maladministration investigations would be improved by the ability to hold public hearings. There is a fear that the publicity may deter whistleblowers from coming forward at all.

A public hearing, by its very nature, attracts publicity. Witnesses names will be made public, and the mere attendance at an ICAC hearing raises suspicion of a connection with corruption, whether or not it is actually the case. The nuance that an investigation is concerned with maladministration and not criminal conduct may well be lost.

There will always be a risk of guilt by association with an ICAC hearing. There is no controlling what or how much of the evidence is reported, and how widely and quickly it is reported once it is made public. If some parts of the hearing are held in camera that may simply raise public suspicion and cause damage to a person's reputation.

It is possible that an investigation into maladministration will uncover other matters leading to potential issues of corruption. The crossover may not be immediately apparent, but it will be public. How that information can then be dealt with appropriately under the legislation is very problematic. Investigations into corruption are carried out privately, and early disclosure of information may have a detrimental effect on further investigation, prosecution or court proceedings. This scheme was designed to minimise that risk. There is a world of difference between the public interest and of interest to the public where serious matters are being investigated.

I refer to the New South Wales parliamentarian the Hon. Dr Peter Phelps MLC's recent submission to the commonwealth Select Committee on a National Integrity Commission. His comments are made in reference to the New South Wales ICAC, and I quote:

> Nobody wishes to be seen to be opposing anticorruption measures, which is how it is usually falsely portrayed, but we all know about the structural failings of the existing regime.
>
> The existing system is actively aided and abetted by many areas of the media, notably the Fairfax press and the ABC. The reason for this is not hard to fathom, and does not rely upon the vainglorious notions of 'noble role of the Fourth Estate'—rather, ICAC simply provides great copy.
>
> There is no need for investigative journalism; you can just transcribe the lurid sections of the day's proceedings. You slaver over the details and faithfully recite the promises from Counsel Assisting on expectant horrors to come. Whether these horrors ever eventuate is irrelevant; whether the person's wrongdoing is ever evidenced in later hearings is also irrelevant. All that matters is that you, as a journalist, have your story for the day, and 'bugger the reputation' of those who might be falsely implicated.

That is the end of the quote from the New South Wales MLC. The government has agreed to a number of amendments since the ICAC Act came into force. It is important to provide ICAC with sufficient powers to undertake rigorous investigations into matters raising issues of potential corruption.

There has been good cooperation between the ICAC and the government to improve operational aspects of the legislation. The government is satisfied that the act contains a well-balanced scheme, and that there is no evidence to support further amendments at this time. The

issue is whether this amendment is necessary and is an improvement to the act. It is not: quite the contrary. These measures do not serve the interests of justice or protect the innocent.

I note that there are members on the other side in this chamber who have expressed exactly these views to the government previously, and they are exceptionally concerned about what would be the outcomes if public hearings like this were held, both to individuals' reputations and to the scheme that operates as ICAC. I look forward to some of the private views that have been very strongly expressed coming out from Liberal Party members in this debate today.

As things presently stand with ICAC, a final report will still be prepared and made public but only after the evidence has been weighed in its entirety. This satisfies any legitimate public interest and affords the opportunity to protect the innocent from collateral damage. I urge members to oppose this bill.

The Hon. M.C. PARNELL (17:00): I wish to speak briefly to put on the record some observations and a position around this bill, which is going to be, as I understand it, put to a vote today. I will at the outset say that I have spoken at some length to the Premier and the Deputy Premier about their concerns over this legislation.

The minister, in his contribution just now, has pretty much outlined the concerns that the Premier and the Deputy Premier raised with me: issues in relation to the potential unfair smearing of diligent, hardworking officials in a media circus where the damage, regardless of the outcome, might not be undone. Let me say at the outset, I absolutely get the concerns of the government. These are serious issues, and we need to be mindful of how we amend this legislation if we are going to depart from the current provision, which is that these maladministration hearings are heard in private.

But on the other hand, there is a huge amount of public concern about some of the recent situations that go to the ability of the government to conduct its affairs appropriately and properly. The Oakden situation I think is perhaps one of the water-cooler moments in this state. People are asking: how is it that a state-owned facility could have been managed so badly? How could so many people have been abused for so long? With such a large number of public servants, public doctors and public nurses—all manner of publicly employed people—who had interactions with that facility, who went onto the site and saw what was going on, how is it that nothing happened?

Clearly, something has gone wrong. I think that Oakden is a line in the sand in a way because it is something that everyone can relate to. You can imagine your grandparent there, or your parent, some other relative or a friend there. You can think with horror about what they might be putting up with when visitors have gone and only the residents and the people administering the facility are there. I think that has focused people's minds on how inquiries are undertaken when things go wrong in government enterprises.

Independent Commissioner Against Corruption Bruce Lander himself has asked for the ability to decide whether these hearings should be held in public or in private. I understand that he may have changed his mind over the period since the act was first introduced. I have not spoken to him about it, but it has been put to me that he was quite happy with the secrecy provisions, for want of a better word—the hearings in private. He was quite happy with those when he started his tenure, but he has now asked for this additional power, and I think we have to take that request very seriously.

The government scenario, as the minister outlined, is one of potential reputational damage, guilt by association and media frenzy. It is easy to look at that situation and see the victim as a very junior public servant who is not paid very much and is somehow being tainted, but the other side of the coin is we are talking about ministers of the Crown. We are talking about the CEOs of departments with responsibilities for hundreds and, in some cases, thousands of staff. I think there is a public interest in ensuring that their administration is properly scrutinised, and that lends weight to the call for public hearings.

Given that we are being asked to vote on this today, the Greens are going to trust that the commissioner will exercise the powers to be given to him by this bill appropriately and that measures will be put in place to ensure that hearings are conducted properly and fairly. Whilst the original model was one that the Greens did support, Oakden has been a bit of a wake-up call, I think for all of us, and given that the commissioner has asked for this power, I think we should trust that the commissioner knows what he is doing. He knows what is required for the public to be confident in

the administration of the government of South Australia and its various enterprises, so the Greens will be supporting the legislation.

The Hon. J.A. DARLEY (17:05): The bill to amend the Independent Commissioner Against Corruption Act will give the commissioner the discretionary powers of a royal commission when investigating matters of maladministration. In effect, this will allow the commissioner to hold public hearings for these matters. I have been lobbied by the government on this bill and I understand that they have a number of concerns with this suggestion. They are concerned that members of the public will not be able to distinguish the difference between investigations of maladministration and corruption. The assumption is that, because the Independent Commissioner Against Corruption is investigating a matter, it must be a corruption matter, as indicated by their title.

The government is also concerned that anyone called as a witness to an investigation will automatically be regarded by the public as being guilty of corruption, notwithstanding the fact that they have only been asked to provide information about a maladministration matter. The government was concerned that public hearings would only benefit the media, and the public would be presented with a distorted view of the investigation in an attempt to gain copy and ratings. Finally, the government was concerned that the account of one witness would be painted out to be the truth if publicised through the media, notwithstanding any evidence to the contrary that may emerge further in the investigation.

I cannot say that I am swayed by any of these arguments. By this logic, the government would have court proceedings and parliamentary inquiries held confidentially. These matters are held in public for transparency and to give the community confidence that investigations and inquiries are conducted in a manner that is fair and balanced. This bill will be one step removed from these practices. Not all examinations will be held in public—only those where the commissioner believes that there is public interest and where it is appropriate.

I believe that parliament should be guided by the commissioner on this matter. Late last year during the debate on the ICAC bill, I flagged that I had discussed with parliamentary counsel amending the act to allow the commissioner discretionary powers to hold public hearings. This was in response to the commission's recommendations in his report on Gillman. Unfortunately, the advice I received from parliamentary counsel was that I could not amend that bill to include those provisions, so it should come as no surprise that I will be supporting the Hon. Mr Hood's bill today.

The commissioner will have the discretion to decide if and when matters should be held in public, based on whether it is in the public interest to do so. The commissioner's discretion can also be exercised to hold parts of the investigation in public and parts in private. Matters of maladministration only relate to the conduct of public officers and authorities. These are funded by the taxpayer, and as such, they should have a right to hear about these matters. They should not be kept in the dark until the investigation is finalised. If there is a matter that is of public interest, then taxpayers should know the details if the commissioner deems it to be appropriate.

The commissioner's powers under the current act are already very broad, and much relies on the commissioner's discretion. The government had enough confidence in the commissioner to recommend their appointment and they should have enough confidence in the individual to make the right decisions and not abuse powers given to them under the act.

The Hon. A.L. McLACHLAN (17:10): I rise to speak to the Independent Commissioner against Corruption (Serious or Systemic Misconduct or Maladministration) Amendment Bill. As a member of the Liberal Party as well as a member of the Crime and Public Integrity Policy Committee it is appropriate that I add my voice in support of the bill brought to this place by the Hon. D.G. Hood. It is the Liberal Party's position to support the passage of this bill through the chamber. The clauses of the bill are identical to the bill that was previously tabled in the other place by the Liberal Party.

The Liberal Party has a longstanding policy position that there should be the ability for the commissioner to have public hearings. In the aftermath of the discovery of the tragic events that occurred at Oakden, as pointed out by my friend the Hon. Mr Parnell, the Liberal Party has itself also reaffirmed its position that public hearings for maladministration remain an appropriate policy position.

The effect of this bill has been requested by the commissioner. Unlike in corruption investigations, where the commissioner is conducting inquiries into maladministration he is required to make findings in respect of a public officer or the practices, policies or procedures of a public authority. In certain circumstances there may also be significant public interest in the subject of the inquiry. It therefore becomes important to ensure that public confidence in the process of the inquiry is not undermined by the veil of secrecy. Publicity helps guard against impropriety or the accusation of impropriety. The public are able to see for themselves the absence of bias in the decision-maker and that those who appear before the commissioner are treated fairly. It also helps ensure proper processes are adopted. Publicity is a mechanism by which the commissioner can maintain public confidence in the institution he leads.

I have learned, from my time serving on the Crime and Public Integrity Policy Committee, that it is difficult to hold the performance of the commissioner and his staff to account. Ultimately we must trust him to act appropriately. There is an independent review of the body, but this is only procedural in its nature and does not review his decisions or judgement. Therefore, one of the mechanisms for ensuring performance is the public conduct of an inquiry.

I acknowledge this solution also has its imperfections. Open hearings can cause pain and suffering for the individual who may ultimately be found to be blameless, despite the brazen and cruel headlines that remain in the mind of the public. Individuals will pay a great cost through the loss of their privacy. We have seen this occur in New South Wales and the controversial conduct of a similar organisation in that state. This risk is even greater in our modern world dominated by social media that is a collection of sensational headlines and little substantive analysis.

It is a very difficult balance, and it is a very significant dilemma. It has always been so, but over time experience has taught us that openness underpins public confidence. Without public confidence the integrity of the commissioner will be rendered impotent, no longer having a moral force to carry out his tasks. It is for this reason that the Liberal Party put forward this bill in the other place and supports the identical bill that lies before us.

When we last debated amendments to this act my colleague the Hon. R. Lucas stated that the model for our ICAC should evolve, and that its operation should be the subject of ongoing reflection by all members of this parliament as well as their respective parties. I agree with my colleague. We need to regularly reaffirm the nature of our ICAC and its operations and whether it meets the needs and expectations of our community. We must also keep an eye on the events and practices in other states and territories. This will inform us about how we proceed in this state. If we find the public are not receiving a tangible benefit from the organisation or that individuals are being unfairly impacted then, as has occurred in New South Wales, we will need to revisit the model.

We must remember that the ICAC was created to focus on corruption. I give my assurance to honourable members that I will continue to diligently examine these issues as a member of the Crime and Public Integrity Policy Committee. I indicate my support for the second reading.

The Hon. K.L. VINCENT (17:14): The Dignity Party also supports the bill. Given that at the very heart of the issues at Oakden that have been recently uncovered is a culture of secrecy and cover-up and people not necessarily coming forward when the wrong thing was done, I think we need to follow every possible avenue to shine a light on these issues. I have some sympathy for the government's concerns; however, given that the bill does allow, as other speakers have already said, for the commissioner to exercise discretion about which hearings will be public and which will not, I think that should go some way to allay these concerns. So, we will support the bill.

The Hon. D.G.E. HOOD (17:15): Just briefly in summing-up, I would like to thank all of the speakers: the Hons Ridgway, Maher, Parnell, Darley, Vincent and McLachlan. I also acknowledge that this is not my bill as such. It was initially introduced by the member for Bragg in the other place, and it is of course substantially her work, and I acknowledge that.

It is a very simple bill, and I think members have explained it quite well in their contributions this evening. It simply allows for the ICAC to hold public hearings and investigations for matters of maladministration and misconduct but, importantly, not for matters of corruption. I, for one, will not be supporting public hearings for matters of corruption because I see them as very distinctly different

in significant ways. I will not go through all of those reasons; I outlined them in my second reading contribution a few weeks ago.

The fundamental difference is that corruption matters can typically be criminal matters, and they are matters where the ICAC commissioner himself does not make findings; that is, he simply decides whether to refer a matter to the DPP for their consideration as to whether or not to pursue it through the courts. That is the significant difference, and that is why I see a clear distinction between matters of maladministration and misconduct, and corruption. Just to reiterate: I certainly would not be supporting any bill that had matters of corruption being held in the public arena.

For the benefit of other members, I have met with the ICAC commissioner and his senior staff, and he has supported the model that has been presented to the chamber today. He was quite explicit in his endorsement of the model. It very much was his wish that this bill passes. He said to me it will provide an opportunity for these matters to be done in a transparent way, which will enable a high degree of public confidence as these matters transpire, and I certainly agree with him.

As a final few comments, if I may, this is an unusual thing for me to do. I am not someone who normally involves himself in what you might see as overtly political matters. It is not my nature. It is not something that I have done. I think members would agree. Those who have observed me over the nearly 12 years in this place would know that it is not something I would normally be involved in. I am not doing it for political purposes; I am doing it because I genuinely believe it is right.

What stimulated my strong interest in this matter was through a personal relationship: a lifelong friend of mine who had an uncle in the Oakden facility. I was able to hear from her firsthand accounts of what her uncle had been through, which were truly horrific. It is genuinely shocking that in our society people would experience this sort of mistreatment under these circumstances.

For that reason, I think we need to have a proper investigation, not just of this Oakden matter but of any other relevant matters as they transpire in the future. One important thing about the bill before us tonight is that, as I think the Hon. Mark Parnell said quite well, ultimately all it does is give the commissioner discretion to hold these matters in public. He or she—if it should be a she in the future—may decide not to, and if that is the case we would certainly support that as well. With those few words, I look forward to the committee stage.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. D.G.E. HOOD (17:20): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Parliamentary Committees

SELECT COMMITTEE ON STATUTES AMENDMENT (DECRIMINALISATION OF SEX WORK) BILL

Adjourned debate on motion of Hon. J.M.A. Lensink:

That the report of the select committee be noted.

(Continued from 21 June 2017.)

The Hon. J.M. GAZZOLA (17:21): I rise to support the report of the Select Committee on the Statutes Amendment (Decriminalisation of Sex Work) Bill. I believe it is fair to say that most organisations and individuals recognise that a sex industry exists, which in itself presents many challenges. In the dissenting statement, my fellow committee members, the Hon. Andrew McLachlan and the Hon. Robert Brokenshire, state:

Considering the evidence and submissions, it is clear that existing legislation for sex work is outdated.

I admit that this is where my agreement with the two aforementioned honourable members ends. Our only daily newspaper, *The Advertiser*, for as long as I can remember, advertises adult entertainment, adult phone services and adult relaxation. In an article in the New Daily on 16 June, your super editor, Mr Rod Myer, writes about the surprising deductions you can claim on your tax return, and I quote:

> Those in the performing arts can claim what sound like unusual deductions, such as the cost of musical instruments, costumes and props against their tax.

Mark Chapman, Director of Tax Communications at H&R Block, was quoted in Myer's article as saying:

> Similarly, things like dance and acting classes can be claimable if you're a professional dancer or actor.

Mr Chapman is also reported to have said:

> Using that logic you can also claim sex toys and props if you work as a sex worker, stripper or pole dancer.

So, to state the obvious, most know that a sex industry exists. I commend all parliamentary colleagues past and present who have introduced private members bills and served on the various parliamentary standing and select committees dealing with the stigmatisation, health, safety and rights of sex workers.

In 2011, police commissioner Mal Hyde, in an ABC news update of 21 July, said, 'South Australian anti-prostitution laws are archaic and unworkable.' Assistant Commissioner Fellows, in her evidence to the committee, stated:

> We don't take a view on whether the sex industry should be decriminalised or not; however, I think it is reasonable to say, and I think we have been consistent in our views over many years, that there are some definite challenges and difficulties in policing the current legislation as it exists.

I wish to support the chair of the committee, the Hon. Michelle Lensink and, in her absence, the Hon. Tammy Franks, in some of their comments regarding the evidence from SAPOL. It is my opinion that some of the evidence was vague and conflicting in regard to the actual situation in relation to trafficking and the involvement of organised crime. I hoped that the committee could have been presented with a clearer picture of what was happening in the sex work industry here. The World Health Organisation's stance on this issue is that decriminalisation of sex work should be the aim of all countries around the world.

The committee heard from the Royal Adelaide Hospital sexual health Clinic 275 and the SA Health Communicable Disease Control Branch:

> There was some evidence of several health benefits of decriminalisation particularly better access to health promotion programs, better condom carriage and use, and some evidence of better general health. There was no evidence of negative health outcomes from decriminalisation.

The Hon. Tammy Franks outlined in her speech the evidence from the two women with disabilities. I, too, was moved by the evidence of these two courageous women. The current situation sees carers and supporters engaging in criminal activity by procuring the service offered by sex workers. I urge all honourable members to visit that evidence and to change the law accordingly. I wish to acknowledge the many submissions from organisations and individuals. Once I leave this place on 17 March 2018—

The Hon. J.S.L. Dawkins: No!

The Hon. J.M. GAZZOLA: Interjections are out of order. I will not miss the many threatening emails quoting passages of the Bible advising that I will be judged poorly in the afterlife and the declarations of not voting for me at the next election. You will not have that opportunity. Having sat on many committees in this place in the last 15 years, I am pleased to have served on this committee. I commend the fine work of the chair and acting chair, my fellow committee members, committee staff, Leslie Guy and Carmel Young.

We all know that the industry exists and we all know that the current laws are outdated. Let's proceed to fix this deficiency in our laws. I commend the report and declare, once again, my support for the bill that addresses the issues of the stigmatisation, the health and safety and protections for sex workers.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

Motions

PALESTINE

The Hon. T.A. FRANKS (17:27): I move:

That this council—

1. Acknowledges that Palestinians have suffered denial of their right to self-determination for a century;
2. Recognises that Palestinians have been the victims of massive dispossession for 70 years;
3. Acknowledges that Palestinians have suffered under an Israeli occupation for 50 years;
4. Observes that awareness is growing internationally and, therefore, the greatest hope for change is international pressure on Israel to end its occupation of the Palestinian territories;
5. Is aware that the Australian government is committed to a two-state solution to this Israeli-Palestinian conflict and unless urgent measures are taken this option will vanish;
6. Affirms that the continuation of settlement building is in violation of the Fourth Geneva Convention and various resolutions of the United Nations Security Council, the most recent being resolution 2334 (2016), and constitutes a major obstacle to peace;
7. Believes that the support for a two-state solution and for self-determination for both Israelis and Palestinians requires taking active measures by the international community; and
8. Calls on the commonwealth government to recognise the state of Palestine as we have recognised the state of Israel.

I rise to move this motion on the recognition of Palestine and to make reflections on the Israeli-Palestinian conflict at a time that—as George Browning, former Anglican bishop of Canberra and currently President of the Australia Palestine Advocacy Network, most aptly put—commemorates a 100th, a 70th and a 50th anniversary in the history of the Israeli-Palestinian conflict.

The 100th anniversary is that of the Balfour Declaration. In 1916, during World War I, Sharif Hussein bin Ali of Mecca led an uprising against the Ottoman Empire in return for Britain's promise to recognise the independence of the Arab countries between the Mediterranean and Arabian seas. The following year, without consulting the Palestinians, Foreign Secretary Lord Arthur Balfour reneged on the agreement by declaring that Britain would support the establishment of a Jewish homeland in Palestine.

The 70th anniversary is that of the 1947 UN resolution 181 calling for Palestine's partition into Jewish and Arab states. The former was realised in the following year, when 750,000 Palestinians were expelled from their homes to make way for the establishment of Israel. The latter is yet to be born. The 50th anniversary took place last month. On 10 June 1967, Israel in six days completed its conquest of Palestine and began its occupation of the West Bank, East Jerusalem and Gaza. However, I am not here today to move this motion as a history lesson, although the history and those most poignant dates are an opportunity to give pause.

The Greens are comfortable in moving this motion because we understand that justice for the people of Palestine is critical to achieving lasting peace in the region for Israelis and Palestinians alike. The Greens have long worked inside and outside parliaments to oppose Israel's illegal occupation of the Palestinian territories. The Greens strongly oppose Israel's ongoing occupation of the Palestinian territories and recognise the historic and ongoing injustices suffered by the Palestinians.

However, the Greens are also very cognisant and in admiration of the work of those in other parties. In this case, the motion that I put to this council today reflects a motion put in the other place and passed with amendment by the member for Light, Mr Tony Piccolo. The Greens support Mr Piccolo's efforts and also acknowledge that the Labor caucus gave support, not only to that motion but to effecting that motion being debated in the other place and the consensus that was reached with an amendment to that motion in the other place. I look forward to a similar amendment here and supporting that amendment, which will be moved by the Hon. Kyam Maher to that same effect.

Cross-party cooperation on this issue is actually quite prevalent in this state parliament. In all of my time in this parliament, I have been privileged to be a member of Friends of Palestine, which has always had bipartisan co-chairs from Labor and Liberal and, indeed, membership across the political divides in this place. In that spirit, I put the motion here today. I do so noting that, while state parliaments have no direct influence in international affairs, this motion effectively would acknowledge that Palestine has become one of the great moral issues of the 21st century, and in doing so, I reflect the words of the AFOPA media release of 22 June 2017 welcoming this motion passing in the other place.

I also note on a personal level that I have had people come up and hug me in joy and gratitude that such a motion has been moved in the South Australian parliament. While we may not have the power as lawmakers to effect a change in what is going on in our global community, we do have the power of the leadership—the leadership of our words in this place and the leadership of our votes. It brought back home to me that this is not an issue that is historical. This is not an issue that is on the other side of the planet. This is an issue that does affect and is important to many in our community.

The recent Australian poll, commissioned by five different groups with an interest in advocacy on the Palestinian issue, showed that the South Australian parliament is not alone in those views. Seventy-three per cent of Australians want Palestine recognised as an independent state, according to the recently commissioned Roy Morgan poll, and 61 per cent of Australians condemn the building of illegal Israeli settlements on Palestinian land. Both of those figures are up from previous polls and are continuing to rise.

With those historic anniversaries, it is a timely point for this parliament to consider this issue. I do not intend to make a long speech tonight. I hope that we can work in a bipartisan and cross-party way. In doing so, I would note that South Australia does not stand alone in recognising Palestine as a state. Across the world, 138 states, including most recently Sweden and the Vatican, recognise the state of Palestine. The British and French parliaments have voted in support of recognition by their respective governments and, as I say, the majority of Australians recognise this.

I put this motion to this place today because without leadership we will be part of the silence that allows injustice to exist. Without justice you will not have peace and without peace you will not have justice. I observe that if there was one person one vote, in what is recognised by so many other countries and states as the Palestinian state right at this moment, those votes alone would see Palestine recognised as a state.

Recently, when Netanyahu visited our country, I noted that no less than former premier Carr and former prime ministers Hawke and Rudd all called for recognition. I note also the leadership previously of Malcolm Fraser on this issue. If we do not use our voices as parliamentarians and as those who have been recognised as leaders in our community, then we see injustice continue.

With those few words, I say this is not an anti-Israel motion by any means. I acknowledge the work previously of similar motions in the other place and in this place on anti-Semitism and a range of other issues. We can show leadership from this council. Many in the community are urging us to show leadership. The majority of Australians want to see peace in the Middle East on this issue, and with a few small gestures from this state parliament we can give great succour and comfort to those who are not only refugees in their own country but often come here as refugees to our state.

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

AUSTRALIAN CHINESE MEDICAL ASSOCIATION SOUTH AUSTRALIA

The Hon. J.S. LEE (17:36): I move:

That this council—

1. Acknowledges the 25th anniversary of the Australian Chinese Medical Association SA (ACMA-SA);
2. Pays tribute to past and present presidents and committee members of ACMA-SA for their leadership and long-term commitment to support charitable causes, community programs and healthcare services for the South Australian community; and
3. Highlights the achievements and contributions of ACMA-SA and the Australian-Chinese medical professionals made to Australia and South Australia.

It is with great honour that I rise to move the motion standing in my name in this parliament today to acknowledge the 25th anniversary of the Australian Chinese Medical Association South Australia (ACMA-SA). As a member of parliament with Chinese heritage, it has been a privilege to have great friendships and a long-term association with the Australian Chinese Medical Association South Australia. ACMA is a reputable professional organisation for Chinese doctors and medical professionals in South Australia, and I would like to take this opportunity to highlight the outstanding achievements and contributions that ACMA and many Australian-Chinese medical professionals have made to Australia and South Australia.

Over the years, I have attended many ACMA functions and found them to be highly enjoyable and rewarding experiences. On 11 February this year, my esteemed colleague the Hon. Stephen Wade MLC, shadow minister for health, and I attended ACMA's Chinese Lunar New Year function. It was also the 25th anniversary gala dinner. The Hon. Stephen Wade, representing the state Liberal leader, Steven Marshall, the member for Dunstan, conveyed best wishes and congratulations. The other notable dignitary present on the night was the Hon. Julie Bishop, the federal Minister for Foreign Affairs.

The atmosphere at the gala dinner was uplifting when Dr Jane Zhang, the current president of ACMA-SA, made special acknowledgement of the many inspirational ACMA founders and leaders and outlined a number of rewarding charitable projects that ACMA has undertaken over the past 25 years.

We are indeed very fortunate to have so many highly qualified top class doctors, medical professionals and specialists who have chosen South Australia, initially as their educational destination to study medicine, and later on as their home. These high achievers have continued to build prominent careers within the public health system, as well as in the private health sector. Many are working in the most challenging of conditions and circumstances to look after the sick, the frail and the most vulnerable people in our community. They continue to deliver quality services to patients in the city and country regions. I express my gratitude to all doctors and medical professionals who have made significant contributions to keeping us in good health in South Australia.

I was informed that during the 1990s, the Australian Medical Association (AMA) questioned the whereabouts of Chinese doctors in our society, in particular in the public arena. This sparked Dr Bernard Goh, founding president of ACMA, to establish the South Australian branch of the Australian Chinese Medical Association.

The association enables South Australian Chinese doctors to have a public representation and a collective voice to speak up and engage with stakeholders and the community. To think that from that very humble beginning in the 1990s, from a little public representation, we now see that Dr William Tam, former president of ACMA, has become the first president of Chinese heritage to be duly elected as president of the Australian Medical Association of South Australia in May 2017 this year.

The association has definitely come a long way. Dr Bernard Goh, along with Dr Tham Siew Kiong, began drafting the constitution back in the 1990s to address the objectives and purpose of the association. The meeting was held at ACMA House, with a total of 35 doctors attending the first meeting. The constitution of the association was then adopted in July 1992.

The association had an inspirational beginning, with the first year of its operation filled with educational seminars and social networking dinners, with the aim to encourage more and more ethnic Chinese medical professionals to share professional knowledge, skills and social interests. The objective of ACMA was to maintain and update the standard of medical practice and continuous education for Chinese doctors in South Australia.

ACMA has supported many South Australian welfare, cultural and social organisations and businesses throughout their establishment, and it is becoming a more renowned and well-respected association within the South Australian community. The association remains non-political; members continue to contribute to ongoing public health policies, discussions with federal and state political leaders, Department of Health and Social Services and leading medical and health agencies.

ACMA has grown into a highly reputable, not-for-profit organisation based on its proud professional and philanthropic ambitions to serve the community. The ongoing success of the association is attributed to the exceptional leadership of the past and present presidents and committee members.

Since the establishment of ACMA, it has had a total of 12 presidents over 25 years. I pay tribute to their phenomenal leadership in advancing the work of the association and place their names on the public record and thank each one of them for their significant contributions: first, Dr Bernard Goh, founding President of ACMA, served from 1993 to 1995; Dr Siew Kiong Tham, 1995-96; Dr Frank Chiu served from 1997-99; Dr Richard Heah, 1999-2001; Dr Francis Ghan, 2001-03; Dr Ted Mah, 2003-05; Dr Johnny Wong, 2005-07; Dr Chin Hian Lim, 2007-09; Dr Evelyn Yap, 2009-10; Dr William Tam, 2010-12; Dr Evelyn Yap (returned again), 2012-13; Dr Lydia Huang, 2013-15; and Dr Jane Zhang, current president, 2015 to present.

On a personal note, I extend my sincere appreciation to particularly Dr Evelyn Yap and her husband Alex Hanin, Dr William Tam and Zeng Tam, Dr Lydia Huang and Dr Dennis Liu, Dr Jane Zhang and Dr Ted Mah for their wonderful friendship, guidance and advice, particularly about the health industry and some of the health issues within the Chinese community and the broader community.

The current committee consists of Dr Jane Zhang, the President, with Dr Xiu Peng, Dr Evelyn Yap, Dr Lydia Huang, Dr Kien Ha, Dr Earl Lam, Dr Richard Heah, Associate Professor William Tam, Dr Frank Chiu, Dr Francis Ghan, Dr Johnny Wong, Associate Professor Lillian Kow, Dr Benson Pek and Dr Rebecca Heah. Also, Young ACMA consists of Dr Joule Li and Dr Frank Zhang.

The secretariat has been managed by the delightful Tracey DiBartolo. She is always there to provide a great secretariat service to ACMA. She is also a walking encyclopedia of who's who of ACMA and the other medical associations in South Australia. I want to thank her for her wonderful work.

After ACMA was established in 1992, the Australian Chinese Medical Association Foundation was formed in 1996 with a charter to raise funds and deliver many successful not-for-profit projects in South Australia. The trustees within the ACMA Foundation are Dr Lap Kwong Han, Dr Bernard Goh, Dr Frank Chiu, Dr Francis Ling, and Dr Frances Ghan is the chair of the ACMA Foundation. They have gone beyond their core duties to deliver so much community service and mentoring of young doctors to provide them with inspiration and a pathway for growth. It is something to be highly commended.

With ACMA being very community orientated, it comes as no surprise that their social calendar accommodates events directed beyond the medical profession. Every year, they host a Chinese New Year dinner, the annual scientific meeting and award evenings for future generations. There are yearly awards directed by ACMA towards final-year medical students at the University of Adelaide and Flinders University. These awards also extend to matriculation students who receive high marks through the ACMA Education Fund. ACMA have always supported future development of the medical profession, particularly the advancement of medical and scientific research.

Throughout my involvement with ACMA SA and the foundation, I have been fortunate to attend a number of their charitable events. From the very humble beginnings of the ACMA Foundation dinner in 2001, they have now donated thousands of dollars to the community across a spectrum of welfare and educational organisations. For instance, last year, the ACMA Foundation contributed $15,000 to Teen Challenge, $5,000 to *beyondblue* and, in the previous year, the gala dinner raised $15,000 towards KickStart for Kids.

In 2013, ACMA invited Dr Charlie Teo, an internationally acclaimed neurosurgeon, as the guest speaker to the foundation gala dinner. Throughout the evening, a total of $50,000 was raised thanks to the generosity of guests, sponsors and members who attended the dinner. Part of the funds were donated to Dr Charlie Teo's Cure for Life Foundation, and the rest remained in the ACMA Foundation for ongoing charity work.

In addition to supporting local charities, in 2008, ACMA participated in raising funds for the Sichuan Earthquake Appeal. As we know, over 15 million people live in the affected region of

Sichuan, including 4 million in the city of Chengdu. It was a devastating disaster that claimed 240,000 lives and caused 4.7 million people to lose their home.

The Federation of Chinese Organisations of South Australia, along with many Chinese organisations, including ACMA, organised a dinner at T-Chow restaurant in Adelaide Chinatown, one month after the earthquake. I had the privilege of co-emceeing the fundraising event with Mr Peter Yang. Over 260 guests attended the dinner. The function was organised at short notice but received overwhelming support from all the community-minded leaders in the Chinese community.

It was a humbling experience for me to witness members of the Chinese community of South Australia joining hands to support the earthquake appeal for Sichuan. Being the masters of ceremonies, Peter Yang and I also assisted in conducting the main auctions. Our hearts cried out to the victims in Sichuan, and the generous spirit of the audience raised the roof of the restaurant. The ACMA Foundation played an important role in raising $10,000 to contribute to the Sichuan earthquake appeal. I am very proud to report that, due to the collective efforts and the strong united community support of the South Australian Chinese community, an amazing sum of $200,000 was raised for the Sichuan earthquake appeal.

The ACMA Foundation provided a platform for many charitable organisations, as I mentioned earlier, focused on not just SA-based charities but also national and international charities. Some of the beneficiaries of the ACMA Foundation include the Medical Benevolent Association of SA, the flying doctors association, CanTeen, the Royal Society for the Blind, the Eyre Peninsula bushfire appeal and the Victorian bushfire appeal, just to name a few. The foundation also provided financial assistance, for example, to help a Chinese family whose son needed surgery at the Adelaide Women's and Children's Hospital. Their work is enormous and they have a strong connection to the community to deliver much-needed services.

ACMA and the foundation have grown from strength to strength and have become strong pillars for Chinese medical professionals and the broader community in South Australia. Throughout the last 25 years, the association has inspired other medical associations in their contributions to the general wellbeing of the community of South Australia. ACMA's leadership standards and practices across the board are highly commendable, as the committee and members of ACMA have gone beyond the call of duty to reach out to the community. I place my sincere gratitude on the public record and congratulate ACMA on their remarkable standing in the community.

The future of ACMA is definitely looking bright with increasing membership among the upcoming younger generation of doctors and medical students who will no doubt continue the legacy and the ambitions of ACMA and lead the association with renewed confidence, energy and determination. With those remarks, I congratulate the current president, past presidents and the committee for their wonderful work. I commend the motion to the Legislative Council to acknowledge the Australian Chinese Medical Association and congratulate ACMA on its 25th anniversary.

Debate adjourned on motion of Hon. T.J. Stephens.

Bills

STATUTES AMENDMENT (DECRIMINALISATION OF SEX WORK) BILL

Committee Stage

In committee.

Clause 1.

The Hon. T.J. STEPHENS: To assist the committee, I would like to put my position quickly. I did not speak at the second reading. I will not be supporting the bill, which will be consistent with my conservative values. I will be interested in the Hon. Tung Ngo's amendments. I am disappointed that they have been filed at this reasonably late hour, but he could probably expect my support. Ultimately, I will not be voting for the bill.

The Hon. J.S.L. DAWKINS: I wish to put my views for the assistance of the committee as it progresses this evening. I will be supporting the bill. Like the Hon. Mr Stephens, I regard myself as a conservative, but I also regard myself as perhaps a progressive conservative.

I have listened to the people who have told me that this is far from a perfect bill. As someone who has had some experience at putting bills through this parliament as a private member, it is always going to be that a bill that a private member puts through the parliament is not perfect, but we also see plenty of examples of bills that come with the backing of government departments that are far from perfect. However, I think this bill—and I really commend the Hon. Michelle Lensink and others who have supported this bill—is far closer to perfect than the situation we have now.

The situation we have now is way off being perfect, and I think most people in their heart of hearts would recognise that. I respect people's views on these issues, and there are people who have supported me in the past who do not support me in this instance, but the reality is that I indicate to the council that that is where I will be heading when we get to that stage later this evening. In relation to the amendments, I respect the Hon. Tung Ngo very much but to be putting down amendments at 2.27 this afternoon when we have started to deal with the bill less than 3½ hours later does not augur well for me supporting those amendments. With those comments, I look forward to the continuation of the committee stage.

The Hon. M.C. PARNELL: I will be very brief. I did not speak at the second reading but I want to put on the record my support for this bill. In a nutshell, I have been persuaded by the submissions of women. Even last night, with the Hon. John Dawkins, the Hon. John Gazzola and the Hon. John Darley we hosted an event for White Ribbon, and whilst the people attending the White Ribbon event were overwhelmingly men—as they should be—a number of women at that event came up to me and said, 'Mark, I hope you guys are going to pass this decriminalisation bill tomorrow.'

The groups I want to thank are the Zonta Club of Adelaide Flinders Incorporated, the Working Women's Centre SA Incorporated and the YWCA of Adelaide, as women's groups. We also have Soroptimist International, another women's group. Other groups whose submissions have been helpful to me include Relationships Australia, and we have also recently had some material from the Law Society. I will make a contribution when we get to the amendments and to some of the clauses perhaps, but for now I want to put on the record that I will be supporting the bill.

Progress reported; committee to sit again.

Sitting suspended from 17:58 to 19:46.

The CHAIR: We are still on clause 1. I am keeping a tally here. It is 2 to 1 (2 for and 1 against) up until now, so I will keep you updated as we go along. The Hon. Mr Hunter.

The Hon. I.K. HUNTER: Mr Chairperson, to assist you in your endeavours to keep track of people's voting intentions, I indicate to the chamber that I will be supporting the legislation and opposing all amendments.

The Hon. D.G.E. HOOD: It will come as no surprise, I am sure, to anyone in this chamber that I will not be supporting the bill and I outlined my reasons in my second reading speech, but I just wanted to add a few very brief comments at the clause 1 stage, if I may. Obviously this bill has gone to a committee for some extended period and during that time, since we have all had the opportunity to give our second reading speeches, there have been a few developments, and one of them, of course, members would be aware, is the police commissioner's letter dealing with a number of matters that were raised in the committee.

I would just like to read, for the record, the commissioner's final comments. He has put a subheading here, which says, 'General comment'. It is signed by Grant Stevens, the Commissioner of Police, dated 23 May this year, and it says:

> SAPOL has previously commented on the proposed Statutes Amendment (Decriminalisation of Sex Work) Bill 2015. SAPOL opposed the Bill for a number of reasons. The proposed Bill would significantly diminish legislative oversight of the sex work industry raising concerns that serious and organised crime elements would infiltrate and flourish in the industry with limited risk of detection.
>
> Regulatory control of the sex work industry as proposed by the 2015 Bill would be far less than that imposed on many other small businesses under existing, necessary legislation; for example second-hand dealers, licensed premises relevant to the LLA and the tattoo industry. This comparison is not provided as an argument for deregulation across these industries, but rather to support the proposition that regulation of prostitution, an industry with long and well established links to serious organised crime, requires strong regulation to reduce community wide harm. Without

comprehensive regulatory controls, SAPOL believes the draft Bill would not provide safeguards to ensure that people are not exploited, organised crime does not control the industry, and brothels do not become criminal sanctuaries.

Yours sincerely

(Grant Stevens)

COMMISSIONER OF POLICE

That is quite a compelling letter, but in addition to that, of course, we have had communications from a number of councils, including the City of Marion, which I will read. It is a brief letter, so if members can indulge me I will just read this onto the record. The letter is written on behalf of the City of Marion to the secretary of the select committee that investigated this bill. It states:

Dear Leslie

Statutes Amendment (Decriminalisation of Sex Work) Bill 2015

The City of Marion thanks the Select Committee for the opportunity to make a submission on the Statutes Amendment (Decriminalisation of Sex Work) Bill 2015.

At its meeting of 13 October 2015 Council resolved the following in regards to the Bill:

That the Council advises the Select Committee that it does not support the Bill in its current form and seeks that the Committee:

- Consider the likely implications on the Planning System if sex work is decriminalised,
- Consider the likely implications on the resourcing and role of local government if sex work is decriminalised,
- Include amendments to the Development Act 1993 (SA) and Development (Regulations) 2008 (changes to definition of a home activity to ensure that premises for the purposes of sex work are discouraged from locating in residential areas as part of the Bill,
- Include amendments to the South Australian Planning Policy Library (SAPPL) specific policy for the assessment and location for sex work venues) as part of the Bill,
- Consider reintroducing the proposed amendment to Part 6 of the Summary Offences Act 1953 (SA) outlined in the "Statutes Amendment (Sex Work Reform) Bill 2012, relating to it being an offence to use premises for the purposes of sex work within 'a prescribed distance' from 'protected premises' (i.e. 200 metres of schools, places of worship and the like).

Should you wish to discuss the matter further please contact David Melhuish—Senior Policy Planner...

That is the City of Marion. I will not go on for too much longer, but the City of Tea Tree Gully has also responded. They have said:

Dear Ms Guy

Mayor Kevin Knight, having received correspondence from Mr Tung Ngo MP informing him that the Statutes Amendment (Decriminalisation of Sex Work) Bill has been referred to a Select Committee, has asked me to forward a copy of Council's resolution of 8 September 2015 to you as Secretary of the Committee.

Content of correspondence has been emailed to all state MPs:

Council, at its meeting of 8 September 2015, considered the above Bill and after considerable debate the following was resolved:

'That Council writes to all State MPs outlining its opposition to the Statutes Amendment (Decriminalisation of Sex Work) Bill, moved by the Hon Michelle Lensink MLC, for the following reasons. The Bill would place pressure on councils to:

- Effectively become the regulator of brothels and street prostitution, given that decriminalisation is the proposed model
- Allocate resources to ensure compliance in an area which has traditionally been the responsibility of the police
- Assume responsibility for brothels even though councils do not have the power to regulate any illegal activity within those brothels (beyond planning regulations and approvals)
- Regulate public soliciting by prostitutes (street prostitution, which the bill allows for in an unfettered matter)

- Regulate approval of brothels (with council decisions having to be made purely on planning matters, potentially disregarding concerns of local residents)
- Fight legal battles at ratepayers' cost against brothel owners who do not respect conditions placed on any planning application.'

Accordingly on behalf of the City of Tea Tree Gully I strongly urge you to oppose this Statutes Amendment (Decriminalisation of Sex Work) Bill in its current format.'

Please be advised that the above resolution of Council was actioned with emailed correspondence being sent to all state MPs from our Chief Executive Officer, Mr John Moyle on 9 September 2015.

I will not read it, but there is also a letter from the LGA expressing concerns, which no doubt members have already had access to, in addition to the many hundreds of emails that members would have received (and I have also received), opposing the bill. There have been some in favour, to be fair, but I have received many, many more against. The other thing to note is that we have also had multiple amendments to this bill placed before the chamber just today. Just to be clear to members, so they do not think we are up to something tricky here: I had no prior knowledge of those amendments at all. It is not something I have had any involvement in and there has been no collusion, I can assure the house.

But there have been amendments and the normal course of events would be for us to have time to consider those amendments. That is my clause 1 contribution. I remain in my opposition to the bill for the reasons I outlined in my second reading speech and, in addition, to those I have just placed before the chamber.

The Hon. K.J. MAHER: Similarly to the Hon. Ian Hunter, I will be brief. I rise to place on the record that I will be supporting this bill and opposing amendments to this bill. I want to thank members in this chamber who have spent time with me explaining their views. I also want to place on the record particular thanks to a member in the other place, the member for Ashford (as it is still called until the election), Steph Key, who, over many, many years, has spent a lot of time with many of us in the Labor Party explaining her views and the need for reform in this area.

The Hon. J.A. DARLEY: I indicate I will be supporting the bill but opposing the amendments.

The Hon. G.E. GAGO: Again, to assist in expediting proceedings, I indicate at this point that I will be supporting the bill and opposing all amendments.

The Hon. T.T. NGO: I rise to respond to a few comments made prior to us going on the dinner break, that I only lodged the amendments today and that honourable members who spoke felt they could not support them due to them having been lodged very late today. As honourable members know, I spoke on this matter in this chamber two weeks ago on 21 June 2017. I indicated that I would be moving amendments to the current bill. In the speech I made it clear that I wanted to make public soliciting for prostitution illegal, that brothels cannot not be operating within 200 metres of a school, childcare centre or place of worship and that police should have the right of entry.

My amendments are pretty straightforward and pretty practical. I do not think honourable members need more time to think it through. I spoke on these matters many times. If honourable members believe it is not okay to allow streetwalkers to operate outside of people's homes, then support me; make it illegal. You do not need two or three weeks' more time to decide this matter. If you believe it is okay to open a brothel next to a childcare centre, mosque or temple, then vote against my amendments.

The reason for my amendments are that this bill in its current form will have many unintended consequences. People living in the western suburbs, especially in The Parks area—suburbs such as Mansfield Park, Woodville Gardens, Athol Park, Wingfield, and my home suburb of Kilburn—will have their lives negatively impacted. At the end of the day, people living near brothels or places where streetwalkers are prevalent need safeguards in relation to issues that I know will arise from this bill if it passes in full.

As I have said previously in this place—I want to make this clear—I do not have a problem with people paying for sex services in private premises. However, as legislators and as people representing The Parks area—and I live there—we need to take account of the unintended

consequences which will come out of this bill if it passes in full. So, that is my contribution for now, until my amendments are debated.

The Hon. R.L. BROKENSHIRE: I do not want to get into further debate about the pros or cons of decriminalisation, licensing, regulation or strengthening criminalisation when it comes to prostitution because we have been through that in the second reading speech debate. My colleague the Hon. Gail Gago said that for expediency she did not want to talk too long, she wanted to get on with the committee stage and ultimately (I expect from that, implied) the third reading vote.

I want to get back to processes. First and foremost, I want to put on the public record that, on behalf of the Australian Conservatives, I have met with Liberal, Labor and crossbench MPs in both houses of this parliament, talking about the pros and cons of those four models. I sat here, not in this house but in the other house, back in 2000 or 2001, with responsibility under cabinet direction to bring in four models; that is, (1) criminalisation, (2) decriminalisation, (3) licensing and (4) regulation. There were four models, so that we had a platform to have a look at what was not just in the best interests of a percentage of people who may actually support open slather prostitution decriminalisation or, on the other side, tougher criminalisation or alternatively, in the middle, some form of licensing or regulation.

This parliament, through both houses, starting in the lower house and then coming up here, could not agree on one of the four models. Clearly, something has to change. When you talk about expediency, whether you agree or disagree with prostitution, the reality is that today, tomorrow, next week, next month or next year is not life or death when it comes to this state's future. It is not going to make a massive difference to the economy. It is not going to make a massive difference to jobs. It is not going to make us a more vibrant economy. It is not going to do anything to improve the welfare and wellbeing of the absolute majority of South Australians. If we are honest with this, that is the truth. So, I say: let us look at this objectively. This is where I want to talk about the objective aspects of this.

After discussing the situation with a number of colleagues, forgetting their political colours and forgetting which house they come in, the reality was that some of us thought that maybe there is another option we should all consider because many of us do not believe that we should be attacking, prosecuting and policing the prostitute and the client gets off scot-free. Many of us do not agree with that.

There is a model that I have talked about before called the Nordic model, which is a model that actually reduces prostitution in any state or country. It does reduce prostitution. I ask colleagues: do you want to reduce prostitution? Do you want to see prostitution stay as it is or do you want prostitution to flourish? Do you want it to grow? I do not know. That is up to the individual because this is a conscience vote, but one thing I do know is that we need to look at the options.

What we are going to do is place South Australia in a position, if we proceed tonight through entirety, of one model. We are here as legislators in a democratic parliament with two houses of parliament that are strong, and I will fight to my death that we need two houses of parliament. We need some opportunity to support the democracy of the Westminster system, which to summarise says that maybe we should be able to have a look at other alternatives.

Unfortunately, because this is a very busy period, when multipartisan members of parliament went to try to put up another alternative piece of legislation—and I do not blame parliamentary counsel for this as there are only so many of them and I do not blame government for this because you cannot resource for the extreme in parliamentary counsel—parliamentary counsel were not able to meet with us last week and they were not able to meet with us this week, which means that those of us who wanted to at least introduce an alternative opportunity have been denied that opportunity. I ask you whether that is democratic—that is point one. I ask you to deliberate and consider that.

On a big issue like this, no-one should be denied an opportunity to put forward an alternative as an option for consideration—an alternative that will not work against those people who are involved in prostitution, but based on the model that much of Europe has adopted. Canada and now France, of all countries, are looking at the Nordic model. From my point of view, tonight I was just going to ask for some time.

The Hon. G.E. Gago: You have had 18 months. It is outrageous.

The Hon. R.L. BROKENSHIRE: Eighteen months. With respect, this member here who says 18 months and outrageous, for 17 of those 18 months we have had the highest unemployment in Australia. That is outrageous too, but we are working on trying to correct and fix that.

The Hon. G.E. Gago: It is outrageous. You should be ashamed of yourself.

The Hon. R.L. BROKENSHIRE: No, I am not ashamed at all. I am very proud of the democratic process.

Members interjecting:

There being a disturbance in the gallery.

The CHAIR: Order! The Hon. Mr Brokenshire, sit down, please. First of all, I will not tolerate calling each other names or abusing each other while creating this debate. Secondly, will you please refrain up there in the gallery and not call out from the gallery. The Hon. Mr Brokenshire.

The Hon. R.L. BROKENSHIRE: So, I just put that on the table. I received an email, and I double-checked this yesterday and I triple-checked it today. The Liberal member, the Deputy Leader of the Liberal Party of South Australia, of the South Australian parliament, of the South Australian parliamentary party, is moving this. I have looked at this very carefully. When I looked yesterday, I triple-checked, because I want to be right on this. I read what was advised to us from the Deputy Leader of the Liberal Party of the South Australian parliament. The email is very clear and precise to me, the original email that said that we would go through the committee stage today. That is what it said; I have it in my computer, and that is a fact.

Then yesterday, when we were trying to deal with really important issues for the government, for the opposition, for the crossbench and, most importantly, for the people of South Australia, about budget, about whether or not we end up with a tax on the big five banks that actually flows through to every person in this state, drug driving and all the rest of it, we had to try to deliberate on what is going on here.

I went to the leader of our party and said, 'Well, I am somewhat confused, because I thought we were going to sit there and accept the democratic right of the Liberal Deputy Leader of the South Australian Liberal parliamentary party, who is moving this bill, that we would go to the end of committee.' Then we would be able to go back to the hundreds of people in our party—in fact, I will say thousands of people—who have contacted us, who have concerns over where the Deputy Leader of the Liberal Party of South Australia is going.

We were prepared to accept that, and then I got an email saying that we are going through with an arrow, right the way through. I rang my colleague, the Hon. Dennis Hood and said, 'I am confused. Can you check?' He got back to me and said, 'Yes, you're right. We weren't going through.' We then had to talk about that in our party room meeting this morning. That is one point.

The second point is that I personally and multipartisan colleagues have not had a chance to put up an opposition piece of legislation based on the Nordic model for consideration. It is fair to say, and realistic, that there have been champions. The Hon. Steph Key is a person I admire a lot, and I respect the fact that she has pushed this for years. On the other side, some of us have pushed the other way, and then there are those people who are trying to deliberate on 'Should we go this way? Should we go that way? Which model should we adopt? What is the best outcome?'

We have been deprived of that, because we cannot put up the Nordic model because of the hold-up of the workload of parliamentary counsel. I thought, 'This is becoming pretty difficult.' Then today, while we were sitting deliberating, in my opinion, the most important piece of legislation that we could deliberate on—that is, child safety—I received a raft of amendments from the Hon. Tung Ngo. He may have actually said that he wanted to bring these in two weeks ago, and I am sure he did, if I read the *Hansard*. He is a friend of mine, he is an honest man, and I am sure that he did say that, but the reality is that I received these at 11.30 this morning.

The Hon. S.G. Wade: They weren't filed until 2.27.

The Hon. R.L. BROKENSHIRE: I thank the Hon. Stephen Wade for correcting me: it was not 11.30 that I received them but at 2.30, during question time—just a few hours before we are now expected to push all this through. My question is: why would we be expected to push all this through in just a couple of hours when, if the government, the opposition—

The Hon. G.E. Gago: A couple of hours and 18 months.

Members interjecting:

The Hon. G.E. Gago: I stand corrected, two years.

The CHAIR: Will the Hon. Ms Gago please desist, allow him to continue.

The Hon. R.L. BROKENSHIRE: My point is that, traditionally, when amendments are moved we actually report progress and give people a chance to deliberate. I ask my colleagues whether they have had a chance to consider and deliberate on these amendments. If you have, well done: I have not. Call me slack if you want to, but I have been busy doing other parliamentary duties, so I have not had a chance to deliberate.

We are sitting, ongoing, until the end of the year: 18 months and three hours, 18 months and three months—I do not think that is the most important thing. What is important is getting this right in a parliamentary sense, because that is what people elect us to do. They elect us to do things in a proper and appropriate way. I do not pass legislation for expediency: I support legislation if it is good, or I oppose legislation if, in my opinion and that of our party, it is bad.

I am saying to the council now that, if it takes another sitting week to get it right, so be it. But, I have made a commitment on behalf of Australian Conservatives to not hundreds but thousands of people who have contacted us that, at the end of committee—and I have told them, and they know, we are two votes, you can roll us out any time you want to, we are two votes, but I have made a commitment to the constituents who have contacted me—I will consider what happens in committee. I will have an opportunity to report to them, see if there is any change in what they are saying to us and then we will go to a final vote, which is what the Deputy Leader of the Liberal Party, the Hon. Michelle Lensink, said to me and all of you in an email; that is, that we would go through committee and then to the third reading later—later.

So, I have an obligation to stand up for those people, even if we lose. To compound this, a member who has a democratic right to put up a raft of amendments has dropped these in, as the Hon. Stephen Wade said, at 2.30 in the afternoon. I advise the chamber that whatever happens happens in due course, as it always does, but when we get to the committee stage that then brings on this extra raft of amendments, and I will be moving to report progress.

The Hon. S.G. WADE: I rise to support the Statutes Amendment (Decriminalisation of Sex Work) Bill 2015. Before I address the substance of the bill I thank the select committee for its work.

In my contributions on the Statutes Amendment (Sex Work Reform) Bill 2012, and on the second reading of this bill on 9 September 2015, I expressed my concern about how conscience matters are managed in this parliament. On both occasions I expressed the view that select committee consideration would assist such bills, and I thank the council for supporting my motion that this bill be considered by a select committee.

I raised two particular issues, one being the lack of scrutiny. Private members' bills lack scrutiny in my view at two levels: first, they lack scrutiny in terms of the Public Service. Conscience votes are often private members' bills and have not gone through the cabinet process and the consultation amongst government agencies that cabinet processes involve. Further, there is generally a lower level of parliamentary scrutiny, with a bill deemed by the party to be a conscience bill not going through the normal steps of scrutiny, such as consideration by shadow ministers, parliamentary committees or the party room itself.

Secondly, I identified a problem in terms of a lack of coordination. I am concerned that conscience votes go through the council without being subjected to the normal coordination mechanisms that protect timely consideration and fairness in the parliamentary process. The party whips do not coordinate the debate, and we do not apply the general principle that we tend to not progress a bill when any member of the council seeks that it not progress. As a result, bills and

motions are more likely to progress without regard to the conventions and practices, such as whether all members who wish to speak have spoken, whether an amendment has been laid on the table for long enough for due consideration, and whether members are ready and available for a vote.

So, in 2012 and in 2015, I urged this council to refer sex work reform bills to select committees. In 2012, the bill was withdrawn and it was no longer an active issue. I acknowledge the agreement in 2015 to refer this matter to the select committee, because I believe that was the best mechanism to protect ourselves from those two risks: a lack of scrutiny and a lack of coordination. I thank the council for their support of that motion, and I thank all the committee members for their diligent work, in particular, the Chair, the Hon. Michelle Lensink.

In speaking on that bill in 2012, I made clear that I accept the need for prostitution law reform. The policing of brothel-based prostitution has been problematic in South Australia for some time. It has been put to me that as a Christian I should not countenance reform. Within my personal moral code, it is not appropriate to offer or receive sex services for payment. That is also the consensus of the Christian community and most faith communities, but it is another step altogether to say that the Christian community, or I as a legislator, should use my position in parliament to impose that moral code on others in a pluralist society.

Our Christian forebears fought so that this state would be the first part of the British Empire to separate church and state. As a Christian and as a Liberal, I believe that the law should respect the moral autonomy that God gives each person. It is spiritually and practically futile to try to coerce by the force of law what is not a response of the heart. The focus of the state should be on trying to prevent one citizen causing harm to another. In considering prostitution law reform, my focus will be to act to reduce harm and to support people to make their own choices, in particular, to ensure that people are free to cease working in the prostitution industry if that is their choice.

My reading of this report has served to confirm my view that the law proposed by this bill is a better way to deal with sex work in our community than the current law. In particular, I am impressed by the opportunities to improve public health outcomes, to improve the safety of workers and to support workers who choose to exit the industry.

I know that there are alternative models, but that was the case when the bill was referred to the select committee. In foreshadowing my contingent motion on this bill in 2015, I urged members to table alternative bills, which could be referred to the select committee. I hate quoting myself, but I think I need to in this context. In this context, I said that:

> The committee can take evidence on a bill from stakeholders, including public sector agencies such as the police. If there are alternative models of reform, alternative bills could be referred to the committee. I note that Family First is looking at the Nordic model of prostitution regulation and I hope that the committee and the parliament will have that option put forward so that we can test what the best option is for our state. At this stage there are no other models on the table.

I acknowledged that the proponents of the decriminalised model had put their idea to the test by developing a bill that can be tested by this parliament. I went on to say:

> Every model will rise or fall by the detail, not by the general principle.
>
> I would certainly hope that proponents of the Nordic model would go to the effort of turning their idea into legislation. I have already discussed with the Clerk and my understanding is that my proposal for a select committee would fully entitle the council to refer any subsequent bill to that committee by way of instruction.

I note that no other bill has been put forward. With all due respect to the Hon. Robert Brokenshire, parliamentary counsel may have been busy for the last two weeks, but I do not believe they have been too busy for the last two years.

In the context of the need for reform and the lack of alternative models, I consider that this bill should be assessed on its merits and not be delayed for what might be. I think it is important for this bill to pass tonight, so that this council makes clear its recognition of the need for reform. In saying that, I do not assume that the bill is perfect, but I am of the view that blocking this bill because it is not ideal will condemn this state to years of a legal regime that is worse.

I turn now to the amendments filed earlier this afternoon by the Hon. Tung Ngo. In my comments on this bill in 2015, I explicitly indicated that I saw the select committee as an opportunity

to explore possible alternatives, and I explicitly expressed my concern about late amendments. I explicitly said that I would be very sceptical of late amendments. It is 8.20pm. The amendments were filed at 2.27. It is not possible for me to argue that I have given these amendments due consideration. Therefore, I do not feel able to support them. If the amendments are put in the lower house and returned to us with the bill, I will consider them, but I cannot endorse them at this stage.

I would also indicate that I would be interested in other amendments to the bill. In particular, I am interested in the New Zealand approach of limiting sex work to permanent residents so as to reduce the risk of the industry being a vehicle for human trafficking. Further, I consider that the sex work industry may be more vulnerable to criminal infiltration than other industries. I assume that there may be value in putting in place protective measures such as those in force in the tattoo and hydroponics industries. That said, I certainly believe that this bill offers a better legal regime than the current law, and therefore I intend to support this bill.

The Hon. P. MALINAUSKAS: It is fair to say that I have struggled personally with issues such as these or issues of conscience on more than one occasion. I attempt to do what I guess all members do on these matters of contention and conscience: I do my best to consider the bill and the proposition on their merits and form a view accordingly. On some occasions, I think I have surprised members in the way I have cast my vote on such matters in the short time that I have been lucky enough to be in this place.

In this particular instance, I have to say that I am not inclined to support the bill. I am of the view that law reform is needed in the area of prostitution in the state. I think it is difficult to argue that the current status of the law serves the best interests of the community generally, whether they be people working in industry or otherwise. However, I am not satisfied that the proposition before us this evening best represents the reform that I think is consistent with the interests of the community generally. That view was confirmed in recent experiences I have had in engaging with members of my local community in the areas that the Hon. Mr Ngo referred to earlier.

I think it is easy for members of the public generally but also members of this place to form views around prostitution, particularly street prostitution or streetwalking as it is commonly referred to, without having to live the experience of it. Recently, I have spent a fair bit of time engaging with residents in the suburbs of Athol Park, Woodville Gardens, Mansfield Park and Ferryden Park who, on a day-to-day basis, have to live the experience of street prostitution and what it does to their community and the impact it has on their everyday lives.

Engaging with these people who, unprovoked and spontaneously, regularly raise their concerns with me has given me a genuine sense of the challenge that this industry—and I am talking specifically about street prostitution—presents generally in their everyday lives. I do not think I would be doing my job as a parliamentarian, let alone as a candidate for election in that area for the next state election, if I did not genuinely take on board the concerns they have. I do not think members of the public who live in those communities are opposed to law reform, and I also do not think they would be of the view that the law, as it stands, is consistent with anybody's interest, including their own, but I also believe that a law reform which could potentially result in the proliferation of streetwalking or street prostitution would benefit them or, indeed, help alleviate the issue they are genuinely concerned about.

For those reasons I will be contemplating the Hon. Mr Ngo's amendments on their merits, notwithstanding the very legitimate points that have been made by the Hon. Mr Wade and also by the Hon. Mr Brokenshire in respect of the late lodgement of those amendments. However, having heard the Hon. Mr Wade's remarks—and I think they are sincere and with merit—they are amendments that are before us, and I will do my best to inform my view about the way I vote on those amendments as they come to the chamber through the committee stage.

These are difficult issues. I think that good people with good intent can arrive at different conclusions on issues such as this, but in this particular instance my inclination is to not support the reform proposed before us this evening.

The Hon. T.A. FRANKS: It will come as no surprise to the chamber that I rise to support this bill, speaking at clause 1, with the additional information from having served on the select committee both as a member and as acting chair while the Hon. Michelle Lensink was on maternity

leave. I put on the record that I would not have supported the previous Lensink bill, and the reason I would not have done so is because it was not a pure decriminalisation bill. That bill set up provisions that defined safe sex and allowed for police entrapment.

This bill is a vast improvement on that bill and it is, indeed, now the new Lensink/Key bill and the version of the Key bill that was moved after the failed vote. This bill is the model that is put forward by Amnesty International as best practice. This bill is the model that is put forward by the World Health Organisation as best practice. This bill is supported by the women's sector, those who call themselves feminists, as I do. That includes the YWCA, for whom I used to work, the oldest and largest women's organisation in the world, and the Soroptimist, business and professional women. There are also the other groups we have already heard of from my colleague, Zonta and so many others.

This is the bill that is supported by many in the disability community because many in the disability community seek the services of sex workers; they currently do so and they are made criminals by doing so. This bill is a bill that is modelled on practices that are quite successful in New Zealand, which I visited and where I spoke to the New Zealand Prostitutes' Collective. This bill is modelled on the quite successful practices of New South Wales. In those places—and in particular New Zealand where there has been report after report, but also in New South Wales where there has been one report—street work is decreased by decriminalisation. So if you say that you believe an evidence-based policy, street work is decreased by decriminalisation. I am not sure how many times I have to say it, but the statistics prove it.

I want to say that I am interested in this idea that we need to delay the debate today because we have previously had several models all be debated at the same time. I think that was the strategy of those who oppose this bill, to say that we should be debating other models. Well, the bill we debate today is bill No. 44, as introduced and read a first time on 1 July 2015, some 2-plus years ago. So if you could not get your act together to get a bill together in the last two weeks, I think you have had a bit longer than the last fortnight to get your act together. If you say that you support something called a Nordic model, which is a recriminalisation model, a model that criminalises the client rather than the worker, you have had two years. In fact, as a member of the select committee we heard submission and witness after witness in support of this so-called 'different', so-called 'feminist' model.

As I said previously, in response to the report from the select committee, I have never ever seen these people at a feminist gathering before in my life and I have been a feminist since I was in high school. I have never seen the people who put up the Nordic model at any feminist gathering that I have ever been to in the majority of my life. I have worked for feminist organisations, I have been a feminist, I have been part of collectives and I have never seen these people at a feminist table whatsoever in all that time.

I have also never seen these people stand up for the workers before. What I want to say is, there is a saying in the sex work community, which might be familiar to many people because it is used in many communities that are marginalised and disadvantaged, which is, 'Nothing about us without us.' So, when you say 'prostitution' you deny the words that the sex workers use to name themselves. They use the words 'sex worker'. They are the words I will use, they are the words that this bill uses and they are the words that we should be using if we say we respect these very people that we are debating the lives of tonight.

In New Zealand, we saw law reform and there is a lot of evidence there to show that decriminalisation works. Decriminalisation is actually not necessarily the best financial option for sex workers in that country because by working within the legal framework they can actually charge less for their services, so that is a downside for them. The upside is they get better workers protection, and they get the ability to go to the police.

In fact, one sex worker's story that was conveyed to me when I visited New Zealand and spoke to sex workers there was the infamous case where a client was refusing to pay and so the sex worker got on the phone to the cops. Rather than the cops saying that they were going to arrest her, they said, 'Hand the phone over and let me speak to the client.' The client was told, 'You pay the lady and you pay her now or we will be there in 10 minutes.' That is how it should be. They provide a service, they do the work, they should get the pay.

Quite simply, sex work has been with us since time immemorial, as I have said in this place before. If we think that by criminalising the clients we can somehow stop sex work, we are fooling ourselves. What we will do by criminalising the client is make other innocent people criminals, rather than the sex workers criminals, as we do now.

The evidence that was presented—and the Swedish lawyers come to mind—of the implementation of the so-called Nordic model (the re-criminalisation of the client model) means that taxidrivers can be treated as criminals, means that landlords of premises where a sex worker works can be treated as criminals and it means that a sex worker can have her children taken away from her because they are benefiting from the profits of sex work and those children are criminalised and punished under this so-called Nordic model.

You have had two years to come up with your alternatives. Your alternatives, to be honest, suck. Your alternatives criminalise children, criminalise landlords, criminalise taxidrivers, criminalise and make those clients who have disabilities further marginalised and they do not actually help the sex workers because the sex workers will do many things that will make themselves more vulnerable to protect their clients. They are in this for a business, and that is what they will do.

It is already illegal to have sex in a public place. The Hon. Tung Ngo may have amendments to criminalise having sex in a public place. The Law Society advice and the evidence they presented to the committee that you are on already told us that it is illegal to have sex in a public place. If you want to repeat that law, that is fine. If we need to say it twice, it will still be just as illegal.

I look forward to the debate and I am sick of the stalling on this issue because people do not want to debate it. It exists and we need to get on with it. We have the most archaic laws in the country. We are the last legislature to debate this and improve and update our laws, so let's just get on with it.

The Hon. D.W. RIDGWAY: I rise to indicate that I will be supporting this bill and I will explain why in some relatively brief words. When I was first elected, the Hon. Legh Davis very kindly decided that he would leave me with all of his files, rather than clean them out himself. He thought they all might come in handy; I suspect he did not want to do the job. One he mentioned to me in particular was a sort of file box. He said this was the one he had on prostitution (as it was called back then). I understand that, as the Hon. Tammy Franks says, the modern terminology and the modern way that people in that industry refer to themselves is 'sex workers'.

So, there was his box of files. He said, 'This is a difficult issue.' He had had it once or twice in his political career and he said, 'You'll have it again. It'll come back; it's always a difficult issue.' I kept that box until just recently when the carpet was replaced, and I thought it was time that I needed to de-clutter my office. So, it has been nearly 15 years that I have kept that information. I have looked at it, especially in relation to this particular bill, and other material I had on file. That was one of the reasons at the time that I was very happy that the Hon. Stephen Wade moved to send this bill to a select committee, because it is difficult.

When I was elected to parliament, this was not an issue that I thought I would ever have to deal with. I echo some of the words of the Hon. Robert Brokenshire, that there are a lot of very important things facing this state. I used to say to some of the voluntary euthanasia advocates that if I had to list the 100 most important things facing this state today their issue would not make it onto my list of 100. I suspect, if I had the list of the top 100 things in my mind—the issues that are facing this state, where we are in our economy and all the other issues we debate and question the ministers on here every sitting day—this may not make it onto the list. However, we are dealing with it now.

I am grateful that the Hon. Stephen Wade moved a select committee because then we had a team of people from this chamber look at it and bring back a report. I guess I did not pay a lot of attention to their deliberations, but I did talk to some of the members and then read the report. What has really swayed me was some of the comments. I will just backtrack to when initially, maybe in a chat in a bar or maybe in a party room meeting, I made some comment about a bill, and my colleague Mitch Williams, the member for MacKillop, said, 'You would never want to change the status of this because you might make it a respectable profession. You have two daughters—they could end up in that industry.'

I said at the time (maybe a bit flippantly, but I lived in Bordertown), 'Being a slaughterman at the local meatworks is a legitimate profession. I don't think my daughters are going to pursue that as a career. Who knows what they will do when they finish school.' I thought that was a little bit of a rude way to try to influence me at the time. I am very much like the Hon. Mark Parnell: it is the women's groups, the women in my life and the women's groups that we have already heard others refer to—Zonta, Soroptimists and all of the others—that have contacted us. The first paragraph of the most recent letter from Zonta is interesting. I am sure somebody else has read it onto the record and I have not seen or heard it, but I will just quickly read this:

> As a service club based in your electorate, we urge you to vote in favour of this Bill to bring South Australia in line with current international best practice. The Zonta Club of Adelaide Flinders is part of Zonta International, a global organisation seeking to improve the status of women, and membership is fully committed to the changes contained within the Bill and appeal for you to support it for the following reasons:

And they list the reasons that I know members have read out in this place. I respect the Hon. Robert Brokenshire's view, but he made a comment earlier about there maybe being an open slather and proliferation of sex workers. I do not see the Zonta Club and all the other women's groups that have contacted us advocating for open slather or a proliferation. They are genuinely concerned about the majority of people, who are women, in this particular industry.

I have consulted, as I have said, with even the three women in my life: my wife and my two daughters. The unanimous decision, sitting around—well, one daughter lives in London, so it was actually on the end of a phone—having a chat about it, was that I should support this. I know they are only a very small sample group, but at the end of the day, with those few comments, I indicate that I will be supporting it.

I am a little disappointed with the Hon. Tung Ngo's amendments arriving late, and other members have also expressed some concern. The Hon. Tammy Franks and I do not always see eye to eye, but I think there has been ample opportunity for a lot of these issues to have been canvassed. I will participate in the process to deal with those amendments, but it would have been better if they could have been tabled even last week when we sat, rather than just three or four hours ago.

The Hon. K.L. VINCENT: Given that I have already made a second reading contribution on this bill, I do not intend to be very long, as other members have not been long either. It will come as no surprise to anyone in this chamber that I personally strongly support the bill. My stance on sex work and sex work decriminalisation in particular has been well known very publicly for a number of years, and I do not believe it will change anytime soon.

There were a number of points that I wanted to make—firstly, that I will not be supporting any of the Hon. Mr Ngo's amendments. Frankly, I am incredulous that Mr Ngo was on the committee for 18 months; he had every opportunity to deal with these issues. In fact, all these issues that are covered in these amendments, whether street work can be accepted, where premises for sex work can be situated, are topics covered by the select committee, so it is not as though he has not had opportunity.

I am aware that from time to time we do have to put up amendments at the 11th hour, so to speak, but often that is because there has been a drafting error or some kind of oversight or some last minute information has come to light. I am not begrudging the fact that we occasionally have last minute amendments come to this place, but when it is on issues that we have been debating for 40-odd years in this parliament, and for the past 18 months actively in the committee, that the Hon. Mr Ngo was on, I find it hard to believe there is any other reason for these amendments to have come forward at 2.30 on the afternoon this bill is to be debated than their being a stalling tactic. If Mr Ngo wants to try to convince me otherwise, I would be very happy for that, but I am otherwise not convinced. So, I do not support the amendments.

Another comment that I wanted to make—and again, I do not intend to reiterate every comment I have ever made on this issue—follows another member's comment about this not being a priority issue or this not being in the interests of the majority of the South Australian parliament. Well, there are a few things I would like to say on that particular comment. Firstly, if this was not an issue of great importance to the general population, then why would global leading organisations like the World Health Organisation on a health basis and Amnesty International on a human rights basis both have policies clearly supporting the decriminalisation of sex work?

I just want to read very briefly from the World Health Organisation website in relation to its stance on sex work, just to give one example:

> Modelling studies indicate that decriminalising sex work could lead to a 46% reduction in new HIV infections in sex workers over 10 years; eliminating sexual violence against sex workers could lead to a 20% reduction in...HIV infections.

Well, Mr President, if a 46 per cent reduction in new HIV transmissions is not beneficial to the general population, I do not know what is.

The second point I would like to make is that in this place, particularly in the upper house, where our electorate is the entire state of South Australia, yes, we are here to do the best we can on all the issues we debate, but our job is not just to do the best for the majority; it is to do the best we can for all South Australians. I would argue that particularly those minority groups, like people with disabilities, like same-sex attracted people and, yes, like sex workers, are the people who need us most, because they are the people who are marginalised, who are forgotten and who are disadvantaged by current laws.

So, if we cannot protect the people who need us most, I would strongly argue we are not doing our job at all. I remind members of this chamber that we are here to represent all South Australians to the best of our abilities, including sex workers, and in order to do that we need to support this bill.

The Hon. J.E. HANSON: I have been listening to the debate here. I will end the suspense: I am going to support the bill. In relation to the debate around needing more time, I am pretty new; I knew this was an issue. I inquired when I got into this place about having a coffee and a sit-down with some of the major proponents of this bill not only in this place but elsewhere. I spoke with them about it; I have spoken with some of them again recently. I also read the report. I will refer to the amendments—the raft, which is five pages, although I have a law degree, so maybe it is easier. I wish I had five pages to read every day. I find them remarkably similar to the suggestions put by Mr Ngo that are in the dissenting portion that he wrote in the report. Sure, they are not as well put and they have not got the definitions and everything, but the meaning is exactly the same, so when I saw these amendments, I was not surprised in the least.

I will concede that I actually have a little bit of time for some of those, but I think as well that there have been people who produced this report, which was a summary of a much larger body of evidence that I am not privy to, who produced some compelling, if not decisive, points in the alternative, and I find those compelling enough to convince me that the amendments are not warranted and that we can pass the original bill.

In terms of what compels me to do it, I have to say that I have a lot of time for one component of this argument, which is the occupational health and safety and rights at work aspect. Having a trade union background and the belief that no workplace is too small and that every place where work is performed is a workplace, I tend to find that that is a compelling reason to give people more rights. What I do not find as compelling about it is that I actually respect people of significant faith. I would have to be the worst Catholic in the world, but I was raised as one. I do not like downplaying the views of people in that regard.

However, I find that we need to place legislation on foot. The alternative legislation which would be preferred, and that makes any reasonable sense to change from the current disastrous position we are in, is the model commonly referred to as the Nordic model. I have read up on it and I do not find that model compelling. I am quite happy to support this bill, despite having some reservations, but I do support it. I commend those who have spent quite a bit of time producing what I found was an excellent report and quite a bit of time in this place and the other place fighting what I imagine was a very difficult fight.

The Hon. J.M.A. LENSINK: In relation to the process, I thank honourable members for their comments. In relation to that, I will not go over that ground again except to say that I think we have had a thorough process and we are very grateful for the motion of the Hon. Stephen Wade to refer this to a committee because I think it has given us all reassurance in relation to the particular model.

I do not think any of us are thrilled about the fact that these amendments arrived at the time that they did, but I have had a good look at them. I think they are pretty straightforward and I do not see that there would be any particular need to hold up the bill because the first four essentially reassert clauses which are in existing legislation. The other four are all pretty straightforward as well. I guarantee that I will assist the committee in explaining those. I will be opposing all of those particular amendments. I think the committee considered all of these issues and on balance the members decided not to pursue any amendments to them.

While I am on my feet, I would also like to table a letter from the Law Society of South Australia which was received today. I think it is particularly significant because it does address the letter that was received from the police commissioner.

The Hon. R.I. LUCAS: I did not speak at the second reading of this particular bill. I looked at my notes and I had prepared to speak, but I think it was being moved to go to a select committee and I thought that was extremely wise and supported that and thought I would save aggravating any of my colleagues in the upper house by putting my views on this particular issue prior to it going to the select committee.

In addressing comments to clause 1, I do want to say that I am disappointed in the process that we as a chamber adopt generally these days. I think in part I agree with some of the comments the Hon. Stephen Wade referred to. I think he was requoting statements he had made in an earlier stage in relation to conscience vote issues.

I have had the immense good fortune of watching many years of conscience vote debates. In the early days of conscience vote debates, we were significantly assisted by the intellectual prowess of people like the Hon. Chris Sumner from the Labor side of politics and the Hon. Trevor Griffin from the Liberal side of politics, both fine lawyers in their own right. They were generally fine lawyers with opposing arguments, putting the Labor side or the Liberal side of particular conscience vote arguments, or the conservative side argument and the less conservative side argument on a conscience vote issue. That assisted many of the rest of us to clarify issues.

If I can reflect on the debates that we went through, there was immense time and attention to quite detailed amendments during the committee stage of the debate. I make this reflection not just in relation to this bill but a number of other conscience vote bills that we have had. If you compare the extent of the detailed work that this chamber does in the committee stage now with the detailed work that would have been done back in the eighties, and certainly the nineties, in relation to a lot of the bills, conscience vote bills in particular, it is chalk and cheese; there is little comparison at all.

I think that is a shame, because these bills are important. They are generally on very controversial issues. Ultimately, everyone, I think, so far that I have listened to, and clearly there is a majority, is going to support this particular bill, at least in this chamber, to pass it to another place. No-one is saying that it is either a perfect bill or close to a perfect bill, it is just, 'Well, we think it is better than what exists at the moment.' For that reason, a number of people have locked themselves into position to say, 'Well, we are not going to support any of the amendments from the Hon. Mr Ngo.'

I share the criticism of those who have argued that we should have had alternatives, whether it be the Hon. Mr Ngo's amendments. We should have seen those earlier in the piece, as the Hon. Mr Wade highlighted. He did the raise the issue that, if there was to be a proposition in relation to an alternative model, that should have been put earlier. I accept those particular points of view that have been put.

If anyone wants to reflect and look back on the debates on conscience vote issues in the past and the ones that we have now, I think we are not well served by the process that we go through. Whether that is a criticism of each of us as individuals or us collectively as a chamber, ultimately that is a judgement call for members to make if they are even interested in the issue and the comparison that I am making.

I would invite people to go back to some of the earlier debates to look at the work that was done during the committee stage, the quite detailed committee stage. We seem, these days, to lock ourselves into positions where the majority one way or another prevails through the committee stage, and there is scant consideration given to what might even be immensely reasonable amendments that are being moved by people from the other side of the argument.

The other point I would make, which I am disappointed with too—it happened briefly in relation to the Hon. Mr Brokenshire's comments earlier, and it certainly never happened in the early days—is that a member putting a less popular point of view, which might be the more conservative point of view, is inevitably one, these days, who seems to be heckled by other members of the chamber. I think that is not only disappointing but unfortunate.

These are difficult issues. Many of us have differing points of view, and it seems unreasonable that an individual like the Hon. Mr Brokenshire, who is quite entitled to put a point of view on behalf of his constituents, and indeed his own personal point of view, is the one who is singled out for heckling from other members of the chamber who happen to disagree with the point of view that he has put.

We have seen this in recent years in relation to debates on surrogacy and voluntary euthanasia. We had one unfortunate circumstance where a vote was rushed through during the dinner break, when someone was not able to get someone to call, a second voice, to divide on a particular issue. We as a chamber ought to look at the processes we use in relation to these difficult matters on conscience issues.

Therefore, I will address some of the amendments that the Hon. Mr Ngo has put. I will obviously be asking questions, because I have only had, as have other members, a very limited opportunity to look at them. Those members who were on the committee may or may not have explored these issues already, and will be in a better position perhaps to inform members as to the practical impact.

What I will say is that they do address some of the issues that I have addressed previously on this issue. In reading the select committee report (and I know that a lot of other evidence must have been taken), on a range of these issues there is not much by way of argument, either for or against some of the issues the Hon. Mr Ngo is raising in relation to planning issues, advertising issues, streetwalking issues and a variety of other things.

The select committee report very adequately addresses a whole range of important issues, I acknowledge that: the differences between legalisation and criminalisation, the impacts on health, etc., but on a range of these other issues there is not a lot in terms of canvassing the arguments as to why we should go down a particular path or not, and if the committee did consider it as the reasons why they considered the amendments of the Hon. Mr Ngo (or that sort of amendment), and why the committee believed in the end they should reject it.

The other point I make, before addressing some specific issues, is that, if this bill is to go to the lower house, as it might, I look forward to what I am sure will be not only a very interesting debate in the House of Assembly but a very interesting period leading up to the next state election.

I have referred in the past to one of the more adept grassroots politicians in this parliament still, now the Speaker, Mr Atkinson—Speaker Atkinson—and I referred to an endeavour back in the 1990s, when again a Liberal member of the Legislative Council, Dr Bernice Pfitzner, moved a bill in relation to prostitution law reform. Speaker Atkinson (or Mr Atkinson as he was then) very cleverly, from his viewpoint I am sure he saw it—and minister Malinauskas might be interested in this—circulated leaflets attacking the Liberal Party and Dr Bernice Pfitzner through large chunks of the suburbs of the inner west, with big bold brassy headlines saying, in effect, that the Liberal Party wants to have brothels either next door to your house or next door to your family home or in the western suburbs where you live, but it does not want to have brothels in the other parts of Adelaide, or variations of that particular theme.

So, Speaker Atkinson has put down the template for campaigning against those who support prostitution law reform in the western suburbs, or wherever else it might happen to be, and as lower house members wrestle with their consciences, potentially, in the coming months leading up to the March 2018 state election, I will endeavour to dig up from my archives enough copies of Speaker Atkinson's materials to circulate to members, just to concentrate their attention on the matter at hand.

The last time I spoke at great length on this particular issue, believe it or not, was back during the debates the Hon. Mr Brokenshire spoke of, which were on 9 November 2000. Having reread my contribution, whilst your views over a long period of time in parliament sometimes evolve and change,

I have to say that, in this particular area, they have not changed much at all. I do not therefore intend to repeat all that I put on the record then. As I said, for those who are interested in my views on this particular area, they are on the record in the *Hansard* of 9 November 2000. Not that I realised it at the time, but I did say:

> As I have said, I believe very strongly that the law we have is not ideal and does require change and, whilst I do not support the change we have before us, I indicate—as other members have indicated—that the proposed change in the law which treats customers, who are generally male, in the same fashion as service providers, who are generally female, is a change I would be prepared to contemplate.

In those days, they did not refer to it as the Nordic model, but I guess the trend these days, as I read the select committee's evidence, is that is the Nordic model. I think two members of the select committee in the dissenting report made recommendations based on the evidence from the Swedish lawyers and others who presented evidence to the committee about the effectiveness of that particular model. My views in the year 2000 contained a willingness to be prepared to consider that. Again, I would be prepared to consider that at this particular time.

I am significantly influenced by the views that the Commissioner of Police has put to the committee. He was evidently asked by the committee, in a letter of 10 April, for further information in relation to claims that had been made about police activity. He was requested for responses by the committee, and he responded on 23 May 2017. The Hon. Mr Hood has referred to the last two paragraphs of that particular opinion or response to the committee, which I think is overwhelmingly persuasive for those who have any concerns at all about this particular bill and the reforms that are being proposed.

Here we have the Commissioner of Police saying that this bill will 'significantly diminish legislative oversight of the sex work industry raising concerns that serious and organised crime elements would infiltrate and flourish in the industry with a limited risk of detection'. That is the Commissioner of Police saying that he opposes, they oppose, this bill because it raises concerns that serious and organised crime elements would infiltrate and flourish in the industry with limited risk of detection. I think that is a very powerful piece of evidence to not only the select committee but also to this parliament, which needs to be considered by members as they consider the legislation.

He goes on to say that the regulatory control, for those members of the parliament who support this, would be far less than that imposed on many other small businesses—for example, second-hand dealers, licensed premises relevant to the Liquor Licensing Act and the tattoo industry. What he is saying is we as a parliament have provided oversight of people who work in the tattoo industry, liquor licensing and second-hand dealers. We all know the restrictions that we have placed in terms of regulation of those particular industries, but we are prepared to decriminalise the prostitution industry and have even less regulatory control and oversight for that industry than someone who wants to run a tattoo parlour, a liquor licensing establishment or a second-hand dealer's establishment.

The logic of that just escapes me. The logic of that I think is overwhelming from the Commissioner of Police. Even those in this parliament who support the decriminalised model ought to consider the views that the Commissioner of Police is putting in terms of having some regulatory oversight rather than just washing our collective hands of any regulatory oversight, essentially, along the lines that the Commissioner of Police is recommending. As I said, I will not read all of the rest of the Commissioner of Police's response to the select committee invitation for further comment, but I think it is overwhelming, and I think members, certainly in the House of Assembly if the bill comes to them, need to address themselves particularly to the concerns that the Commissioner of Police has raised.

The Hon. Mr Hood also raised the concerns of individual councils. I will not reread those but I am particularly interested in the City of Tea Tree Gully's quite overwhelming list of concerns that it raised. I know there will be concerns in some of those suburbs out in the north-east. The Hon. Mr Hood referred to the evidence from the City of Marion. In a number of those suburbs in the inner south-west or the south-west area covered by the City of Marion, the concerns being expressed by the city councils are that they are in essence going to be left with having to manage something that they are currently simply incapable of managing. The concern of the City of Tea Tree Gully is that they are going to become the regulator of brothels and street prostitution.

In relation to street workers in the suburbs of the north-east, in the suburbs in and around Marion and in the south-western suburbs, those city councils are saying, 'We're the ones now who are going to have to be responsible for managing them. We're the ones who are going to have to be responsible for managing the regulation of the brothels.' There are planning issues in having brothels in residential streets or in having a brothel, as the Hon. Mr Ngo has pointed out, next door to your local church, your local mosque or your local childcare centre.

Clearly, if the parliament approves this bill as it is, in terms of the planning restrictions in these particular areas, it is saying quite simply, 'Well, we don't care. You can have a brothel next door to the childcare centre. You can have a brothel next door to the church. You can have a brothel next door to my place. You can have a brothel next door to the Hon. Mr Gazzola's home—no-one cares.' There is the whole notion of there being no controls in relation to advertising—the billboards and neon signs and whatever else might be legally authorised to advertise brothels throughout the north-eastern suburbs in Tea Tree Gully and those south-western suburbs in the Marion area.

I think it is going to be important to know the attitudes of some of the candidates for the election coming up in March 2018 in relation to some of these local issues. Whether they are Labor candidates or Liberal candidates, people are going to want to know: as a candidate, do you support having a brothel next door to the local school? Do you support having a brothel next door to the childcare centre? Do you support the council having to control streetwalkers down the back streets of the suburbs of the Tea Tree Gully council or the Marion council or wherever it might happen to be? As a Labor candidate or a Liberal candidate, do you support advertising hoardings or neon signs advertising brothels that I will have to see each and every morning as I drive my two kids to the local primary school?

They are the sorts of household issues that people are concerned about and will want addressed. Candidates are going to be asked the difficult questions, and they ought to be asked the difficult questions. It is much easier for us in the Legislative Council because we do not have the immediate constituencies that lower house members do. Our offices are here in Parliament House: they are not out in the suburbs of the Tea Tree Gully council or the Marion council. It is going to be the lower house members and the lower house candidates who should have these questions put to them as to whether or not they support these sorts of changes.

Speaker Atkinson is going to be quite happy to use the techniques that he used in the past to attack former Liberal colleague Dr Bernice Pfitzner, and it was not just her. The whole Liberal Party was being attacked because Dr Bernice Pfitzner, as an individual Liberal expressing a view on conscience, pushed this particular issue. I am sure that Speaker Atkinson, as he has done in the past, is going to be looking to use the votes of various people, and of course there might be others who follow his lead or his template in relation to this issue.

I will not be supporting the bill. I will be considering and listening to the debate on some of the amendments from the Hon. Mr Ngo; I do not understand all the practical implications and detail yet, so I will be asking questions of the Hon. Mr Ngo, and indeed anybody else who might be able to throw light on the practical implications of some of the amendments. I will err on the side of trying to get some amendments into the legislation so that it can be considered by another place, and if that is the case perhaps it can then be further improved in another place.

So as I said, I will err on the side of having things included in there to keep the debate alive as opposed to opposing them. Clearly there is a number of people who have locked themselves into a position that says, 'We're not going to support any amendment that the Hon. Mr Ngo is going to move.' I hope there will be at least a number of people who will be prepared to give reasonable consideration to the Hon. Mr Ngo's amendments, because I think they endeavour to address some of the issues that concern local people, local residents, local families in those suburbs of the Tea Tree Gully council and the Marion council that have already been expressed by way of the evidence to the select committee.

The Hon. T.T. NGO: I will quickly respond to a few of the questions raised during this debate. The reason I submitted my amendments only today is that I did not know the bill was going to go to committee this week. We were told only recently by email from the Hon. Ms Lensink that it was going to go into committee, and my office has been working with parliamentary counsel back and forth this

week to try to put in the amendments the way they will work with law. The things I want to do may sound easy, but when parliamentary counsel had to draft them into law it was harder than it looked.

On another matter, the Hon. Ms Vincent said that I was on the committee for all that time so why did I not put these amendments in the committee. I am not sure whether she has had time to read the committee report that was tabled a few months ago, but I did put in a dissenting report and I raised these very matters. Other honourable members can back me up in that I regularly raised these issues during committee meetings, and when witnesses came in to give evidence I regularly raised these issues. I have my report here which I put in with the committee's report; I do not want to read it out, but I did raise these issues in that report. The Hon. Ms Vincent asked why I did not put it in, and this clarifies that I did. I cannot do any more than that, putting it in the report.

Regarding these amendments, I needed to go through parliamentary counsel to make these changes. I cannot just put in the changes that I wanted in the report and make it happen. I just wanted to clarify that, and correct the Hon. Ms Vincent's misunderstanding; the honourable member believed I did not do it, but I did.

The Hon. R.L. BROKENSHIRE: Before we get on to the actual serious deliberations and the issues around amendments being tabled today, just a few hours ago—as the Hon. Stephen Wade said, at 2.30 this afternoon, just a few hours ago—I want to pick up on one point the Hon. Stephen Wade made.

I respect the fact that the Hon. Stephen Wade did say that there should be some adjudication on this particular bill put up by the Hon. Michelle Lensink through a select committee. I respect that and that part of it is correct, but I just want to put on the record, so that it is there for perpetuity, that if you have a look at the terms of reference of that particular select committee, the focus of those terms of reference were primarily—I am not saying in entirety, but primarily—on the bill put up by the Hon. Michelle Lensink. In fact at times, when I was on that committee, we were reminded of the fact by the chairperson or the acting chairperson that we had to focus on the terms of reference. I want to put that on the public record, because this was not a broad-based select committee that could look at everything in entirety. It was not that way. Read the terms of reference.

Secondly, I will put on the public record that I did not sit there comfortably, like I do on a lot of select committees, feeling that it was a pretty broad cross-section of views. In fact in one instance, when two lawyers came over from Sweden (from memory they were from Sweden, they were certainly from that part of Europe) to give evidence, I had to protect those witnesses, frankly—it was not the Hon. Michelle Lensink who was in the chair at the time because I am very pleased to say that she had that beautiful little boy and she was having what she rightly deserved, some maternity leave, so it was an acting chair—because those two international visitors who were here in this state were, in my opinion, intimidated by the chair at the time and I actually had to protect those people.

I do not necessarily accept what the Hon. Stephen Wade is saying, but what I do accept is that the absolute majority of the members of the committee recommended supporting the Hon. Michelle Lensink's legislation. However, it was not unanimous. From then, when the report was tabled, only two sitting weeks ago, we have not had a lot of time, with everything else, to actually come up with options like the Nordic model. I just want to put that on the public record.

It is superficial to where we are actually headed tonight, but I want to put all this stuff on the public record for the sake of history, because this will come up again. I just want to put that on the public record and we will now proceed, with your good chairmanship, sir, into the rest of the committee. As I have said to my colleagues before I, for one, still have to come to grips with and understand the plethora of amendments made by the Hon. Mr Tung Ngo, and I still believe that we need to report progress.

The Hon. S.G. WADE: I thank the Hon. Robert Brokenshire for his comments of clarification but I would like to remind him of the actual course of events. When I moved my contingent motion in 2015, there was actually another amendment put forward—which I opposed—which was, in my view, to leave open the possibility that the Nordic model could be put to the committee as an abstract idea. I explicitly opposed that because, in my view, it was unfair for the decriminalisation model to be presented as a bill and for the Nordic model to be presented as an idea.

As I have already said in my contribution earlier today, I specifically sought the advice of the Clerk at the time, and the advice I received was that even once the select committee had been established, it was within the power of this house for that same committee to consider another bill. So the fact that this committee had a limited focus is primarily the responsibility of every member of this house because no other member took the initiative that the Hon. Michelle Lensink took and presented a bill to this house.

I make it clear that in my comments on my contingent motion in 2015 I called on other members to put forward another model if they wanted to do so, and that I specifically foreshadowed that I would be open to such a bill being referred to the select committee. The select committee had only one bill.

The Hon. J.M.A. LENSINK: I would also like to address some of the insinuations of the Hon. Rob Brokenshire about the process in relation to the select committee. I said in my speech addressing the tabling of the report that I thought it was a respectful committee. We received a lot of written evidence and we also had a lot of witnesses. I reject any characterisation, in any way, that particular witnesses were intimidated or that they were not allowed to speak freely. We did have to remind some witnesses that our terms of reference were contained to the select committee before us.

I made sure, to the irritation of some other committee members, that we did not shut down any particular witnesses who wished to come in and speak to us about the Nordic model because I thought everybody should be given a fair hearing. I was going to make darn sure that that sort of criticism, if it were to be levelled, would be completely unfair, and I stand by the fact that this committee worked effectively, that it was respectful and that nobody's views were dismissed or belittled. Some people were challenged and some deserved to be, because, quite frankly, some of the advocates of the Nordic model had not even read the bill. So I reject any implication that the committee did not conduct itself in any way that was not absolutely proper, with due diligence and in good faith.

The Hon. T.A. FRANKS: Just for the record, because the Hon. Robert Brokenshire has talked about the conduct of the committee and referred to me as the acting chair, I did indeed call to account the witnesses, who were flown in from Sweden by various groups to give us evidence, to address their evidence to the bill before us. They were also allowed to talk about the recriminalisation model, but I remind the Hon. Robert Brokenshire that he called the head of Scarlet Alliance—the sex workers' advocacy body that is for sex workers by sex workers—a traitor to her sex. I found that offensive, and I will put on record that I pulled him into line at that point.

The Hon. K.L. VINCENT: If I could very briefly respond to some comments by the Hon. Mr Ngo, my intention was not to imply that he should have tabled these amendments 18 months ago, but that the topics of those amendments had been discussed for the previous 18 months. So, it was not as though they had not been covered. From that discussion, the vast majority of members have decided that this bill is the best model. That was the point I was making, not that he should have tabled these amendments 18 months ago.

I am aware that we have to go through a process to table our amendments and I am very thankful for that. He has followed that process but, at the end of the day, given that we have had a very comprehensive inquiry into this issue for the past 18 months, I simply do not agree with the amendments. That is my point and not that he should have tabled them any differently, except perhaps a little earlier.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. D.G.E. HOOD: The bill quite rightly, and I am sure all members would agree with me, amends the Criminal Law Consolidation Act to insert a prohibition on providing commercial sexual services to children. I do not think there is any dispute about that; it is something we can all agree on. My question to the mover is: does it prohibit children from working in a brothel, for example, in some sort of non-sexual role—an administrative role or something of that nature?

The Hon. J.M.A. LENSINK: It is my understanding that children would not be able to work in a brothel in any form.

The Hon. D.G.E. HOOD: Under what legislation would that be so?

The Hon. J.M.A. LENSINK: The Criminal Law Consolidation Act, I think. The relevant sections relating to these particular provisions are sections 65A to 68. Clause 68—Use of children in commercial sexual services, 'A person must not employ, engage, cause or permit a child to provide, or to continue to provide, commercial sexual services' etc. So, there are a number of provisions in relation to that that I believe would apply.

The Hon. D.G.E. HOOD: I thank the member for her answer, and I agree with her that I think the amendments are clear that children would not be able to provide sexual services. My question was about non-sexual services. Just to be clear: can they work as an administrator or a receptionist or something of that nature, for example, in a brothel?

The Hon. J.M.A. LENSINK: In the hypothetical the member may well be correct, that they may be employed in some ancillary role.

The Hon. D.G.E. HOOD: Is that the member's intention? Is she comfortable with that?

The Hon. J.M.A. LENSINK: It is one of those matters where the issue we are dealing with is the provision of sex services. It is in relation to sex work itself. That is the matter that is before us; therefore, these are the existing provisions which are in the legislation at the moment. If the honourable member wishes to move an amendment to seek to prohibit children from working in other roles, then I would welcome his attention to that particular detail. But the existing law is the existing law.

The Hon. T.A. FRANKS: I would just ask the mover of the amendment bill: we are on section 4, which is—

Honourable members: Clause 4.

The Hon. T.A. FRANKS: Clause 4. Can I just clarify that this is:

After section 68 insert:

68AA—Provision of commercial sexual services to children

Is that the clause that we are on?

The Hon. J.M.A. LENSINK: Yes, that is correct.

The Hon. T.A. FRANKS: This clause is actually about providing sexual services. So, if a worker provides sexual services to a child, that is an offence. This is not actually about a brothel; this is not actually about the place of premises. This is about providing sexual services to a child being illegal.

The Hon. D.G.E. HOOD: I fully understand that. My question was about the capacity. I believe this is the right clause to ask it in; if the member thinks it should be in another clause I am happy to address it there. What restrictions are there on children working in those brothels? That was my question.

The Hon. J.M.A. LENSINK: The bill itself makes no changes to those provisions, so if that is a concern to the honourable member, then he is more than welcome to draft an amendment to that effect.

The Hon. P. MALINAUSKAS: I want to understand the mover's position in respect of that last point. My understanding is that there are a number of people in this place who have criticised the Hon. Mr Ngo for moving amendments at this late stage and some say it is a representation of obfuscation, attempted delay or unnecessary restriction on the progression of this bill, but now the mover is inviting the honourable member to make an amendment. I am just trying to understand how those inconsistencies work.

The Hon. J.M.A. LENSINK: I will address the elephant in the room. There are certain delaying tactics that will be employed. People will raise things to raise doubt, etc. Anyone who is fair

dinkum could have raised these things. I gave notice a month ago about this particular stage of the legislation and that if people had any concerns they could contact me. If they wanted to draft amendments, so be it, but I am just testing people's bona fides. If they are genuinely concerned about these issues, why have they not had them drafted?

The Hon. R.L. BROKENSHIRE: I ask the mover, the Deputy Leader of the Liberal Party in the Legislative Council, the Hon. Michelle Lensink, a question regarding clause 4—Insertion of section 68AA. Subsection (2) provides:

> (2) However, it is a defence to a charge of an offence against this section if it is proved that the defendant believed on reasonable grounds that the person to whom he or she provided commercial sexual services had attained 18 years of age.

I have been to police Bluey Days and I have been to school graduations and when young people are dressed up they often look older than they are. Therefore, my question is: what is the basis, definition and intent of reasonable grounds?

The Hon. J.M.A. LENSINK: The honourable member goes to some of the matters that are sometimes related to precedents in law and drafting issues. That is an identical clause to what is in section 68 of the existing Criminal Law Consolidation Act; that is, subsection (5) has identical wording. I understand that that is part of the standard form for a range of this sort of legislation that addresses these particular matters.

The Hon. R.L. BROKENSHIRE: Supplementary question: for the record and for perpetuity, is the honourable member comfortable that this clause protects what it intends to protect when it comes to age identification?

The Hon. J.M.A. LENSINK: What I am comfortable with is that it is consistent with existing legislation. Again, I invite the honourable member to have, perhaps retrospectively, if he had concerns with a particular clause in relation to the existing Criminal Law Consolidation Act—an identical one that is perhaps a more serious matter of the use of children in commercial sexual services—sought to amend it if he was so concerned.

The Hon. D.G.E. HOOD: This is my last question on clause 4. As I indicated a moment ago, and I think all of us are pleased that this is the case, the bill actually inserts a provision on providing commercial sexual services to children, but my question is: does it specifically prevent children from providing those sexual services?

The Hon. J.M.A. LENSINK: That exists in section 68 of the Criminal Law Consolidation Act. There are serious penalties if the child is under 14 years of age, including imprisonment for life, for instance.

The Hon. R.I. LUCAS: I am responding to the comment from the Hon. Tammy Franks earlier. As the Hon. Michelle Lensink has just pointed out, clause 68 refers to, I assume, brothels generally; that is, the use of children in commercial sexual services. The existing act, as the Hon. Michelle Lensink has pointed out, places the prohibition about employing children, or persons under the age of, I presume, 18, although it does list here 14 and then later on I think it is 18. It provides:

> (1) A person must not employ, engage, cause or permit a child to provide, or to continue to provide, commercial sexual services.

The provision the Hon. Michelle Lensink is adding is, in essence, that you cannot provide a sexual service to a child. The issue that the Hon. Mr Hood has raised, and I think the Hon. Ms Lensink has arrived at, is that there is probably no restriction on a child working in a brothel or a commercial sexual service, whatever phrase you wish to use, doing admin work, or whatever other work it might be, other than providing commercial sexual services. I think the answer that the Hon. Ms Lensink has given is that that is essentially allowable under the bill.

The issue is that it is not really an issue that has to be addressed, I suspect, under the existing legislation, because we do not have a decriminalised model. We are now moving to a decriminalised model, so in essence we are giving sort of the seal of approval to this as a semi-valid industry of employment, and the issues that the Hon. Mr Hood is raising are, I think, reasonable issues to be raised, that is, are there to be further restrictions. I think the answer from the Hon.

Michelle Lensink is that under the bill that we have before us there is no further restriction, and there is no existing restriction because there did not need to be; it was a criminalised model. Under this decriminalised model, there is no further restriction on the issue that the Hon. Mr Hood has raised.

The Hon. J.M.A. LENSINK: If I could address that, some of my learned colleagues who follow these matters much more closely than I have in my parliamentary career have pointed out to me provisions in the Fair Work Act of 1994, specifically Division IA, which is Special provision relating to child labour and 98A, being Special provision relating to child labour. The commission may by award determine that children should not be employed in particular categories of work or in an industry or a sector of an industry and impose special limitations on hours of employment of children, but I think it is that subclause A that can prevent children from working in specific industries that would address those matters.

The Hon. R.L. BROKENSHIRE: Can the mover of the bill, the Hon. Michelle Lensink, explain to the house the situation around children, minors, being on the premises, not, obviously, being involved in sexual activities, not being involved in cleaning up tables or whatever else may occur in a brothel? Can you categorically guarantee, with the bill that you are putting up, that children will not be influenced or see a situation regarding direct prostitution on those premises?

The Hon. J.M.A. LENSINK: I am not quite sure what the honourable member is getting at, whether he is trying to say that children should be excluded per se from being on the premises. If it was the child of a sex worker, then I think that would be completely unreasonable.

The Hon. M.C. Parnell: There might be a crèche.

The Hon. J.M.A. LENSINK: Yes, there may be circumstances where the sex worker would have their child being looked after by the receptionist, or being there for some reason. I am not quite sure what the honourable member is getting at.

The Hon. R.L. BROKENSHIRE: To clarify the point, I personally as a father would have enormous concerns about my children when they were young—they are adults now—being on premises at all where any form of prostitution and associated activities occur. We all know that it is not only prostitution, even though it is denied by the Sex Industry Network. The reality is—read the police commissioner's letter—money laundering, organised crime, outlawed motorcycle gangs and also illicit drugs.

I, for one, would not want to see my children there. Well may some laugh about that, but they have children too, so this is pretty important stuff. If we are going to decriminalise this, we are opening up an avenue that has not been opened up before, so I want to know, when it comes to issues around minors on a premises what checks and balances does the mover of this legislation have to protect those children from coming into any contact? If you look at liquor licensing as a simple issue around alcohol and hospitality, there are laws there about minors being on the premises. So, I want to know what is the situation here regarding minors being on those premises because I am pretty interested, as one legislator, in ensuring the protection of those innocent minors, as we have in other laws.

The Hon. J.M.A. LENSINK: The best check and balance for the minors would be their parents.

Clause passed.

Clauses 5 to 8 passed.

Clause 9.

The Hon. D.G.E. HOOD: Clause 9 inserts a prohibition into the Equal Opportunity Act under section 85U against discrimination against sex workers, or persons who have been sex workers, in relation to their other employment or work. My question is: in the situation where a sex worker or prostitute seeks work at a church or a religious school, for example, or somewhere of that nature that has a specific ethos, for whatever reason, would that individual be able to be discriminated against if they are actively working in that regard, that is, if they are a sex worker at that time and seeking other work in a school or a church or something like that? Would the exemption extend that far?

The Hon. J.M.A. LENSINK: My understanding of the Equal Opportunity Act is that there are some specific exemptions for those situations that the honourable member has outlined, and that

this particular provision adds to a range of general anti-discrimination provisions that apply to a broad range of other categories.

The Hon. D.G.E. HOOD: I think I understood the honourable member, but just to be clear: in the circumstance I just outlined there would be no prohibition as such?

The Hon. J.M.A. LENSINK: From my understanding there are some very specific exemptions in equal opportunity legislation of which religious organisations are able to avail themselves that are not available as general provisions that, say, providing a service from a shop and so forth or an aged care facility are able to avail themselves of, and these provisions relate to those general provisions of the service from a shop or aged care facility, and so forth.

The Hon. D.G.E. HOOD: I think we are getting there. So, my initial understanding was wrong? The Hon. Michelle Lensink is saying—correct me if I am wrong—that in fact in those circumstances the prohibition would apply?

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

Clause passed.

Clauses 10 to 14 passed.

Clauses 15.

The Hon. D.G.E. HOOD: This one is the clause that deals with the provision of accommodation essentially, and it is another Equal Opportunity Act exemption and is under section 85ZH. My question is, in this circumstance, that if a prostitute has taken out a tenancy (usually it is a she—not always of course, but often) in particular premises with a normal arrangement with the landlord, but then the landlord discovers that she is using the place as a work-from-home brothel, if I can describe it like that, is the landlord under those circumstances, if he or she was not aware when the agreement was entered into under this provision, legally able to refuse to renew the lease? Of course, we have had discussions that, if three months notice is given, the landlord does not need to give any reason, but would they be contravening the Equal Opportunity Act if they expelled the individual on those grounds?

The Hon. J.M.A. LENSINK: Could you repeat that, please?

The Hon. D.G.E. HOOD: Perhaps I did not word it very well. Forgive me. I will try again. In a situation where a sex worker (prostitute) is a tenant and has entered into a landlord agreement to be a tenant in a particular premises, and at some later point the landlord discovers that the house is being used as a base to provide sexual services, would the landlord be legally able, under this exemption to the Equal Opportunity Act, to expel the person on the grounds that they were using it as a base for sex services?

The Hon. I.K. HUNTER: Just to add further to the Hon. Mr Hood's question and to allow the Hon. Michelle Lensink to consider it further, could she differentiate in her response between a person who has a tenancy in a residential apartment, for example, and whether that person could have the tenancy broken by the landlord if he found out, for example, that that person was a sex worker, as opposed to the landlord finding out that that person was actually using the premises for carrying on a commercial activity for which they did not have permission? There are two distinctions there. One, you are having your lease terminated because you are a sex worker; and two, you are having your lease terminated because you are actually carrying out a commercial activity for which you do not have an agreement with the landlord.

The Hon. D.G.E. HOOD: That is precisely my question because this goes to the matter of the equal opportunity provisions which would allow for it. That is my question.

The Hon. J.M.A. LENSINK: I appreciate that clarification. The answer is that it relates to if the landlord finds out that the tenant is a sex worker, then he or she cannot initiate breaking the tenant arrangement on the grounds that the person is a sex worker, but clearly if they are carrying on a business that is not part of their agreement, then that would be grounds for terminating the agreement.

The Hon. D.G.E. HOOD: I think what that says is the equal opportunity provisions do not come into effect there because it is not the individual's role that is the issue. It is the fact that a business is occurring at all.

The Hon. J.M.A. LENSINK: Yes, that is correct. Yes, that would apply as with other people who may carry on other particular things without the agreement of their landlord.

Clause passed.

Clauses 16 and 17 passed.

Clause 18.

The Hon. T.T. NGO: I move:

Amendment No 1 [Ngo–1]—

Page 6, line 3 [clause 18, inserted section 16A(2), definition of *prescribed sex work offence*, (c)]—Delete '25,'

The reason I am moving this amendment is because through the Hon. Michelle Lensink's bill she is trying to remove prostitution convictions from people's criminal history, including public soliciting convictions. My amendment is to support what she is trying to do, except the public soliciting and make that an offence. That is what I am trying to achieve with this amendment.

The Hon. R.L. BROKENSHIRE: As I said earlier in my input to the committee on the deliberation of this bill of the Hon. Michelle Lensink, I accepted that we were going to go through committee tonight but that then we would have a chance to get back to our constituents before we went to the third reading; that is, a final vote. Yesterday, I received an email advising that the Hon. Michelle Lensink now wanted to take it through its entirety tonight. That is the first point, and the second point is that since then, as the Hon. Stephen Wade has pointed out, at approximately 2.30 this afternoon the Hon. Tung Ngo moved a plethora, quite a group, of amendments.

As late as this morning on my way to parliament I had a phone call from another constituent, who happens to be in Canberra today, who has requested that I report progress to that constituent, indeed as I have to report progress to over 1,000 constituents who have contacted me about this bill—

The Hon. G.E. Gago: It's not the third reading.

The Hon. R.L. BROKENSHIRE: Just hang on—regarding what the outcomes of the committee stage were before the third reading. So, I have all that in my head, and then at 2.30 this afternoon we have these other amendments tabled. As I said, I may not be as expedient in my capacity to absorb the workload as some of my colleagues, and I acknowledge that, but I wanted due diligence on it. The fact is that I have, first, had no chance to consider the plethora of amendments made by the Hon. Tung Ngo and, secondly, I have certainly had no chance to consult with the constituents I deal with under the democratic process of the Westminster system. Therefore, as convention has it, I move:

That progress be reported.

The ACTING CHAIR (Hon. J.S.L. Dawkins): There were two voices—

The Hon. K.J. Maher interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): I am sorry, Leader of the Government, I heard two voices, and I call divide. Ring the bells.

The committee divided on the motion:

Ayes 4
Noes 17
Majority 13

AYES

Brokenshire, R.L. (teller)	Hood, D.G.E.	McLachlan, A.L.
Stephens, T.J.		

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A. (teller)
Lucas, R.I.	Maher, K.J.	Malinauskas, P.
Ngo, T.T.	Parnell, M.C.	Ridgway, D.W.
Vincent, K.L.	Wade, S.G.	

Motion thus negatived.

The Hon. J.M.A. LENSINK: I understand we are on amendment No. 1 of the Hon. Mr Ngo. If I could just address the matter of the insinuations about my email, I will read the emails into the record because I think they were pretty clear. On Friday 2 June 2017, which is over a month ago, I advised, in relation to this bill:

> Dear Colleagues,
>
> Following tabling of the select committee report (attached), this bill has now been restored to the *Notice Paper*.
>
> I wish to proceed with the committee stage of debate on Wednesday 5th July.
>
> Feel free to contact me if you have any amendments or other concerns.

I received a phone call yesterday from one of our colleagues who asked that I send an email to clarify because apparently there were some members who were of the impression that we might not proceed to a third reading, which I found a little bit odd because usually when we do the committee stage we follow with a third reading vote. Why would we hold that off for another day? I then sent an email as follows:

> Dear Colleagues,
>
> For the abundant clarification of some members, the expectation is that the third reading of this bill will be voted on tomorrow, Wednesday 5th July.
>
> I again offer that I can be contacted regarding any concerns.

I apologise if anybody was of the impression that we would not be proceeding to a third reading vote. Certainly, in any of the conversations I have had with people in the last few weeks I would have to say that the consensus of members of this place was that we would be proceeding to a third reading vote, and had certainly indicated that in any public commentary in the media on this matter.

In relation to this particular clause, it amends the Spent Convictions Act provisions and is the first amendment of the Hon. Mr Ngo in relation to soliciting. I have already indicated that I will be opposing all of his amendments, but the reason for opposing this particular one is that people who are involved in soliciting or street work are the most vulnerable and marginalised people working in the industry. I do not think it assists them in any way to exempt them from the Spent Convictions Act provisions. If people have concerns about their welfare then I do not think that this amendment would assist them in any way to find other means of employment in the future if they chose to do something else.

The Hon. T.A. FRANKS: I rise to address amendment No. 1 moved by the Hon. Tung Ngo and indicate that I will be opposing this amendment. I do so for some of the reasons just expressed by the Hon. Michelle Lensink, in that those sex workers who work as street workers are the most vulnerable, the most marginalised part of this industry. If those people who would like sex work not to exist would like these particular people to get out of the industry, by continuing to have discrimination against them they defeat their own purpose. This enables people to have a clean record, to get a range of employment, and to get out of sex work if they so choose.

As I said, the decriminalised system has been proven in New Zealand and elsewhere to reduce the rates of sex workers who are street workers. Street workers are people who are often homeless, people who may have no other means of income, for whatever reason. These are not the

people we need to further criminalise and to contain in a marginalised and excluded and criminalised future. We need to give these people every option for a better future.

Just a comment on the Hon. Michelle Lensink's information to us, both in her contribution in this place and then in her email, the Greens might only have two members in this place but we hope to have three one day, and we do understand that three usually comes after two. We had already had a second reading vote so we figured it was a third reading vote after the second.

The Hon. P. MALINAUSKAS: Along the lines of what the Hon. Tammy Franks just asked, I want to get some clarification around the intent of this particular amendment, particularly in light of the fact that it has been put before us relatively late. My understanding upon the reading of this particular amendment is that the intent is not, as the Hon. Tammy Franks suggests, to allow for convictions to remain for a sex worker but rather for the conviction to remain in the case of someone who was soliciting the sex worker. I want some clarity from the mover around that.

The Hon. T.T. NGO: I agree with the Hon. Tammy Franks that a street worker is one of the disadvantaged people in society. I have been told that I needed to move this because my future amendment, which I will move a bit further on, will imply that public soliciting will become an offence. So that is what I am trying to do, that is my understanding of it. Otherwise I am happy for this to be voted down, but my main purpose is that if this bill goes through in the future and if my amendments in terms of public soliciting go through, then it will make it an offence.

The Hon. P. MALINAUSKAS: I really want to be clear about this. Is it the advice of the mover or has the mover received advice that this amendment necessarily needs to pass if there is an objective to preserve solicitation as a criminal offence?

The Hon. J.M.A. LENSINK: My view, for what it is worth, is that amendment No. 1 addresses the Spent Convictions Act. Amendments Nos 2, 3 and 4 reinsert provisions into the Summary Offences Act, so Mr Ngo's amendments Nos 3 and 4 are consequential on No. 2 but No. 1 is separate. If you were you listening to my explanation as to why I oppose this particular amendment, it is because if people have concerns about people who are involved in street work and their potential future ability to exit the industry the Spent Convictions Act is quite important to assist them, whereas Mr Ngo's amendments Nos 2, 3 and 4 stand together and reinsert provisions into the Summary Offences Act which would make street work illegal. That is my reading of it.

The CHAIR: I ask the gallery to keep the sound down, because members are having trouble hearing the debate.

The Hon. A.L. McLACHLAN: I would just like to ask a question of the mover by way of clarification. It is along the lines of the Hon. Mr Malinauskas's question. Whilst amendments Nos 2 and 3 do not technically flow from amendment No. 1, if amendment No. 1 is not successful, the provision of 16A(1) states:

> …a prescribed sex work offence will be taken to be spent on the commencement of this section (including, to avoid doubt, a conviction occurring after the commencement of this section).

If amendment No. 1 does not get up, and amendments Nos 2 and 3 go in, at the moment that you are convicted for soliciting, by happy coincidence, the offence is then immediately spent, at the same time possibly. Is that right?

The Hon. T.T. NGO: That is my understanding. That is why I was told that I needed to move these amendments for it to work.

The Hon. A.L. McLACHLAN: To assist the Hon. Tung Ngo, even though they are not technically consequential, they are inextricably tied, so honourable members will need to reflect carefully on the spent conviction in amendment No. 1 as they consider what they are doing in amendments Nos 2 and 3.

The Hon. P. MALINAUSKAS: I think the Hon. Mr Andrew McLachlan has come to the nub of the issues that I was asking about, so I appreciate his assistance. I think that provides clarity to the chamber in terms of how people should vote if their intent is to support the other Ngo amendments.

The Hon. D.G.E. HOOD: I also thank the Hon. Mr McLachlan for clarifying, and for that reason the Australian Conservatives will support the amendment.

The Hon. R.I. LUCAS: I agree with the Hon. Andrew McLachlan's interpretation of the connection between amendment No. 1 and amendment No. 3, so we have come to that happy arrival. There has been earlier debate in relation to this provision about streetwalkers. I acknowledge that some members of the committee have taken evidence and placed that evidence on the record. I want to refer to a contribution from the Hon. Dennis Hood in July 2015. Again, this is conflicting evidence to the evidence that members of the committee have placed on the record in relation to the impact of changes in New South Wales and New Zealand on street prostitution. The Hon. Mr Hood placed on record the example of Darlinghurst, New South Wales. He said:

> The Darlinghurst area recorded a 460 per cent increase in prostitution charges in 2014 for street prostitutes who were soliciting within residential areas.

He went on to indicate—and these are much earlier figures and the committee may well have had access to more recent figures, which I concede:

> Indeed, the New Zealand Prostitution Law Review Committee noted that street prostitution in Auckland more than doubled from 2006 to 2007. The New Zealand Ministry of Justice report on the review of street-based prostitution in Manukau City in April 2009 noted that the number of streetwalkers was estimated to have quadrupled in just one year.

He also commented:

> Since decriminalisation in New Zealand it has been reported that streetwalking…in Auckland has increased somewhere in the order of 200 to 400 per cent.

I just place on record that I acknowledge that the committee has obviously taken evidence that claims that as a result of the introduction of this particular model, there will be a significant reduction in streetwalking and street workers. The Hon. Mr Hood has placed previously on the record evidence from New Zealand and New South Wales that points to the contrary. Time, I guess, will tell if we see this become law here, but I want to place on the record that there is conflicting evidence in relation to what the impact of these types of changes will be in terms of street workers or streetwalkers.

My other question—and I am not sure who might have an answer to this. The Hon. Mr McLachlan might or might not. In relation to the Spent Convictions Act that the bill is seeking to amend, the Hon. Mr Ngo has moved a further amendment. In relation to these particular offences, he is seeking to delete section 25 for the reasons that have just been explained. Is it correct with all of these offences that, after 10 years under the Spent Convictions Act, the convictions are spent anyway, or is this the particular provision which says they are not spent?

Not being an expert on the Spent Convictions Act, I have no idea. Are these particular offences ones that, in the normal course of events, would be spent after 10 years as per the normal operation of the Spent Convictions Act, or are these actual provisions which are excluded and, therefore, are never exempt except for the fact that this particular legislation will seek to exempt or spend some of them immediately upon the start of this particular bill?

The Hon. A.L. McLACHLAN: I am unable to assist at the moment without reading the Spent Convictions Act, which I can do for the honourable member if he insists.

The Hon. T.T. NGO: I am not a lawyer but my note here says that if soliciting is still an offence and a person is convicted of this affront to the community, then it should remain for at least 10 years, as it currently does under the Spent Convictions Act. I know the Hon. Steph Key, when she introduced her bill in 2014, explained what the Spent Convictions Act means. I quote:

> Most of the crimes are covered by the Spent Convictions Act, which means that, if one does commit another crime for a period of 10 years after the original conviction, it will be considered spent, or no longer applicable, or wiped from one's record.

The CHAIR: Someone here can probably help you—the parliamentary counsel.

The Hon. R.I. LUCAS: I think that answers it.

The CHAIR: You are happy with that?

The Hon. R.I. LUCAS: Yes.

The Hon. T.T. NGO: That is the definition.

The Hon. D.G.E. HOOD: Just for your information, Mr Chairman, after you put the amendment I have another question on clause 18.

The committee divided on the amendment:

Ayes 8
Noes................ 13
Majority............ 5

AYES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

Amendment thus negatived.

The Hon. D.G.E. HOOD: This question relates to police powers that are impacted in clause 18, after section 16A(2)(c). It deletes part 6 of the Summary Offences Act 1953. That part of the Summary Offences Act is the part that provides police with search powers to enter brothels, and that is removed by the deletion of section 6 of the Summary Offences Act.

It is pertinent to note that according to the correspondence from SAPOL that I referred to earlier—I have only read the last couple of paragraphs—in a two-month period over December 2016 and February 2017 (so, relatively recently), SAPOL actually utilised this section 37 times in that two-month period. My question is: given the frequency of SAPOL using section 32 of the Summary Offences Act some 37 times in a two-month period, what is the member's basis for trying to remove it?

The Hon. J.M.A. LENSINK: The model of legislation has, I think, been described by the Law Society as a fairly pure decriminalisation model and therefore most references to the terminology—'prostitution' or 'sex work'—that is used in the statutes at the moment is being excised, apart from certain ones that I went through in my second reading speech. So, it relates to those. The police provisions in relation to right of entry into brothels is inconsistent with a decriminalised model. Their argument in favour of it is that it enables them to have a special ability to go in and check for particular things they may have concerns about, such as drug use, etc.

It was outlined quite clearly to us in the Law Society, both in verbal and written evidence—I can retrieve those if you wish me to find them—that there are extensive laws under which the police, or any other authorities for that matter, may already enter premises if they have a reasonable suspicion that there is something illegal taking place. It was something that was addressed quite significantly by the Law Society, and if you wish me to retrieve those specific provisions I am happy to do so, but the right of entry into brothels is inconsistent with the pure decriminalised model.

Clause passed.

Clause 19.

The Hon. T.T. NGO: I move:

Amendment No 2 [Ngo–1]—

Page 6, after line 9—After its present contents (now to be designated as subclause (1) insert:

(2) Section 4(1)—after the definition of *serious and organised crime offence* insert:

sexual intercourse has the same meaning as in the Criminal Law Consolidation Act 1935;

sexual services means—

(a) sexual intercourse; or

(b) any other activity involving direct or indirect physical contact between 2 or more persons for the purpose of the sexual gratification of 1 or more of those persons;

(3) Section 4—after subsection (2) insert:

(2) For the purposes of this Act, a reference to the provision of sexual services on a commercial basis includes a reference to the provision of sexual services for any form of payment (whether monetary or otherwise).

The reason for this amendment is that I am told I needed a definition for sexual services, so that the other amendments, which I will move later, will make it easier for the court to define what is a sexual service.

If this amendment is defeated, and if someone is convicted of an offence under the amendments that I will move in terms of public soliciting, it will be up to the court to decide what that means. So, to make it easy I have a proper definition of sexual services. I also note that in the Hon. Steph Key's amendments in 2014, she also inserted a definition of sex work to make it clear and to define what it means.

The Hon. R.I. LUCAS: On a question of clarification: which particular other amendment is this related to? As amendment No. 1 was related to amendment No. 3, does the Hon. Mr Ngo have advice as to this particular amendment No. 2 as related to which one of his later amendments?

The Hon. T.T. NGO: Three, four and six—I think the rest of it, too.

The Hon. R.I. LUCAS: Three, four and six are you saying?

The Hon. T.T. NGO: Yes.

The Hon. T.A. FRANKS: In the definition of sexual services in paragraph (b), it states:

any other activity involving direct or indirect physical contact between 2 or more persons for the purpose of the sexual gratification of 1 or more of those persons;

My first questions is: what is 'indirect physical contact' and, two, how will sexual gratification of one or more of those persons be defined? You knew I would ask.

The Hon. T.T. NGO: Sorry, I missed the question?

The Hon. T.A. FRANKS: In the honourable member's definition of sexual services I refer him to (2)(b):

any other activity involving direct or indirect physical contact between 2 or more persons for the purpose of the sexual gratification of 1 or more of those persons;

How is 'indirect physical contact' defined? What is indirect physical contact, and also, how will the sexual gratification of one or more of those persons be measured?

The Hon. T.T. NGO: The Hon. Ms Franks asked what direct and indirect physical contact means. I am told that direct is direct.

The Hon. T.A. FRANKS: I did not ask about direct. I asked what is 'indirect'?

The Hon. T.T. NGO: Indirect could mean using an object, so that is what it means.

The Hon. G.E. Gago: To wave around.

The Hon. T.T. NGO: To wave around or whatever. It is something like that, so that is indirect.

The Hon. R.I. Lucas: It's the vibe.

The Hon. T.T. NGO: The vibe, yes. The whole amendment really means to define payment through sexual services, so for me to be able to imply other amendments, I really need to make clear what sexual services means.

The CHAIR: I think one of the questions was: how do you define sexual gratification?

The Hon. T.T. NGO: That came out of the dictionary. Gratification is gratification.

The Hon. T.A. FRANKS: Would the mover envisage that somebody receiving a massage may actually fall within this definition?

The Hon. T.T. NGO: I would not say that a massage is sexual.

The Hon. T.A. FRANKS: The mover might not, but somebody else might think that, and so how can the mover define what anyone might find sexually gratifying?

The Hon. T.T. NGO: At the end of the day, the courts will have to decide that. That is for the court to decide based on that definition.

The Hon. T.A. FRANKS: How would a judge or a jury know what sexual gratification is to another person? Surely, that is a personal thing. My argument here is: how on earth will you define this? How do you define in law what turns somebody on and gives them sexual pleasure?

The Hon. R.I. LUCAS: While the Hon. Mr Ngo is taking on legal advice, can I point out to the Hon. Ms Franks that if she has a particular issue with the use of the phrase 'sexual gratification', clause 65A of the existing Criminal Law Consolidation Act, actually defines:

> commercial sexual services means services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others;

The existing Criminal Law Consolidation Act already uses some of the terms and phrases that parliamentary counsel has obviously advised the Hon. Mr Ngo to use. So, if the Hon. Ms Franks, or indeed others, is deriving pleasure from asking the Hon. Mr Ngo to define exactly how the courts and others will interpret sexual gratification in his amendment, that particular provision has existed in the Criminal Law Consolidation Act for quite some time and, not being a lawyer, there may or may not already be legal precedent in relation to that, but if not, it is in the existing Criminal Law Consolidation Act and it is certainly no new term that the Hon. Mr Ngo is introducing in terms of his definition.

As I indicated at the outset, whilst I am not locked into this particular definition that parliamentary counsel has given the Hon. Mr Ngo as part of the package of further amendments that he is going to move, if and when it gets to the assembly and comes back again, if on learned advice we need to change this particular amendment in some way or another, I am open to that, but in the interests of keeping the package of amendments alive for at least further consideration, I indicate I will support this particular amendment whilst reserving an ultimate position in relation to the precise drafting of the particular amendment that we have before us.

The Hon. T.T. NGO: My advice is that I am correct in terms of, at the end of the day, it is up to the court or the prosecution to determine the outcome of the sexual services. What they do is go through one of the clauses that I have chosen. They will determine whether sexual intercourse was involved and obviously if it was, then the definition fits. If not, then they will go on to paragraph (b) to determine whether that definition applies to sexual services.

If somebody is giving someone a massage and if money changes hands and if sexual gratification is an outcome, then the prosecution or the court will determine whether that may be a definition of sexual services. At the end of the day, it is really up to the prosecution or the court to decide what the definition means.

The committee divided on the amendment:

Ayes 8
Noes................ 13
Majority............ 5

AYES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.

AYES

Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

Amendment thus negatived; clause passed.

Clause 20 passed.

New clause 20A.

The Hon. T.T. NGO: I move:

Amendment No 3 [Ngo–1]—

Page 6, after line 12—Insert:

20A—Substitution of section 25

Section 25—delete the section and substitute:

25—Soliciting

(1) A person who, in a public place, or within the view or hearing of any person in a public place, accosts or solicits a person for a purpose related to the provision of sexual services on a commercial basis is guilty of an offence.

Maximum penalty: $1,500.

(2) For the purposes of this section, a reference to a public place does not include a reference to premises at which sexual services are provided on a commercial basis.

This amendment is to insert clause 20A, which seeks to delete the soliciting offence contained in section 25 of the Summary Offences Act and replace it. The proposed substitution contains largely the same offence as is currently in section 25A of the Summary Offences Act but changes the terminology to 'provision of sexual services on a commercial basis' instead of 'prostitution'.

This change is to reflect the fact that, if the bill passes, sex work will generally be decriminalised, but also to send a strong message that as a society we—and especially people living in The Parks area that I mentioned earlier—do not tolerate people accosting others on the street for the purposes of these services. I also moved to make the maximum penalty under this amendment $1,500; it is currently $750 so it is double the fine in the current act. This is also to provide a strong deterrent, and indicate that public soliciting for the purpose of prostitution is illegal.

As I said to members earlier, I was a councillor for The Parks area for 17 years, and in those 17 years the majority of the calls from people complaining in those areas related to concern with Hanson Road and public soliciting in those areas. I wanted to give the people living down that way some kind of safeguards, and most people would believe that for this bill to go through and to decriminalise prostitution and for prostitution to become legalised, it will hopefully stop people from street work.

However this clause, that has been put by the Hon. Michelle Lensink, really does not address this issue. To the contrary, it will probably encourage street workers even more, and that is my reason for moving this amendment to make illegal public soliciting for prostitution.

The Hon. T.A. FRANKS: I think the Hon. Tung Ngo and I are on the same page: I think we both want to see fewer people engaging in sex work on Hanson Road and on streets and doing what

we call street work. I believe—and I think the evidence shows—that the way to do that is a decriminalisation model. I also believe that if you were serious about the most vulnerable street sex workers not being on the streets, you would have safe houses. That is the example we are aware of around the world, and they are often run by churches—safe houses, the Hon. Mr Brokenshire.

The Hon. R.L. Brokenshire: Are they the ones the government got rid of a couple years ago? What is a safe house?

The Hon. T.A. FRANKS: A safe house is a place where harm minimisation, health outcomes and safety for sex workers can be supported through a premises that they can use at a very cheap rate, a premises that is staffed, a premises that is usually run by a charity that wants to support people to have options in life and to have safety in life. Safe houses are actually a better solution than increasing—doubling—the penalties on some of the most marginalised people in our state, people who already cannot pay a $750 or so fine will not be able to pay several thousand dollars. They are going to end up in gaol, they are going to end up further in poverty, they are going to end up needing to find money from somewhere through punitive measures such as this.

As I say, we come from the same place but I do not see that this is the way forward if you want to address the issue of street work. I point out that in this state a few years ago we had those street workers on Hanson Road targeted through Facebook. There was a game where, if people threw things out of their cars, they could get points for hitting these people, usually women, who were sex workers on the street, because they are the most marginal and vulnerable of people.

Some members of our community saw that vulnerability as an opportunity to further hurt and harm those people and, because they are criminalised, they were not in a position where they could go to the police. That is what we will continue to see happen in our society unless we do something more proactive about it, and harm minimisation and safe houses is a better way forward.

The Hon. R.I. LUCAS: As I indicated earlier in my contribution, I quoted the statements from the Hon. Dennis Hood's earlier contribution on this legislation, and I acknowledge that there are obviously differing views in relation to what the evidence shows. Certainly the evidence he placed on the record, in New South Wales and New Zealand, was a significant increase after the model was introduced there in street workers as a result of the legislation we are being asked to consider. I accept that the Hon. Tammy Franks has evidence from her committee work that would argue the contrary; time will tell.

I intend to support the amendment for the earlier reason I gave. I think this is an important amendment for further consideration. I know this is one of the areas that local councils are concerned about, which I talked about in my earlier contribution to clause 1. They are concerned that the views of people in the suburbs of Tea Tree Gully and Marion are being represented by the local representative on the councils. For example, the Tea Tree Gully council last year passed a resolution opposing this particular piece of legislation. It passed a motion to write to all MPs outlining the council's opposition to this bill.

One of the issues that they outlined in the Tea Tree Gully council's motion was the regulation of public soliciting by prostitutes, street prostitution, which the bill allows for in an unfettered manner. These are the sorts of grassroots concerns that local representatives have, in this case in local government. There are some very interesting names of people who supported that—I note one had the surname Hanson, which was interesting—urging MPs to vote against this particular piece of legislation.

That is an indication that those people are at the shopfront, at the local level, representing households, residents and constituents, who feel the pressure of the concerns that residents have about streetwalkers. They represented their views through their council, and we have seen it through Salisbury and Marion councils and a number of other councils, who put their point of view. One of the concerns that they listed in the Tea Tree Gully area and north-eastern suburbs area was in relation to this issue of street workers.

The Hon. D.G.E. HOOD: I indicate that the Hon. Robert Brokenshire and I will both support the amendment as well. I indicated in my clause 1 contribution that this issue is being specifically raised by a number of groups. As I recall, that includes the police and a couple of councils, and the Hon. Mr Lucas just mentioned that. I also very briefly touched on the LGA's concerns about some of

these issues, but what I did not mention, which I intend to place on the record now, is that the LGA was specifically concerned about this issue of streetwalkers.

I will read in part from the letter from Matt Pinnegar, the Chief Executive Officer of the LGA. No doubt, a number of members are familiar with him. He wrote this letter on 29 September 2015. It is not a long letter, but I will not read it all; I will just read the relevant part. It states towards the bottom of the letter:

> In addition, there do not appear to be any clear regulatory provisions to manage the social impacts of street soliciting for the purposes of performing sex work. Councils are extremely concerned that the lack of clear provisions in relation to compliance and enforcement may have the effect of making councils *de facto* enforcement agencies. Councils have neither the appropriate powers, nor the desire, to take on a compliance and enforcement role in relation to sex work. The LGA submits that SAPOL should be given an explicit compliance and enforcement role under the proposed Bill to remove any suggestion that councils will be required to assume any regulatory role in relation to sex work.

That is the LGA's view. It is very clear. In addition to a number of the councils, which we have also heard from, they are concerned about what will happen with this specific aspect of this bill. I am concerned about it, too, and that is why we will be supporting the amendment.

The Hon. P. MALINAUSKAS: I will be supporting the Hon. Mr Ngo's amendment. I reiterate the remarks that I made at clause 1, specifically in regard to the concerns of those residents who have to deal with the prevalence of streetwalking almost on a daily basis. Again, I think there are people of good intent who can arrive at different conclusions in terms of the merit of this bill generally, but specifically in respect of this amendment. I think this amendment has merit.

For me, the test for supporting this amendment can be made rather simple. I say that with a degree of caution because I acknowledge it is a complex issue and it is sometimes dangerous to try to apply a simplistic lens to the merit of the argument. If one is not comfortable with the idea of streetwalking occurring out the front of their own home, then it is difficult to oppose this amendment.

If you are of the view that streetwalking is problematic and not necessarily desirable out the front of one's own home, then I think you should be supporting the amendment. Generally speaking, I take this view. I have spoken to many residents within areas around Hanson Road and in suburbs around the Parks who are really quite fed up with this behaviour occurring in front of and around their own homes.

Again, I think it is a pretty simple question. If you are okay with streetwalking occurring out the front of your own home, sure, oppose the amendment, but if you think that is the sort of activity you would not like to see out the front of your own home, where you may be raising a family, then this amendment should be supported. For mine, that is one of the reasons why I will be supporting this amendment.

The committee divided on the new clause:

Ayes................8
Noes 13
Majority 5

AYES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

New clause thus negatived.

The CHAIR: The Hon. Mr Ngo, your next amendment is consequential?

The Hon. T.T. NGO: I withdraw that amendment.

Clause 21 passed.

New clause 21A.

The Hon. T.T. NGO: I move:

Amendment No 5 [Ngo–1]—

Page 6, after line 14—Insert:

21A—Insertion of section 25A

After section 25 insert:

25A—Offence to use premises for purposes of sex work near certain kinds of premises

(1) An owner or occupier of premises must not provide, or cause or permit the provision of, sexual services on a commercial basis at the premises if the premises are located within the prescribed distance from protected premises.

Maximum penalty: $5,000 or imprisonment for 3 months.

(2) Subsection (1) does not apply—

(a) in relation to premises that first become protected premises after the owner or occupier of particular premises has commenced providing, or causing or permitting the provision of, sexual services on a commercial basis at the premises; or

(b) to an owner or occupier of premises who causes or permits the provision of sexual services on a commercial basis at the premises if—

(i) the sexual services are only provided to the owner or occupier; or

(ii) the sexual services are provided to another person and the owner or occupier is genuinely acting in the course of their duties as a carer (however described) for that person; or

(c) in any other circumstances prescribed by the regulations.

(3) In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that the defendant did not know, and could not reasonably have been expected to have known, that particular premises were protected premises.

(4) In proceedings for an offence against subsection (1), it is not necessary for the prosecution to establish that—

(a) a service of a kind referred to in the definition of *protected premises* was, in fact, being provided at the protected premises at the time of the alleged offence; or

(b) that a child or other person was, in fact, at the protected premises at the time of the alleged offence.

(5) For the purposes of this section, a reference to premises includes a reference to any part of the premises.

(6) In this section—

child care centre means premises in which more than 4 young children are, for monetary or other consideration, cared for on a non-residential basis apart from their parents or guardians;

Adelaide central business district means the area of the City of Adelaide bounded—

(a) on the north by the southern alignment of North Terrace; and

(b) on the south by the northern alignment of South Terrace; and

(c) on the east by the western alignment of East Terrace; and

(d) on the west by the eastern alignment of West Terrace;

prescribed distance, from protected premises, means—

(a) if the protected premises are located within the Adelaide central business district—100 metres; or

(b) in any other case—200 metres;

protected premises means premises that are regularly used—

(a) as a child care centre; or

(b) to provide kindergarten, preschool, primary school or secondary school services; or

(c) to conduct religious services; or

(d) to provide any other class of service declared by the regulations to be included in the ambit of this definition,

but does not include a home school, a private residence or any other premises of a kind excluded by the regulations from the ambit of this definition.

The purpose of this amendment is to keep what the community commonly know as brothels or places where sexual services are provided for payment away from schools, childcare centres and places of worship such as mosques and churches. I note that this amendment is similar to the provision that the member for Ashford, the Hon. Steph Key, had in her sex work reform bill in 2012.

My amendment will make it an offence to provide sexual services on a commercial basis within 200 metres of a school, childcare centre or place of worship, outside of the CBD. Within the CBD, it will be an offence for these services to be provided within 100 metres of these said premises. I have decided to make the distance in the CBD less to reflect the higher density than the suburbs. I can understand that it is impractical to have a minimum of 200 metres in the city.

I am concerned about brothels near these premises, especially now that my previous amendment was unsuccessful and public solicitation is not a criminal offence. Practically, if this amendment does not get up, then you could potentially have streetwalkers standing outside of these premises that I have mentioned. I think it is very important that, as members of parliament, we have some safeguards and it is important that these sort of activities do not get too close to these places that I mentioned.

The Hon. R.I. LUCAS: I strongly support this amendment from the Hon. Mr Ngo. Again, I indicate that I do so in the interests of keeping the debate alive between the houses, assuming that—clearly, the numbers are going to be there for it to go to the House of Assembly. I think this is, together with the issue of streetwalking, one of the critical issues for local members. It will certainly sharpen the focus as we look for candidates' views and attitudes in the period leading up to March 2018—not just members but candidates as well—as to whether or not they support this legislation and the impact of the legislation.

I think it was put pretty clearly earlier on. As I said, I reserve my right in relation to the precise drafting of this. It may well be that some of the provisions can be sharpened, hopefully in the debate in the House of Assembly, in relation to whether or not there are other centres that might need to be similarly prescribed as well. The key issue here is simply an issue for lower house members as they pitch their wares to constituents in the period leading up to the election, and that is: do they or do they not support the location of brothels next door to a childcare centre?

It is a pretty simple question to go to a candidate who wants to seek election at the next election, those candidates in the north-eastern suburbs, the Tea Tree Gully council, and the motion I have read where they strongly oppose this particular legislation, and a mysterious councillor by the name of Hanson supported that resolution. I am happy to place on the public record that he had very strong views, I am told, in relation to this legislation that we have before us. We have not seen those views necessarily being reflected during the debate thus far, but I guess time will tell.

These are critical issues for lower house members and candidates leading up to March 2018 and they should have the question put to them and the hard word should be put on them. Do they think it is right to have, and do they want to see a brothel next door to their local childcare centre

when they are taking their four year old or their five year old to childcare services? Do they want a brothel and are they happy to see a brothel next door to a kindergarten when they take their five year old to kindergarten?

Do they want a brothel next door to their primary school, whether it is non-government, Catholic, independent or government school, when they take their five to 12 year old to primary school? Do they want to see a brothel next door to that? Do they want to see a brothel next door to their local Catholic Church or their Uniting Church or their mosque or their temple or whatever it might happen to be? Do they want to see a brothel next door to their next door neighbour's place or their neighbour across the road, and justify to that particular neighbour why they think it is appropriate that we have a legal brothel (or decriminalised brothel, if that is the appropriate phrase) sitting across the road, operating without fear of police entry and without regulation?

Let us remember what Commissioner Stevens said, that this bill is offering less regulation than for a tattoo parlour or a second-hand goods premises or a liquor licensing establishment. Less regulation and less control, that is what we are being asked to support and that is what lower house candidates and MPs are going to be asked to support if they are going to put their hand up and support this particular legislation before the next election.

Let us concentrate their minds over the next few months as we lead into March 2018 and let them put their hands up and say, 'Yes, all of that, happy to support it,' and then good luck to them, because as I pointed out, now Speaker Atkinson already effectively demonstrated back in the nineties when he ran a vicious campaign against the Liberal Party in the western suburbs in relation to the location of brothels in the western suburbs, that that is the sort of dastardly deed that some of these dirty people in the Labor Party or indeed perhaps in some other political party might be able to get up to.

The CHAIR: Can I just draw your attention to standing order 193.

The Hon. R.I. LUCAS: Which is what?

The CHAIR: Which is 'no injurious reflection on any member'.

The Hon. R.I. LUCAS: Dastardly deed is complimentary.

The CHAIR: No, it is a bit more than 'dastardly deed'; you are making accusations that you have not presented any proof for, so just keep—

The Hon. R.I. LUCAS: No; that is complimentary, Mr Chair. It is complimentary. It is not an injurious reflection. I am admiring the dastardly deeds of some of the members of the Labor Party and indeed some others. No injurious reflection there, Mr Chair, in relation to it. They are the sort of dastardly deeds that people in the dark rooms of the Labor Party and the Liberal Party have got up to in the past, and potentially will get up to in this period leading up to the next election, so let us concentrate their minds.

As I said, the precise drafting of this particular amendment may well be able to be improved and that is an issue for members in another place to address themselves, should this bill get to them over the coming weeks. The essential questions for them are the questions that I put: do they want these brothels in these particular locations, and do they want these brothels to have less regulation (and this is according to Commissioner Stevens) than a tattoo parlour, a second-hand premises or liquor licensing establishments? That is, in essence, what this bill is offering to the people of South Australia.

I suspect when you talk to the residents of Tea Tree Gully, and if you are a local government councillor, the Hon. Mr Hanson, or if you are a lower house candidate in those particular seats, you will have a different attitude than if you are sitting here in the safety of the Legislative Council.

The Hon. M.C. PARNELL: I have not weighed in on every one of these clauses but, as the only qualified town planner in this parliament, I am going to weigh in on this one. This amendment is basically a reflection of moral values. It is not based on any particular actual or even perceived nuisance or anything that the law would recognise as something that needs to be dealt with.

The Hon. Rob Lucas poses the question: would you like a brothel next to your—insert childcare centre, school, church, whatever? In all my years working as an environmental lawyer, I

found that the sort of land uses that people really did not want next door to them were funeral parlours because there are dead people in the backyard, there are coffins and things around and the hearse might drive past your house and remind you of your mortality.

People are funny. Often a brothel might look like a regular house. There might not be any signage. There might be nothing and it seems that it is only when you know what is happening inside that you cannot see but once you know it all of a sudden you have a problem. That is a remarkable way to look at land use planning decisions. So, the approach that I would take is certainly not to say that establishments used for sex work are some protected type of facility that must be allowed anywhere. That is not the way it works.

We have a state planning library and we have the new Planning Development and Infrastructure Act and they are proposing to have many more standard provisions that are going to apply to different types of industry. The test that we should apply, whether it is a brothel or a panel beating workshop is to ask: does this cause nuisance to people nearby? Is there going to be clearly offensive behaviour occurring outside the premises?

If the answer to those questions is yes, then you do not want them in those locations. But this is the wrong mechanism for achieving that. This is not based on any reality because you could have a regular suburban house in a regular suburban neighbourhood with no signage, there could be a bit of car parking at the back or maybe not, perhaps it is small enough that it does not need car parking and people park on the street like they do for anything else—you really do not need a provision like this.

The other point is that just at a practical level, these measures of 200 metres and 100 metres—you could have a situation where if we take a childcare centre for example is 200 metres away from the brothel, there might be no connecting streets. There might be no way to get from one to the other without driving several kilometres around. It is just an arbitrary set of measures that is really designed to impose a moral framework on this, which is that we do not like these businesses, we do not want them decriminalised and we are going to keep them away from other things that we do like, even if they do not cause any impact. It is just an illogical way to proceed so I will be opposing the amendment.

The Hon. P. MALINAUSKAS: I completely disagree with the Hon. Mr Parnell. As much as I regret to say it, in many respects I am inclined to agree with the Hon. Mr Lucas on this occasion. There is a simple test that needs to be applied here and that is the consideration of those people who currently deal with sex work occurring within the immediate proximity of their own residence. I have to say that I have spoken to a lot of these people and none of them tend to like it.

There is a simple question that needs to be asked and when people cast their vote on this measure I would implore them to consider asking if they are okay with the idea of sex work occurring in the immediate proximity of their home or of an institution along the lines of the ones that the Hon. Mr Ngo has listed in his particular amendment. If the answer to that question is yes then, sure, go for it and vote against the amendment. However, if the answer to that question is no, then I would encourage people to vote in favour of the Hon. Mr Ngo's amendment.

I am trying to choose my words carefully but I think there is a degree of academia to the logic that is being applied by the Hon. Mr Parnell. There is a human element to this and the human element needs to be the consideration of those people who deal with this on a regular basis, or could be subjected to dealing with this. That is a legitimate consideration.

Sometimes perception does inform reality and I accept that, but it is also equally true that if someone perceives there to be a genuine risk or a nuisance associated with this type of work occurring in the immediate proximity of their own home, that raises a legitimate concern and it is very easy for people outside of that circumstance to form a view about it in a way that does not reflect reality. For those people who actually live that experience, their view of the world is real and genuine and should be taken into consideration.

I would challenge any member of this parliament to say that they are totally okay with the idea of a brothel or a sex work workplace existing next door to their childcare centre. It is a pretty

basic test and I think the amendments that have been proposed are eminently reasonable and, for those reasons, I will be supporting them.

The Hon. D.G.E. HOOD: I am sure it will come as no surprise to anyone here that the Australian Conservatives will also be supporting the amendment. There are a number of reasons for that. The main one is simply this: we think the logic of arguing that councils should regulate these matters without any guide in legislation—just leave it to councils as a planning matter—is flawed. The main reason we say it is flawed is that the councils do not want it themselves. They have made that clear. They have actually taken time to write to the committee. I will just read from one of them. This is a letter from the City of Marion writing to the secretary of the committee, dated 14 October 2015, which states, at the first bullet point:

> Consider reintroducing the proposed amendment to Part 6 of the Summary Offences Act 1953 (SA) outlined in the Statutes Amendment (Sex World Reform) Bill 2012, relating to it being an offence to use premises for the purpose of sex work within a 'prescribed distance' from 'protected premises' (i.e. 200 metres of schools, places of worship and the like).

It is exactly what the Hon. Mr Ngo's amendment does. That is what the councils are asking for. It was not just this council; there were others. It is my understanding the LGA has supported that in broad terms. We think there is sound logic for this. I think the Hon. Mr Malinauskas's point about which of us here really does want to see these sorts of premises right next to, for instance, a kindergarten, or wherever it may be, is entirely valid. We will be supporting the amendment.

The Hon. J.M.A. LENSINK: I have already indicated that I will not be supporting any of the Hon. Mr Ngo's amendments but will just place some comments on the record in relation to this particular provision, which is one of several of the honourable member's amendments which relate to matters that I think can fairly be classified as falling into the local government space.

First and foremost, the committee sought very hard to get views from the local government sector in relation to what it would like. Our starting position obviously was a decriminalised model, but if there were particular unintended consequences, that was really the purpose of the committee, and we sought very hard to gain their views. The Local Government Association actually refused to come and attend our committee, so we were not able to utilise their expertise to come up with a particular regime which might satisfy their members. I just state that that is a disappointment.

The amendment before us, I think, has good intentions. I think it is self evident what the mover is trying to get at. I have spent several years as a member of the Environment, Resources and Development Committee, with the Hon. Mr Parnell, and I would have to say that, after all those years of examining planning laws, it is still something that needs interpretation on a regular basis, so we are often very grateful for the expertise of the Hon. Mr Parnell on that committee.

Planning laws are complex. They are not black and white. They cannot be interpreted from reading the act. In fact, in many cases they cannot be particularly well interpreted from reading the zoning and whatever the local government plans are called these days.

Certainly we are all aware of zoning laws that our local government can apply to various parts of their districts. In general, residential areas are not in the same areas as commercial precincts or agricultural precincts and those sorts of things, so the concept that a brothel is going to pop up in your local suburb is a bit fatuous.

The committee took the view that on these matters which are local government matters we would recommend that the new state planning commission come up with those as part of its planning library. We thought that was the appropriate place for these issues to be determined—an organisation that has been tasked with coming up with planning libraries on a whole range of other issues. One of the matters we have debated recently has been the biodiversity report of the ERD committee, and that is another role it would have. I think that organisation is in an ideal situation to assist local government to devise means of managing this matter.

The Hon. I.K. HUNTER: I have a great deal of sympathy for the intent behind the Hon. Mr Ngo's motion. Like many members in this chamber, I suspect, I do not think the way he is offering through his amendment is a correct way forward. It is far too prescriptive and will have unwarranted consequences. I also believe that some of the debate around this issue has been a little unhelpful in portraying those who oppose the amendment as those who are going to say that it is

okay to open up a place outside your own house or your own childcare centre. I think it is a misreading of what is going on here.

If you allow for such prescriptive measures about how many metres away an organisation—whatever it is—can be from another organisation, you are always going to end up with unwarranted and undesirable outcomes. What, for example, happens if a brothel were to open up in commercial or industrial premises that are ideally suited but that happened to be 125 metres away from a childcare centre or a school? Under the Hon. Mr Ngo's amendment, it cannot use that ideal location and it is forced to go 200 metres down the road, which could just be residential houses. That is more undesirable than utilising premises that are ideally situated in terms of current use.

The other issue, of course, is that if you draw circles of 100 metres or 200 metres around all these prescribed businesses that the Hon. Mr Ngo's amendment speaks to, you may end up, particularly in the city, with absolutely nowhere that you can actually have a brothel. In that case, this is trying to thwart the intentions of the legislation and I do not support it. I think the common-sense approach is to leave it up to those people who make these decisions on land use and planning all the time. They can come up with common-sense approaches that respond to their local communities and get an outcome that is actually beneficial for all, rather than something that is so prescriptive that it just cannot work.

The Hon. D.G.E. HOOD: This will be the last contribution on this issue from me; I do not wish to detain the chamber. Very briefly, I have not read this part of the record, but in a general response to the argument that is being made that councils are somehow capable of using current legislation to regulate where these places should and should not be, I can tell you that the LGA does not share that confidence. In fact, in a letter dated 29 September 2015, written by their chief executive officer Matt Pinnegar, it states:

> The key concerns for Local Government in relation to this bill are the lack of regulatory options. The LGA is concerned that the current provisions of the Development Act are not sufficiently robust to appropriately manage the development issues for premises used for sex work. The LGA is of the view that there should be explicit criteria developed to regulate the development issues.

I actually agree, to some extent, with the Hon. Mr Hunter that the Hon. Mr Ngo's amendment is not perfect in that regard—it certainly is not. But, in the spirit of the Hon. Mr Lucas's contribution, we will be supporting the amendment because if it should pass—and it may not—it would keep the matter alive between the houses, where it can be honed and improved somewhat. That is our position.

The Hon. A.L. McLACHLAN: I have a question for the mover of the amendment. I had the pleasure of attending, with the mover, a tour in New South Wales of some of the establishments there.

The Hon. M.C. Parnell: The pleasure?

The Hon. A.L. McLACHLAN: I am avoiding the word 'pleasure'.

The Hon. M.C. Parnell: You used it.

The Hon. A.L. McLACHLAN: Did I use it? It must have been Freudian. It is late. I was trying to avoid it. As I understand it, the New South Wales act may have similar provisions in regard to being prescriptive in the body of the act, but I could be mistaken. Could the mover assist the chamber by advising whether the structure of this amendment was taken from another jurisdiction, in particular New South Wales?

The Hon. T.T. NGO: No, it was not. It was based on the Hon. Steph Key's initial bill that was introduced in 2012, I believe—or maybe in 2014 (I stand to be corrected). If it was right for the Hon. Steph Key, I think it was right to introduce it. She argued there was merit in having some kind of distant restriction, though I cannot see what the problem is with how morals have changed between then and now.

The Hon. A.L. McLACHLAN: Whilst I have taken on board the submissions of the Hon. Mr Parnell I do note, for the benefit of the chamber, that either in local government regulations or I think in the New South Wales act—and again I could be corrected—these types of institutions are a key part of the success of their deregulation model. Whilst they have significant potential

community friction in councils, the councils do regulate where the brothels can be located. If I recall correctly there is an overarching principle, particularly in relation to those places where religious services are conducted and schools.

I am minded to support the amendment; much like the Hon. Robert Lucas I would like to keep the amendment alive. I think it is significant. I suspect it can be improved. I am minded that it could well be too prescriptive and lack flexibility, particularly with different demographics and different layouts of suburbs. However, for the benefit of the mover I will be supporting the amendment standing in his name.

The Hon. M.C. PARNELL: I am grateful to what I expect are the thousands of people who are listening to this stream of the Legislative Council online, because they are certainly very active on social media. I do not want to do it like Q&A, but one question that has arrived in my inbox is that given the number of childcare centres, churches, schools, and all the other places that are listed in the honourable member's amendment within the CBD, someone suggested there would be nowhere within the CBD that would not be 100 metres from one of the institutions that are mentioned. My question of the mover is: has he done any land-use analysis of whether there are any places in the CBD where a sex work establishment would be legal under this model?

The Hon. T.T. NGO: No, I have not had time to go and visit those places, but if you send me a list we could go together and check it out. In terms of your question, I have not. I know this amendment is not perfect—

The Hon. R.L. Brokenshire interjecting:

The Hon. T.T. NGO: I am not confident of getting this amendment through, but if the other place believes that 100 metres is too far or if there are amendments to reduce it, I do not mind. The main purpose of my amendment is to not have it too close to those institutions.

The Hon. K.L. VINCENT: I just want to clarify whether the Hon. Mr Tung Ngo just said that he has not done any 'land-use analysis' (I think that is the phrase the Hon. Mr Parnell used). He then said to the Hon. Mr Parnell that if he wants to give him a list of venues that might work they can go and 'check them out'. Is that really a basis for good policy?

The PRESIDENT: Was that a question?

The Hon. T.T. NGO: Was that a question or a statement? I am confused.

The PRESIDENT: Go on Mr Ngo.

The Hon. T.T. NGO: What was the question again?

The Hon. K.L. VINCENT: If you have not actually looked at the impact that this amendment would have in terms of having 100 metres in the CBD, and you have not analysed what that would affect, you then want the Hon. Mr Parnell to tell you which venues might work and then you can go with him and check them out. It just does not seem very solid to me.

The Hon. T.T. NGO: As I said, I have not done those analyses that you mentioned, but I know it will impact on childcare centres and it will impact on people who go to those places of worship. I know there will be an impact. In terms of checking out whether it impacts on those businesses or places, I have not looked into that, but I am confident that, if you have a brothel too close to those institutions, it will have an impact on the people who go into those places.

The Hon. P. MALINAUSKAS: The Hon. Ms Vincent's remarks provoke me to again make a very simple point. These amendments are very simple and clear and there is only one question before each of us as we cast our votes on this particular amendment this evening, and that is: do we think brothels should be next to places like childcare centres—yes or no? If the answer to that question is no, I think it is pretty basic that we vote against it.

The Hon. J.M.A. LENSINK: I want to respond. I am a little bit tired in this debate of certain members who have a certain position on this, putting words in the mouths or intent in the way that a number of us are voting on these things, so I reject that sort of characterisation of any of the motivations behind not supporting the Hon. Mr Ngo's amendments.

The Hon. T.T. NGO: If you read my amendments, I made it very clear. These premises—and I listed them, like childcare centres—mean:

…premises in which more than four young children are, for monetary or other consideration, cared for on a non-residential basis apart from their parents or guardians.

I list other premises, too. Potentially, if this amendment does not get up, a brothel can be opened really close to a childcare centre. It is as clear as that. It is listed in my amendments.

The Hon. J.M.A. LENSINK: There is only one person in this room who has really got a good understanding of planning laws and that is the Hon. Mark Parnell.

The CHAIR: I will just make the point that sometimes, even though it is open and people speak as much as they want, it does not really serve any purpose to respond because then somebody else wants to respond to that and onwards.

The Hon. D.G.E. HOOD: I will be very brief. The LGA themselves do not have confidence in the planning issues' capacity to deal with this. They have said that in their letter.

The Hon. J.M.A. LENSINK: That was actually before the amendments were passed to legislation last year. They wrote that before amendments were passed.

The Hon. D.G.E. HOOD: I understand.

Members interjecting:

The CHAIR: The Hon. Mr Hood has the floor.

The Hon. D.G.E. HOOD: Anyway, I have made my point and I think I have been over it a number of times.

The committee divided on the new clause:

Ayes 8
Noes 13
Majority 5

AYES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

New clause thus negatived.

New clause 21B.

The Hon. T.T. NGO: I move:

Amendment No 6 [Ngo–1]—

Page 6, after line 14—Insert:

21B—Insertion of section 25B

After section 25 insert:

25B—Restrictions on advertising commercial sexual services

(1) A person must not, in a prescribed area, advertise the provision of sexual services on a commercial basis.

Maximum penalty: $2,500.

(2) An owner or occupier of premises located in a prescribed area must not cause or permit a person to advertise, at or on the premises, the provision of sexual services on a commercial basis.

Maximum penalty: $2,500.

(3) For the purposes of this section, a person advertises the provision of sexual services on a commercial basis if the person—

(a) places or displays a sign in, or that is visible from, a public place that promotes the provision of sexual services on a commercial basis; or

(b) distributes to the public any unsolicited leaflet, handbill or other document, that promotes the provision of sexual services on a commercial basis; or

(c) take any other action that is designed to promote the provision of sexual services on a commercial basis.

(4) In this section—

prescribed area means—

(a) an area that is zoned 'residential' by or under an Act relating to planning or development; or

(b) an area within 200 metres of protected premises (within the meaning of section 25A); or

(c) any other area prescribed by the regulations for the purposes of this definition;

sign includes a painted or printed sign, lettering, image, signboard or visual display screen.

The main purpose of this amendment is to protect children from the advertisement of the provision of sexual services on a commercial basis. It aims to do so by making it an offence to advertise in certain areas, namely residential areas, within 200 metres of a school, childcare centre, kindergarten and premises that provide religious services, such as mosques and temples. By advertising, I mean signs that are visible from public places, unsolicited leaflets, or anything else that promotes the provision of sexual services on a commercial basis.

In moving this amendment, I have tried to make the bill more in line with general community expectations that children not be exposed to advertising of commercial sexual services, particularly near premises that they go to frequently. I am talking about their schools, kindergartens, childcare centres and their homes. From complaints I received about prostitution when I was a councillor, I am fairly confident that people generally do not want advertising of this nature near those premises.

I know that I am not the only member who has been concerned about advertising of the provision of sexual services on a commercial basis, and other honourable members have indicated tonight and previously that they are in support of my amendments. I urge honourable members to support this amendment.

The Hon. M.C. PARNELL: My approach is very similar to the approach on the locational restrictions that were proposed in the earlier amendment. This is an area where I think there are probably two regulatory mechanisms that can be used. One is the planning rules, and they do dictate where signs can be located, billboards and things like that, but the other one is the actual content of the ads and whether they are particularly offensive to people.

I do remember a little while ago, having small children in the back of the car saying, 'Daddy, what does "need longer sex" mean?' I googled it to find out what happened with that and those signs all came down. Back in 2008, the Advertising Standards Bureau had a hearing and decided that those signs were no longer appropriate and they made them take them down.

I am not an expert on the Advertising Standards Bureau mechanism, but it seems to me that there is a two-pronged attack here. If the content of signs is offensive, there is a body whose job it is to regulate them. It is, as I understand it, a complaint-based mechanism. If you complain, they will

look at it and maybe take it down. If it is about the size or the location of the sign, then the planning laws can deal with that, so I do not think this amendment is necessary.

The Hon. R.I. LUCAS: With the greatest of respect, I disagree completely with what the Hon. Mr Parnell has just said. He was highlighting earlier his opposition to the planning amendment on the basis that, essentially, these brothels will not have any signs on them or anything. I think he completely misunderstands the legislation that we have before us; that is, because it is going to be a decriminalised activity and these premises are going to have the imprimatur, at some level, of the parliament eventually, you are going to be able to advertise a brothel as a brothel, or as a sexual services paradise, or whatever it might happen to be.

So, if you happen to have a place next door to your home in the leafy suburbs, wherever that might happen to be, even though you have chopped the trees down, the person next door might be able to have a sign up, under the legislation, that highlights the fact that it is a brothel or however they want to term their particular premises.

In the absence of a provision in here which seeks to regulate advertising in some way, you have this relative free-for-all in terms of advertising what is essentially a service that is going to be less regulated than a tattoo parlour, a second-hand premises or a liquor licensing establishment, as the police commissioner has pointed out. That is the first point that I make in relation to advertising.

I am less convinced about the actual detail of this particular amendment of the Hon. Mr Ngo than I am about some of the others. I am very convinced about the need for some restriction, but I have a completely open mind in relation to how you would actually do it. What he is seeking to do here is to stop this sort of advertising in residential areas, and I support the intent there. I still have very much an open mind in relation to how that would actually operate in the others, the 200-metre provisions under subclause (b), prescribed areas, and others.

The whole notion of the billboard that the Hon. Mr Parnell talked about, the 'need longer sex?' one, the racy language sort of thing that went to the advertising standards, is not necessarily the sort of thing we are talking about here. It might not be racy language; it might be a complete description of, 'Do you want to come along for sexual services?' or whatever it is. It might just be a completely accurate description of what sort of service you can get at that particular brothel. It does not have to have racy language about needing longer sex or longer this or longer anything, which is an advertising standards issue.

If it is a factual representation of the services that are being provided in that particular brothel, then there is nothing within the legislation that prevents that. The whole notion that you can solve this by going off to the advertising council and fighting a case for a couple of years at the Advertising Standards Bureau has hairs on it in relation to the practical problems that families and others will have, which is the issue that the Hon. Mr Ngo is talking about. At the local level, that is the sort of issue that they actually want to see resolved.

I will support the amendment. As I said, I have an open mind in relation to the precise drafting, and perhaps if it gets to the assembly there might be a better endeavour in terms of drafting some restrictions, but surely to goodness there has to be some restriction in terms of the advertising of commercial sexual services generally, otherwise it is going to be Rafferty's rules.

The Hon. D.G.E. HOOD: Clause 21 of this bill, which we have now passed, repealed section 25 of the Summary Offences Act. The reason I bring that up is that that is the part of the act that specifically relates to the soliciting of prostitution, whether it be by word of mouth or whatever it may be. Of course, this bill takes it a step further, in that by abolishing that section, as we have done in clause 21, there are no formal restrictions at least, no legal restrictions, on advertising of prostitution.

This will come down to individual members' views on whether that is a good thing or a bad thing, but I have significant concerns about it. Members may recall, if they did a trip to the Gold Coast around 10 years ago (I am a bit rubbery with the exact time), that they had just introduced a new set of regulations, or reduced their regulations, or something, up there with respect to their advertising for prostitution services.

I can tell you that, from memory, the advertising was extremely explicit outside the premises in particular, not so much billboards or big advertising but certainly on premises there was very explicit, virtually naked (typically) women on these signs, with a very clear invitation to what was available and to come in, and even in some cases the amount it would cost for particular services was advertised.

They were not explicit—this gets a little bit crass, but we are all grown-ups here, I am sure—things like, 'hand, $50', 'mouth $80', or whatever it was. That is what I believe we will see should there be no restrictions on advertising in South Australia. We have seen it elsewhere. They have since, to their credit, in that part of the world wound that back. The advertising is no longer as explicit there. I am rubbery on this, because I have not looked into the specific details, but legislation has been passed in the last decade or so that has wound that back, and I give them credit for that.

For that reason, we believe restrictions should be in place. The Hon. Mr Lucas again said it well: the amendment proposed by the Hon. Mr Ngo is not perfect, I do not think, but it is clearly a step in the right direction and for that reason we will support it.

The Hon. R.L. BROKENSHIRE: I ask the mover to expand. Given that we are here for the long haul we might as well do this very thoroughly and actually expand on the situation so that we get everything on the public record because, whilst I have a lot of respect for the Hon. Mark Parnell, I do not see him as the guru, the be all and end all, for planning areas, I am afraid.

If you leave this chamber right now and drive down the Main South Road, heading up towards where the roadworks are occurring at the bottom of the Southern Expressway right now, less than 150 metres from a church—I think it is an Anglican church, but it is a church—and turn right at the traffic lights you go straight into a residential area. You will see two or three old wooden chairs, a car—a Ford or a Holden, I cannot remember—with a sign on the back of it that says, 'massage girls required', guaranteed so many dollars an hour. You will see a heap of balloons there, all the colours of the rainbow, and you will see a door always open and a few women walking around, and it says 'massage'. It goes on at 2 o'clock in the morning, at 3 o'clock in the morning, at 9 o'clock in the morning, and so on. It is more than a massage there, I think.

At the moment, whilst it is illegal we get away with that, and kids have to walk past that with their mums, with their dads and with their guardians.

The Hon. M.C. Parnell: What are the kids doing out at three in the morning?

The Hon. R.L. BROKENSHIRE: Well, at 9 o'clock in the morning they are going to school, and they are walking past this place, with an open door, and you can see in. You only have to stop at the traffic lights and look in there and you can see that it is more than a massage.

My question is: will this legislation knock out all of that, or are you confident that it will be an improvement on what we have at the moment? What we have now is a situation where everyone just turns a blind eye to it and lets it go on its merry way, and it is wrong. I ask the mover whether this will help close down some of that nonsense, because the balloons, the chair and the open door are more than a massage.

The Hon. T.T. NGO: I am hoping that my amendment will remedy the current situation. There are no guidelines at the moment where those services can be directly advertised in terms of massage. I am hoping that with these amendments at least there is a provision in there so that the authority can use it as a guide to prosecute whoever promotes commercial sexual services, whereas currently there is nothing in the legislation that prosecutes people.

The Hon. T.A. FRANKS: This may shock the honourable mover, but I have a lot of sympathy for his amendment. At the moment, as the Hon. Robert Brokenshire just noted, we have flyers that are often thrown around on streets, as litter, asking for girls to do bikini massage. I see those leaflets in the hundreds on our city streets all the time.

The Hon. R.L. Brokenshire interjecting:

The Hon. T.A. FRANKS: I understand that it is near the Entertainment Centre.

The Hon. P. Malinauskas interjecting:

The Hon. T.A. FRANKS: The Hon. Peter Malinauskas interjects with 'Get used to it.' My point is that is actually not a brothel, that is not a sexual service: that it is a massage service. It litters as its business practice. I think it is reasonably unethical, and I am surprised that the council and the police have not pursued that business for the way that they promote themselves to date. I do have sympathy, and I do think that advertising of this nature should be discreet, and it should not be in the faces of those who do not wish to see it.

What I would point out to the mover of this, though, is, yes, as the Hon. Mark Parnell said, we do have standards around outdoor advertising. The public can make complaints, and those complaints are acted upon, but we already have those sorts of leaflets, which are not breaking any laws other than the littering ones because they are not a sexual service as such. They are a massage service and calling for so-called bikini masseuses. However, I would love to see the littering issue taken up by both the council and the police. The Hon. Peter Malinauskas might look at me with disdain at this, but I am quite serious about that.

I am also quite serious when I see the massive gentleman's club billboards (almost) in some locations, which have women in demeaning positions. I think that is absolutely something that people should be able to complain about. I think we have to have a system that is sensible. In this, we have to have a system that does not put inappropriate things in people's faces. The way you do that, of course, is to use the existing laws and police them. At the moment, they are not being enforced and policed, so I can see why members would have concerns that these laws would not be enforced and policed.

My concern here, though, is that most of the advertising for sexual services is done online, so how does the member envisage that a geographical position will account for this online advertising? That online is done through social media, that online is done through websites, and that online is done through geographically targeted ads to the smart phone. Does his amendment cover those particular advertisements or not? That is my question.

The Hon. T.T. NGO: The answer is no. This only applies to physical advertising like billboards or signs. If you are carrying a phone that has advertisements for sexual services, it does not apply. It only applies to advertising, like you said, that is right in people's faces.

The Hon. J.M.A. LENSINK: My reasons for opposing this are very similar to the previous amendment in that I think that these matters can be appropriately dealt with partly through the existing planning laws—I understand that advertising here in residential areas is not permitted anyway in most instances—but also through the new state planning commissioner, who would be more than adequately placed to develop guidelines that will assist councils on this matter.

The Hon. P. MALINAUSKAS: I hate to be overly simplistic about this, but I think this is the opportunity to raise these questions. The previous amendment dealt with the issue of proximity of brothels and other sex workers' locations to particular institutions, like childcare centres or kindergartens, for instance.

My question is to the Hon. Mr Ngo or the Hon. Ms Lensink. Now that this committee has formed the view that that is permissible, notwithstanding my own vote on the matter, would I be right to say that if this amendment is not successful, we could have a situation where we have a brothel, for instance, literally next door to a kindergarten or a childcare centre and, without the success of this amendment, we would then have explicit advertising occurring in and around or on that particular location?

The Hon. J.M.A. LENSINK: I think one of the things that has been missed in all of this debate, too, is that under the current regime, where a number of these things are illegal, applications are put to councils, and they are not actually factual about what the purpose is a lot of the time. So, you can end up in situations where, because it is not completely transparent, council is not aware of what it is actually assessing. Under a decriminalised model, I think there will be much more transparency about applications.

My understanding is that with a change of use of a premises, it will be for the council to be able to determine each application on its merit. If, say for instance, you have the childcare centre in situ and someone applies to convert a chicken shop into a brothel, then that will be a matter that the

council is able to assess against its particular policies and determine whether that is appropriate or not. That would be a decision for the local body.

The Hon. T.T. NGO: I disagree on that. My previous amendments clearly identified the term 'sexual services'. If you have not got that definition, council is going to have a hard time to determine whether an advertising sign is one for sexual services or not. My concern is that, if you do not have a provision restricting advertising of sexual services, then council will just apply development and planning laws in terms of whether a sign complied with the area or not. If people have an existing sign with an existing right, to me a brothel can come along and advertise their sexual services on that existing sign or billboard.

The Hon. J.M.A. LENSINK: I do not think that is correct. We have had situations in this state that have ended up in the media with councils determining all sorts of things in relation to a particular business and how it may operate, in particular—I am not quite sure what the terminology would be—in relation to encumbrances and things, whether it is A-frames, sandwich boards or particular flashing lights.

There have been quite a few examples of that over the years where councils have stepped in and said, 'You can't use those particular means of advertising. You can't stick things on the footpath. You can't have flashing lights.' I think councils have quite a number of tools in the toolkit. I again reiterate that the State Planning Commission will be in a very good position to assist with the development of this rather than us developing these in a much more ad hoc manner, as I think these amendments do.

The Hon. R.L. BROKENSHIRE: I have a question of the mover of the bill, based on her input on the Hon. Mr Ngo's amendments. You are talking generally about planning, you are talking about state development, and you are talking about councils. Do you accept that under this bill, if prostitution and brothels are legalised, individual councils will be able, within their planning capacity, to make a decision across their council area that any business requesting approval for sexual services will be a prohibited development within that area?

At the moment, when they do their planning and they put it up for approval to be signed off ultimately by the minister, they have prohibited developments, they have consent and they have the automatic development approvals, because it complies. So they have complying, non-complying and prohibited.

Are you saying that the state government, through planning, is going to have to take control of all the sexual service applications or is it going to be left to individual councils? If it is going to be left to individual councils, when they do their planning assessment reports, will they have the right to actually make a decision—like Marion, Tea Tree Gully, Sturt or whoever else; hopefully, in my case, Alexandrina—to actually say that sexual service applications will be prohibited developments? What are you actually saying?

The Hon. M.C. PARNELL: I will answer, if I may. The honourable member is correct in terms of concepts but the language has changed. I do not expect people to be experts in the language—and I have to get used to the new language under the Planning, Development and Infrastructure Act—but, in a nutshell, the question is: can local councils zone areas of land to prohibit certain activities or encourage other activities?

The answer is yes and no. The yes bit is that the council can initiate changes to zoning, they can initiate changes to the types of activities that are encouraged or discouraged, but the new system—and we spent a little bit of time debating the planning bill, if you recall—still retains a fundamental right of the minister to basically veto anything that a council might want to do. Similarly, if a minister does not think the council has gone far enough in terms of its changes to planning rules, the minister can step in. To that extent, it is not that much different under the new system to what it was under the old.

It is often a confusion. People say the council is responsible. Well yes, they do the investigations and they will often draft the changes to the planning rules, but at the end of the day it goes to the minister, and the minister does not have to accept and the minister can change it. The work that the Hon. Michelle Lensink and I do on the Environmental Resources and Development Committee is often hearing from local councils who are grumpy that the minister has overridden them

and has made changes to the planning rules in their area that they are not happy with. The buck stops with the minister, I think that is the simplest answer.

The Hon. R.L. BROKENSHIRE: I have a supplementary question, just for clarification for the record. If this chamber approves this bill tonight, I take it that my learned colleague is saying that even if a council—democratically elected with a planning panel and all the rest of it—says, 'No, we're going to bring in a planning assessment report or plan that we asked the minister to sign off on that says that in this council area it will be a prohibited development if it is for sexual services,' that the minister of the day ultimately signs off over and above that. That is, the minister has ultimate say and can override the council.

The Hon. M.C. PARNELL: The short answer is yes. I am happy to go back through the *Hansard* and identify how everyone voted on that. I am not happy with that arrangement but ultimately the parliament, in its wisdom, decided that the minister would have the final say. So yes, you could have a council that wanted to take a hard line against these types of businesses and the minister could override them. That is just how it is.

The Hon. K.J. Maher: This clause is advertising, not the premises.

The Hon. M.C. PARNELL: I know, the clause is advertising.

The Hon. S.G. Wade: That is the question that was asked.

The Hon. M.C. PARNELL: I was asked a question. I do just want to make a brief comment on the advertising. I do not pretend to know a lot about this industry, but travelling around you might see a sign on a building and it might say 'Mary's Place' or something like that. Presumably, there is maybe an online presence, or the people who need to know what sort of services are offered at Mary's Place know about it, but it strikes me that the way this amendment is drafted—

The Hon. R.I. Lucas: It sounds like a church to me.

The Hon. M.C. PARNELL: The Hon. Rob Lucas interjects that it could be a church. The words talk about 'advertising the provision of sexual services on a commercial basis'. Where it seems slightly misplaced to me is that this amendment might cover explicit descriptions of services offered, but if the sign was 'Mary's Place For a Jolly Good Time' (I do not pretend to give the industry advice on how they should promote themselves), if it was just something that those that need to know or want to know know and for everyone else it is just a sign, I am not sure this amendment gets us very far at all. I appreciate what the member is doing and I am not saying open slather at all. I want to see controls over the sort of advertising provided because some of it could be incredibly inappropriate and we do not want it, but this is not the mechanism for doing it.

The committee divided on the new clause:

Ayes................. 8
Noes 13
Majority 5

AYES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

NOES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

New clause thus negatived.

New clause 21C.

The Hon. T.T. NGO: I move:

Amendment No 7 [Ngo–1]—

Page 6, after line 14—Insert:

21C—Insertion of section 25C

After section 25 insert:

25C—Council may make by-laws relating to advertising commercial sexual services

A council under the *Local Government Act 1999* may, with the objective of protecting children, protecting public amenity and minimising nuisance or serious offence to ordinary members of the public, make by-laws prohibiting or limiting advertising relating to the provision of sexual services on a commercial basis in the area of the council.

The reason for this amendment is that council is very often at the forefront with local residents. I want to give local government the power to manage the advertising of commercial sexual services. I think it is very often a decision that has been made at a higher level, especially with a new planning law. Potentially a decision can be made from somewhere where they may not understand the local issues. The purpose of my amendment is to give local council some kind of control over the advertising of commercial sexual services.

The Hon. R.I. LUCAS: I am not 100 per cent convinced about this. I will nevertheless support it in the interests of trying to keep the debate alive. For those in another place I indicate that I have an open mind in relation to this. I accept the notion that there should be some restriction or significant restriction in terms of advertising whether it is through what we endeavoured to do unsuccessfully in the last amendment—which was in a state government legislation—apply those restrictions and another alternative to that which the House of Assembly might consider would be, in essence, giving a head of power to introduce regulations for greater restrictions, which is a model that has been used in other pieces of legislation and it might be something that could be considered here as well.

Whether giving councils the capacity to make by-laws which are in conflict with the state provisions—not in conflict but in addition to amendments which we might put into the legislation which has a state restriction, as I said, I am not entirely convinced about. Potentially my view would be that it is one or the other in relation to this but, as I said, nevertheless I will support this in the interests of furthering debate on the whole issue, with some restriction on limiting advertising of commercial sexual services.

The Hon. D.G.E. HOOD: I must say that my view is very much the same as the Hon. Mr Lucas. I am not convinced by this either, to be frank. I make no criticism of the mover, by the way, in fact I commend him on his efforts tonight. I see the weakness of this amendment is that if you devolve (if that is the right word) that power to council the problem is of course that you will have quite different views across different councils. You might drive from the City of Adelaide and cross Robe Terrace into Medindie which is in the City of Walkerville I think, and you might see very different interpretations of what is okay and what is not, and then on out to the next council, whatever that is, so that is the weakness as I see it.

My view is that I would much prefer to leave it in the act but, of course, this bill has removed that and we are past that section. I will not labour the point. I can see the numbers—it is 13:8 I think almost without having the debate. That is our view and we support the amendment.

The Hon. M.C. PARNELL: Without wishing to demoralise the mover, it is not just that particular issue around whether it is council by-laws or whatever because he is well-meaning and the values that he is trying to protect—talking about protecting children, yes; protecting public amenity, yes; minimising nuisance, yes. However, I have to say that 'minimising serious offence to ordinary members of the public'—I am not sure what that means. What about 'mild offence to abnormal members of the public'? I am not sure what 'ordinary members of the public' are and how the serious offence test would apply.

I expect that the Advertising Standards Council that we talked about before will have a methodology or something that they use or a test that they apply. I am just not convinced that council by-laws are the right place to be making a judgement call on what is 'serious offence' and who are 'ordinary members of the public'. I do not think that works. I appreciate what the member is trying to do but my response is the same as with the previous amendment on advertising. I do not think we should support it.

The Hon. J.M.A. LENSINK: All the previous speakers have raised very valid issues. My other concern with this particular clause, and just having a look at my notes too on the previous ones—and I could perhaps have started by saying 'insert my previous speech here'—in relation to why I oppose this particular provision.

My reading of it is that all of these local government matters are being inserted as clauses into the Summary Offences Act, which I do not think is the appropriate place for them to be. I am actually looking at our esteemed member of Parliamentary Counsel for a nod or shake. He is nodding. All of these local government matters are being inserted as clauses into the Summary Offences Act, when really they probably belong in the Local Government Act. That is an additional reason. Maybe it is the late hour and I did not alert myself to it, but I think it is possibly a misnomer for those clauses to be inserted there. It would be appropriate for the state planning commissioner also to look at these matters.

New clause negatived.

New clause 21D.

The Hon. T.T. NGO: This will be my final amendment. I move:

Amendment No 8 [Ngo–1]—

Page 6, after line 14—Insert:

21D—Insertion of section 26

After section 25 insert:

26—Power of police to enter premises suspected of being used for sex work

The Commissioner or a senior police officer, or any other police officer authorised in writing by the Commissioner or a senior police officer, may, at any time, enter and search any premises that the officer suspects on reasonable grounds to be premises at which sexual services are being, or have been, provided on a commercial basis.

The purpose of this amendment is to ensure that SAPOL maintains its power to enter premises suspected of providing sexual services on a commercial basis, even if it is decriminalised. The power is similar to the power that is contained in section 32 of the Summary Offences Act, but instead of suspected brothel, it refers to premises suspected of providing sexual services on a commercial basis.

Chief Inspector Gray, the officer in charge of the licensing enforcement branch which deals with prostitution, made it clear to the select committee that, while some people in the industry do not cause any harm, there are certainly organised crime elements. The chief inspector explained that, from her experience, organised crime will get involved in industries that involved a large amount of cash as it can be used in money laundering.

I am concerned that by removing this general search warrant as the bill proposes to do, SAPOL will not have an important tool available to them to deal with the organised crime elements that will still be in the industry when it is decriminalised. The Commissioner of Police, Mr Grant Stevens, indicated in his correspondence recently to the committee that SAPOL generally uses the power to enter and remain in a suspected brothel under section 32 of the Summary Offences Act, which this bill will remove.

The commissioner also advised that the licensing enforcement branch prioritised those searches on suspected brothels that have links to outlaw motorcycle gangs, organised crime, illicit substances or criminal activity, weapons, complaints from the public, human trafficking, sexual services or exploitation, and proximity to school and/or childcare facilities.

I know the Law Society has since responded to the commissioner's correspondence on behalf of SAPOL, outlining the powers that SAPOL can use under various legislation. The Law Society mentioned that places that provide commercial sexual services should just be subjected to the general criminal law and other laws that apply to businesses. But this does not appreciate SAPOL's concerns, given that organised crime elements are more likely to be associated with commercial sex work industry over other industries.

The Hon. R.I. LUCAS: I rise to support the amendment, but in doing so I support it on the basis that it is a surrogate, from my viewpoint. I think there should be greater power for the police in this area in terms of regulation or regulatory control. I have an open mind about whether it is exactly this in nature. There are questions that I have not had time to have answered, given these amendments were only tabled today. For example, in the other jurisdictions where there have been decriminalised sexual services providers, such as New South Wales and New Zealand, do police have these sorts of powers or similar powers or something different in terms of powers in regard to entering premises? I would be interested to know that.

The police commissioner has said in his letter that there is less regulation proposed for brothels than there will be for second-hand dealers and the tattoo industry. I am not sure what the powers of the police are in relation to those sorts of legalised industries that have greater regulatory controls over them. Are there other mechanisms where the police have regulatory control, different from the issue of the power to enter premises? The dilemma here is that I understand the police evidence that they have used their powers to enter places suspected of being a brothel, but they were illegal or unlawful activities. Now the parliament is going to be saying, 'Hey, you lot are now decriminalised.' To all intents and purposes they are similar to many other industries, and police do not have the power to enter those premises.

Maybe they do have the power to enter some premises like tattoo parlours and others—I do not know; I am not strong in that part of the law. I would be interested in having that sort of debate as the parliament further considers these amendments. As I said, I support the amendment as a surrogate for the position that, as the police commissioner has highlighted, there needs to be greater regulatory power and oversight. It may well be that it is in this area, in terms of the power of police to enter premises in certain circumstances. Maybe it needs to be more restrictive than what is currently drafted in this—that is, a higher threshold before they can exercise the power. I am open to that sort of debate and discussion.

I hope, if it gets to the House of Assembly, that members will apply their minds to whether this is the appropriate amendment or whether perhaps there is a tweaking of this particular amendment that might be more appropriate.

The Hon. D.G.E. HOOD: It will come as no surprise to members that the Australian Conservatives will be supporting the amendment. I made a substantial argument for this earlier on this evening when I referred to the police commissioner's letter. I will not read out the whole slab I read out before, but I will read a line or two from the police commissioner's letter to the chairperson of the select committee that dealt with this (so, presumably to the Hon. Ms Lensink). It specifically deals with the police powers to enter premises, which is the subject of the amendment. In part, it states:

> Without comprehensive regulatory controls, SAPOL believes the draft Bill would not provide safeguards to ensure that people are not exploited, organised crime does not control the industry, and brothels do not become criminal sanctuaries.

People may have different views on that—and that is fine, you are entitled to that—but this is the Commissioner of Police. He is, presumably, an authority on these sorts of things, and he makes a very clear request for parliament to consider adding in some sort of safeguards with respect to police access to these places. So, we strongly support this amendment. Again, I do not think it is perfect, and I make no criticism of the Hon. Mr Ngo. Again, I commend his efforts this evening. I think this will provide fuel for members in the other place to consider and properly debate this bill, as they will have more time to consider the amendments than we have had, which I think will be to their benefit.

I urge members, even those who have voted against all the amendments thus far: if you can find it within yourself to support this one—not this specific amendment, but this general theme of amendment—at the request of the police commissioner, I think it is worthy of doing so.

The Hon. J.M.A. LENSINK: This matter was put very specifically to the committee by the police as a decriminalised model. When they said to us that it was up to us to determine what sort of laws should govern these areas, they said, 'But we would like you to retain part 6 of the Summary Offences Act.' I note that this amendment is very similar to that. It does not actually require a suspicion of an offence, and I think that is the key point.

The committee considered this very carefully and on balance decided not to insert it as a suggested amendment to the bill. We were not convinced by SAPOL's evidence, I think it is fair to say. We were much more strongly convinced by the Law Society. The Hon. Dennis Hood asked me previously about this matter, and the deletion of it from the existing statutes, and at page 22 of the committee report we have listed there the existing provisions under other pieces of legislation under which the police can obtain searches. They specifically addressed this issue as follows:

> The Law Society provided a list of the search powers available to the police under nine different State and Commonwealth Acts advising, 'while the list is extensive, there may also be further search powers beyond this list'.

The list is as follows:

> Offences Act 1953 (SA) sections s67; ss68-72;
>
> Controlled Substances Act 1984 (SA) sections ss50;52;
>
> Criminal Assets Confiscation Act 2005 (SA) ss 172-177;
>
> Crimes Act 194 (Cth) sections s3E-3F
>
> Criminal Investigation (Extraterritorial Offences) Act, 1984 (SA) section s54
>
> Firearms Act 1977 (SA) section s32(3)
>
> Migration Act 1958 (Cth) sections s487D-s487E
>
> Serious and Organised Crime (Control) Act 2008 SA section s33
>
> Summary Offences Act 1953 (SA)(Indecent Behaviour and Gross Indecency) section s23

I provide that list of the particular clauses under which the police have power of entry, and I clearly will not be supporting this amendment.

The Hon. M.C. PARNELL: I will be quick as well. The Hon. Michelle Lensink summarised the existing powers that the police have, but I think the main point she made was that the grounds for entry are that something that is being decriminalised is being undertaken. There is no need to have any suspicion of any illegal activity at all.

This clause is also known as the 'don't ever buy an old brothel' clause because if the place that you have bought has ever been used as a brothel, it is covered by this clause. The words are '…if the officer suspects on reasonable grounds that their premises at which sexual services are being, or have been, provided on a commercial basis.'

The Hon. T.A. Franks: A hotel room.

The Hon. M.C. PARNELL: The Hon. Tammy Franks interjects, 'a hotel room'. There was a place I am told that may have been a brothel on Light Square—I think it was Stormy's—and I recall that the madam ran for parliament at one point. I am told that it has now been converted into respectable residential accommodation, and it would be most unfortunate if this clause would allow the police at any time to enter it because sexual services in the past had been provided at that location on a commercial basis. I know it is sounding quite extreme, and the logical response would be, 'Well, they would never do that', but I think it just goes to show that the drafting is nowhere near clear enough for us to be supporting something like this now.

The Hon. G.E. GAGO: My question is to the Hon. Michelle Lensink. My understanding is that if this bill were to be successful, then the police would retain the ability to be able to enter a premises that is providing sexual services on a commercial basis if there is a reasonable belief that there is unlawful activity occurring on the premises, so they would continue to retain that right.

The examples given are that if they suspected that money laundering was occurring in a brothel, they could enter the premises. If they believed that organised criminal activity was occurring in a brothel, they could enter the premises. For inappropriate or illegal use of minors, trafficking drugs,

etc., police would continue to maintain the right to enter the premises, but they would not have the right to enter the premises just because the commercial activity was providing sexual services.

The Hon. J.M.A. LENSINK: Yes, that is correct. If the police had any suspicion that any of those offences had taken place, all of the examples that the honourable member has cited, plus many others, the police would have right of entry. The concern in relation to this amendment and the existing clauses in the Summary Offences Act that the bill has removed is that there is no requirement for a suspicion of an offence under existing laws and that would not continue under the bill, but would be reinstated by the honourable member's amendment.

The Hon. T.T. NGO: My concern is that by removing the restriction it is just making the job of police really difficult. Their job is difficult as it is now and this will further make their lives difficult and that is why the commissioner personally requested in his letter to reinstate that, to make it clearer and make their job a lot easier in terms of dealing with the criminal activity element of this industry. To me, by removing it, it will make it a lot easier for the police to prove those activities that they suspect are happening. This is to make it clearer and to give the police more tools to deal with this criminal activity element in this industry.

The Hon. G.E. GAGO: With all due respect to the honourable member, if you extend that argument you would make the job of police easier if you extended their powers to be able to enter any place, anywhere and anytime for no reason at all. If you advance that argument, just give the police full powers to do anything they like. It is not a rational, logical way to resolve those issues of concern. I think their concerns are unfounded. The police already have powers. They will continue to be able to use those powers if there is reasonable belief. There does not have to be proof, there does not have to be evidence, just a reasonable belief that there is unlawful activity occurring on the premises.

The Hon. T.T. NGO: I think the police must have a real concern, especially for the commissioner to make the effort to write to all members of parliament about his concern in terms of the police powers being taken out by this bill getting up. My amendment is really to trust the police because at the end of the day they are dealing with the criminal elements of our society and we just have to trust them.

The Hon. T.A. FRANKS: I reiterate mainly what the Hon. Gail Gago has stated. This clause seeks to give the police powers to enter a premises in which a legal activity is taking place on the basis of a suspicion that a legal—a legal, not an illegal—activity is taking place. That is a nonsense. If we make sex work decriminalised, it is no longer a crime. If no crime is being committed, the police should not be able to enter the premises without suspicion of some other sort of activity that they believe to be a crime.

The Hon. A.L. McLACHLAN: I thought at this juncture I would make my position known. I will not be supporting amendment No. 8. As some of the speakers have indicated, I think it is incongruent with a legalised business, if this bill was to become law. Aside from other powers that may or may not be available to the police, if you accept the premise of this bill then they will be conducting a legal activity and, therefore, there would be no reason for the police to enter, other than under the heads of other acts.

Also, you can tie that back to a line of argument raised by the Hon. Rob Lucas, which is that if we were seeking to put controls around this sort of industry, then we would have adopted an approach as we did with the tattoo parlours. That is not the bill before us, so I do not think this clause, if inserted, would sit comfortably with the remainder of the bill.

New clause negatived.

Clause 22.

The Hon. D.G.E. HOOD: I have a question on clause 22. I think this is my last question for the night. I think I know the answer to this one, but I will ask it anyway of the Hon. Ms Lensink, if I may, just for clarification. Obviously, we have been through the debate about police entry and the police will lose that power should this bill become law. My question is about another level of authority and that is councils. Will councils have the power to enter these premises at all and, if so, under what circumstances?

The Hon. J.M.A. LENSINK: Well, they would have. Councils have a range of—

The Hon. S.G. Wade: Regulatory powers.

The Hon. J.M.A. LENSINK: Yes, thank you, regulatory powers, but I think the words I was looking for were that there are a range of statutes under which they are entitled to regulate particular businesses, in this instance, within their area. The one that comes to mind would be the health provisions that relate to kitchens and all those sorts of things.

The Hon. G.E. Gago: The number of toilets.

The Hon. J.M.A. LENSINK: Yes, the number of toilets. There are a range of those sorts of provisions that apply to local government. I do not profess to be an expert in this area, but I do know that they have council health inspectors and a range of other inspectors and there are also, sometimes, authorised officers under various other pieces of legislation that might be delegated, under the EPA Act for instance, from those other bodies. So, there are a range of those typical areas that they would still be regulating them under.

Clause passed.

Remaining clauses (23 and 24), schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. J.M.A. LENSINK (00:33): I move:

That this bill be now read a third time.

The council divided on the third reading:

Ayes................13
Noes 8
Majority 5

AYES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hanson, J.E.
Hunter, I.K.	Lensink, J.M.A. (teller)	Maher, K.J.
Parnell, M.C.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G.		

NOES

Brokenshire, R.L.	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T. (teller)	Stephens, T.J.	

Third reading thus carried; bill passed.

CHILDREN AND YOUNG PEOPLE (SAFETY) BILL

Committee Stage

In committee (resumed on motion).

Clauses 81 to 101 passed.

New clause 101A.

The Hon. P. MALINAUSKAS: I move:

Amendment No 2 [Police–1]—

Page 58, after line 38—Insert:

101A—Persons not to be employed in licensed children's residential facility unless they have been assessed

(1) A person must not be employed in a licensed children's residential facility unless the person has undergone a psychological or psychometric assessment of a kind determined by the Chief Executive for the purposes of this section.

(2) However, subsection (1) does not apply to the employment of a person or person of a class, or the employment of a person in circumstances, prescribed by the regulations for the purposes of this subsection.

(3) A person who is employed in a children's residential facility in contravention of subsection (1) is guilty of an offence.

Maximum penalty:

(a) for a first or second offence—$20,000;

(b) for a third or subsequent offence—$50,000 or imprisonment for 1 year.

(4) A person who employs, or continues to employ, a person in a licensed children's residential facility in contravention of subsection (1) is guilty of an offence.

Maximum penalty:

(a) in the case of a natural person—$50,000 or imprisonment for 1 year; or

(b) in the case of a body corporate—$120,000.

(5) For the purposes of this section, a reference to a person being *employed* will be taken to include a reference to a person who—

(a) is a self-employed person; or

(b) carries out work under a contract for services; or

(c) carries out work as a minister of religion or as part of the duties of a religious or spiritual vocation; or

(d) undertakes practical training as part of an educational or vocational course; or

(e) carries out work as a volunteer; or

(f) performs unpaid community work in accordance with an order of a court,

and a reference to *employ* is to be construed accordingly.

This amendment seeks to insert a new clause into the bill that will ensure that the Department for Child Protection and service providers have engaged as recruits a workforce, specifically in relation to licensed residential children's facilities, that keeps children safe and is psychologically equipped to work with children in care.

This amendment will ensure that, unless excluded by regulations, any person employed in a licensed children's residential facility must have first undergone a psychological or psychometric assessment. A failure to comply with this amendment constitutes a serious offence that attracts increasing maximum penalties for repeated breaches. I note for the sake of completeness that this amendment is also consistent with and related to the Child Protection Systems Royal Commission report recommendation 138, which states:

> Recruit child and youth support workers in accordance with the 2016 recruitment model, including a requirement that all applicants for those positions undergo individual psychological assessment.

The amendment will ensure that not just those employed by the government but also those contracted by the government undergo the same strong recruitment process of a psychological assessment. The government is committed to ensuring that children in this state are safe from harm. This is another tool which can be used to help achieve that. I urge members to support this amendment for the reasons I have explained.

The Hon. T.A. FRANKS: Could the minister outline how many of the department's children's residential care facilities are licensed in this state?

The Hon. P. MALINAUSKAS: I am afraid that on this occasion I will have to take that question on notice and try to get information for the honourable member as quickly as we can.

The Hon. T.A. FRANKS: This goes to the heart of my concern with this amendment, because I am advised by those in the sector that these residential children's facilities are not licensed. Therefore, the point of this to me seems somewhat moot. My next question is: if these facilities are not licensed, what is the effect of this amendment?

The Hon. P. MALINAUSKAS: The measures in this bill will create the class of residential facilities that will apply. Hopefully, that assists the honourable member in her assessment of this amendment.

The Hon. T.A. FRANKS: So the government amendment is talking about licensed children's residential facilities that do not currently exist in this amendment. Can we clarify that for the record?

The Hon. P. MALINAUSKAS: Could you say that again?

The Hon. T.A. FRANKS: The government amendment here applies to things that do not currently exist. Is that the case?

The Hon. P. MALINAUSKAS: Apologies for the delay. Hopefully, this answers your question; it may not, in which case I am happy to elaborate further. The advice I have received is that the current regulatory regime applies to the non-government sector, but there is one that is in place. What this is seeking to do is to combine them both and be more comprehensive as a result.

The Hon. S.G. WADE: I cannot easily pick it up; how is a young person defined in this bill?

The Hon. P. MALINAUSKAS: Being under 18.

The Hon. A.L. McLACHLAN: Just on 101A, the insertion, I imagine that in the department there are psychological and psychometric assessments being made and the department would envisage what that involves. For the benefit of Hansard, is that a simple test, filling out a form, or does it involve an interview? I appreciate that the clause says it is determined by the chief executive, but the department would have an understanding of what it envisages.

The Hon. P. MALINAUSKAS: The advice I have received is that, as was informed from the Nyland royal commission, there is a two-part process. The first one is for a form to be completed that is a test in the nature of a psychometric test, and the second part is the meeting with a psychologist.

The Hon. S.G. WADE: On the same issue, I take it from the minister's answer that he can assure the house that the regulations would specify not merely that a psychological or psychometric test or assessment be undertaken but that it be administered by a registered psychologist?

The Hon. P. MALINAUSKAS: Yes.

The Hon. S.G. WADE: I thank the minister for that undertaking. Could the minister explain what classes of persons the government is intending to exclude under proposed subclause (2)?

The Hon. P. MALINAUSKAS: I can give an example for the benefit of the honourable member. Maintenance people might be an example of people that would be in that category.

The Hon. S.G. WADE: I find that a strange example because under subclause (4)(b) it specifically says 'carries out work under a contract for services'. Presumably that is the sort of person that would be a maintenance person as the sort of person who would carry out work under contract for services? In that context, I find it hard to imagine how a regulation could exclude something that is already explicitly stated in the section. I do find that a strange clause but if that is an example that is offered, I find that I am just sceptical of it.

Moving to the implementation issue, presumably we have thousands of people working in the sector in the affected areas. We already have a shortage of testing psychologists, particularly registered psychologists. Is it intended that this clause not be implemented with the rest of the legislation? If it is not going to be proclaimed separately and later, what assurances can this council have that it would actually be functional? We could be faced with the disturbing scenario of people currently working in facilities being excluded from the facilities because of the introduction of this requirement.

The Hon. P. MALINAUSKAS: My advice is that that will be dealt with in a separate bill that will be designed to specifically deal with transitional requirements.

The Hon. S.G. WADE: That is less than persuasive. If you want to have transitional requirements why not put it in clause 2 in relation to commencement? How can you have a transitional arrangement in a future bill for an act that you are about to proclaim?

The Hon. P. MALINAUSKAS: The advice I have received is that we have been pretty clear about the process from the get go and have made clear on the record that the approach would be to, hopefully, pass this bill and then from there establish the transitional arrangements through a separate bill. That has been on the record for some time.

The Hon. T.A. FRANKS: I want to finish the second part of my other question. My understanding is that there is no residential children's facilities that are currently licensed in the government sector, and that has been made clear.

The Hon. P. MALINAUSKAS: There are some.

The Hon. T.A. FRANKS: There are some. How many are there? There was an answer to the first question of how many there are, and how many are not licensed, because my question is: if they are not licensed, is the requirement for the psychological or psychometric assessment for employees in these government residential care facilities a purely administrative one or, indeed, will this legislation actually apply to them with these quite substantial fines?

The Hon. P. MALINAUSKAS: If they are not licensed because there are less than three children there, then this section will not apply to them.

The Hon. T.A. FRANKS: Thank you, that answers that question.

The Hon. A.L. McLACHLAN: If I understood the minister's answers correctly, both a psychological and a psychometric assessment each have paperwork to be filled out and an interview. Do I understand that correctly or is that just a psychological test?

The Hon. P. MALINAUSKAS: The first stage is the psychometric test which is done in a written form and the second stage is a meeting with a psychologist.

The Hon. A.L. McLACHLAN: The way I read this section is that you could be asked to do one or the other. Is that correct? It is the use of the word 'or'. Or if my reading is maybe incorrect, can the chief executive order someone to do both?

The Hon. P. MALINAUSKAS: I am advised that although it is written in the context of 'or', that is, one or the other, the tests by their nature are of both a psychological and psychometric orientation. So one test would not be exclusive to the other, so either test that applies would both be of a psychological or psychometric nature. Does that make sense?

The Hon. S.G. WADE: In the context of the minister's answer, I would like to revisit the undertaking he gave me earlier. It goes to the point that a psychometric test, in particular, without a registered psychologist to administer it, may be absolutely useless, so saying that a person has to have an assessment with a psychometric test could be very misleading. Could I restate my earlier question to seek a more specific clarification. If the regulations require a psychological assessment or a psychiatric assessment, whatever the form of the assessment, will that assessment be delivered by a registered psychologist?

The Hon. P. MALINAUSKAS: As I said earlier, yes.

The Hon. A.L. McLACHLAN: I am going to try to interpret the minister's answer for my own benefit. Basically, they are two descriptions of the one test.

The Hon. P. MALINAUSKAS: That is far more succinct.

The Hon. A.L. McLACHLAN: Yes, may the minister please note the time that I worked that out. The nature of this test might change. On the drafting, does the chief executive have power under this section to dictate a different type of test, depending on the class of individuals who are visiting the licensed premises? For example, you may not want a full-on psychometric test for the person who is fixing the fuse box when they are gardening, as opposed to the person who may be delivering religious services or spending most of their time there. Or is there no need to make that distinction from a test perspective?

The Hon. P. MALINAUSKAS: The example of a maintenance worker coming to a site to fix the fuse box is not a particularly good example because such a person would be exempted from the relevant provisions through the regulations in any event, so in that particular instance it would already be covered.

The Hon. A.L. McLACHLAN: Alright, I can give you another example. There would be a person in the kitchen cooking the food who would be there every day and serving the food to the children—so, a school example. They are not necessarily going to be tutoring the children or being one-on-one with the children, but you would still have them tested and checked because they would be in the vicinity of the licensed premises, and therefore there would be a risk of unsupervised contact with the children. This is, I suspect, the point of these provisions. I am interested in whether there is capability for the chief executive to order different types of tests, under the drafting, for the different classes of individuals whom they find. I then come to the question of cost.

The Hon. P. MALINAUSKAS: The department's intention is to apply the same test to everyone. Although it is technically possible to have a different level of psychometric testing associated with different professions or roles, as it stands, the current intent is to have one test for everybody, for the obvious sake of simplicity as much as anything else.

The Hon. A.L. McLACHLAN: This is probably my last question. Do we have any understanding of what the costs of these tests are? I assume that licensed premises bear the costs.

The Hon. P. MALINAUSKAS: Unfortunately we do not have a figure at hand at the moment, even potential ballpark costs. I understand that, nevertheless, the price could vary depending on the contracting arrangements that exist for different organisations in any event. Apologies. Good question, though.

The Hon. A.L. McLACHLAN: I would ask you to give it to me tomorrow, but I cannot. Later on today, hey? I will not hold up the passing of that clause. We will agree to the passing of that clause. Can the minister undertake to give us an indication of costs? We have a number of stakeholders who have contacted us concerned about the cost burden.

The Hon. P. MALINAUSKAS: I am happy to undertake to try to get that information for the honourable member.

New clause inserted.

Clauses 102 to 142 passed.

Clause 143.

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

Amendment No 63 [McLachlan–1]—

Page 77, after line 17 [clause 143(1)]—Insert:

(ca) if the officer believes on reasonable grounds that a child or young person is at risk of removal from the State for female genital mutilation or marriage—seize and retain any passport issued in the name of the child or young person;

This is an amendment to insert into clause 143 an additional power of child protection officers, if an officer believes on reasonable grounds that a child or young person is at risk of removal from the state for female genital mutilation or marriage, to seize and retain any passport issued. There is a consequential amendment, which is No. 64, which accommodates any concerns members might have that we are legislating for the handling of a commonwealth document. It provides that it may be held by the chief executive for a period prescribed by the regulations and dealt with in accordance with the regulations. So, if the provision was fortunate enough to be passed, the regulations could accommodate any commonwealth requirements.

This is a matter of great importance to the Liberal Party and the shadow minister. It was set out in the other place by the shadow minister in relation to the movement of children for female genital mutilation, which is currently illegal. This is a mechanism that is not foolproof but it is a mechanism that would assist child protection officers in the policing of the movement of children for illegal activities.

The Hon. P. MALINAUSKAS: The government opposes the amendment. Mr Chair, the government supports the amendment.

The Hon. T.A. FRANKS: The Greens also support this amendment. We supported it when it was raised as an issue by the sector, including those groups that campaigned against FGM—particularly women who have been subjected to FGM who live in this state and also sexual health groups, such as SHine SA and the Guardian, who first raised these matters.

I note that in the original bill there were no provisions around this because of the shoddy consultation job that was done on this piece of legislation that we are debating to remove protections against female genital mutilation that were decades old and hard fought by the feminist sector and the women's health sector. It was a shocking—shocking—reflection on the job that was done in putting this bill together.

That it is not even a government amendment, when we get to this part of the debate, but indeed is still an opposition amendment that has to reinsert these provisions—provisions that are part of model codes around the country that ensure protections not only against the act itself but, indeed, provisions where passports can be taken to protect a young girl or a female in this situation—I think pretty much reflects the entirety of this debate.

The fact that the government speaker did not even know that his riding orders had changed and, in fact, the government now supports this amendment, just shows that this bill has a lot of flaws and was badly consulted.

Amendment carried.

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

Amendment No 64 [McLachlan–1]—

Page 77, after line 27 [clause 143(1)]—Insert:

(1a) Subject to any order of the Court, a passport seized under subsection (1)—

(a) may be held by the Chief Executive for the period prescribed by the regulations; and

(b) must, at the end of the period, be dealt with in accordance with the regulations.

The amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 144 to 149 passed.

Clause 150.

The Hon. A.L. McLACHLAN: Amendment No. 65, which I think we have arrived at, is consequential.

Clause passed.

Clause 151 passed.

Clause 152.

The Hon. P. MALINAUSKAS: I move:

Amendment No 3 [Police–1]—

Page 84, lines 28 to 31 [clause 152(1)(a) and (b)]—Delete paragraphs (a) and (b) and substitute:

(a) a decision of the Chief Executive under Chapter 7 (other than a decision under Part 4 of that Chapter);

This amendment seeks to amend clause 152 of the bill, which confers jurisdiction on the South Australian Civil and Administrative Tribunal (SACAT) to review specified administrative decisions. It seeks to widen the scope of reviewable decisions to include a decision of the CE under chapter 7. The government notes that this amendment reflects the definition of reviewable decision in the

original bill tabled by the government in November last year. The reasons for this change I will now briefly discuss.

Over the last few weeks, the government has met with stakeholders to further discuss measures in the bill, in particular Connecting Foster Carers-SA Inc. On behalf of the government, I wish to take this opportunity to acknowledge that group and thank them for their work on behalf of carers in this state. The government accepts that it is important to carers and important in terms of their retention and future recruitment that the bill provide an external review mechanism to allow decisions of the CE to either remove a child or change conditions as to their status as an approved carer. On this basis, the government urges members to support the amendment.

The Hon. A.L. McLACHLAN: The opposition has an identical amendment, but drafted differently in the hope that it had an earlier amendment get up in relation to chief executive and minister. As a result of the chamber not accepting earlier amendments, we will accept the government's amendments, which have an identical effect to ours. I am not clear why the government first left this out. We are well aware of the desires of stakeholders in relation to these reviews and we are pleased that the government has seen sense, at least in relation in this clause, to listen to the stakeholders.

The CHAIR: So, you are not going to move your amendment; is that correct?

The Hon. A.L. McLACHLAN: I am supporting the minister's amendment, which we have not voted on yet. I anticipate that will be successful and I will not be putting my amendment No. 66.

Amendment carried; clause as amended passed.

Clauses 153 to 164 passed.

Schedule 1.

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

Amendment No 1 [McLachlan–2]—

Page 91, lines 25 to 27—Delete Schedule 1 and substitute:

Schedule 1—Repeal and related amendment

Part 1—Preliminary

1—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Repeal of Children's Protection Act 1993

2—Repeal of Children's Protection Act 1993

The Children's Protection Act 1993 is repealed.

Part 3—Amendment of Criminal Law Consolidation Act 1935

3—Amendment of section 5AA—Aggravated offences

Section 5AA(1)(e)(i)—after 'Part 3' insert:

Division 8A or

4—Insertion of Part 3 Division 8A

After Part 3 Division 8 insert:

Division 8A—Child marriage

34—Interpretation and application of Division

(1) In this Division—

child means a person under the age of 18 years.

(2) Nothing in this Division is intended to limit the operation of the *Marriage Act 1961* of the Commonwealth.

34A—Bringing child into State for marriage

(1) A person must not bring a child into the State, or arrange for a child to be brought into the State, with the intention of causing the child to be married.

Maximum penalty:

(a) for a basic offence—imprisonment for 15 years;

(b) for an aggravated offence—imprisonment for 19 years.

(2) In proceedings for an offence against subsection (1), if it is proved that—

(a) the defendant brought a child, or arranged for a child to be brought, into the State; and

(b) the child, while in the State, went through the form or ceremony of marriage,

it will be presumed, in the absence of proof to the contrary, that the defendant brought the child, or arranged for the child to be brought, into the State (as the case may be) with the intention of causing the child to be married.

34B—Removing child from State for marriage

(1) A person must not take a child from the State, or arrange for a child to be taken from the State, with the intention of causing the child to be married.

Maximum penalty:

(a) for a basic offence—imprisonment for 15 years;

(b) for an aggravated offence—imprisonment for 19 years.

(2) In proceedings for an offence against subsection (1), if it is proved that—

(a) the defendant took a child, or arranged for a child to be taken, from the State; and

(b) the child, while outside the State, went through the form or ceremony of marriage,

it will be presumed, in the absence of proof to the contrary, that the defendant took the child, or arranged for the child to be taken, from the State (as the case may be) with the intention of causing the child to be married.

34C—Consent no defence

This Division applies irrespective of whether the child concerned, or a parent or guardian of the child, consents to the marriage.

We have sought a minor amendment to the schedule, although the drafting has effectively taken out the schedule and replaced it with the insertion of the words 'Division 8A'. In essence, this is an amendment to the Criminal Law Consolidation Act, which is accompanying the Children and Young People (Safety) Bill and it is to create an aggravated offence that will apply for child marriage on the occurrence of an aggravated feature being established, which is where there is activity associated with child marriage when a child is under 14 years.

Following on from that there is an insertion of the new clause into the Criminal Law Consolidation Act, which comes after subsequent amendments which prohibit bringing a child into the state for marriage and also prohibit taking a child away from the state for child marriage. Honourable members will see in the subsequent amendments that for a basic offence the upper range is imprisonment for 15 years and for an aggravated offence it is 19 years. Also, an insertion of clause 34C, which is that the consent by the child, is no defence to the guardian.

Again, this is an issue that has been pursued by the honourable shadow in the other place. The amendments effectively, as I said, create offences of bringing a child into the state for the purpose of marriage and, similarly, an offence for removing. The amendment seeks to overcome the current anomaly that once a child is removed from Australia our laws have no jurisdiction to prohibit a forced marriage that may occur overseas. The amendment seeks to criminalise such practices and, similarly, if someone brings a child into South Australia with the same intention.

The Hon. P. MALINAUSKAS: The government opposes this amendment. It is outrageous. The amendment proposes to amend the Criminal Law Consolidation Act 1935 to introduce criminal

offences of bringing or arranging to bring a child into South Australia or removing or arranging to remove a child from South Australia with the intention of causing a child to be married. The offences impose a maximum penalty of 15 years imprisonment for a basic offence and 19 years imprisonment for an aggravated offence. An offence is aggravated when the offender knows that the victim is under the age of 14 years.

The commonwealth Criminal Code Act already contains offences relating to forced marriages, both when they involve a child and when they involve a person over the age of 18 years. Indeed, the commonwealth provisions cover a broader range of conduct associated with forced marriages. At this point in time, the government is of the view that the commonwealth offence regarding child marriage is sufficient and at this point in time the government submits that focus should remain on ensuring all measures within the bill are adequate without venturing into other statutes and creating new indictable offences when existing offences at a commonwealth level are more than adequate.

The Hon. T.A. FRANKS: The Greens rise to support this. We commend the work both of the Liberal opposition in this place and the shadow minister on this issue, who has raised it in the other place several times. Child marriage is indeed an issue that should be taken seriously. It is an issue of child safety and it rightly belongs in this bill. To leave the jurisdiction of the commonwealth as good enough is not good enough. This bill is brought to this place without the support of those who work in the child protection sector. It is little surprise that the government will not even support quite sensible and quite reasonable amendments to protect girls against child marriage in this state.

I have talked about this before in parliament. I find this issue a personal one because when I was at school there was a friend of mine who was married off. When we were teenagers in the eighties there was not an awareness that there was anything we could do about this. I think the state needs to step up here and ensure the strongest possible provisions and should be promoting a range of measures to tackle the issue of child marriage. These are girls, these are not brides. This is a human rights violation and it should be taken more seriously by the Weatherill government.

The Hon. J.A. DARLEY: I will be supporting the opposition's amendment.

New schedule 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) (01:30): I move:

That this bill be now read a third time.

The Hon. A.L. McLACHLAN (01:31): I thought I would set out the Liberal Party position at the third reading. Throughout the debate the Liberal opposition has been very conscious of its solemn obligation to develop legislation that is sound and effective and restores community confidence. Our approach to this bill has been guided by a collection of like-minded organisations, and they have implored us not to support the passage of the bill.

At the same time, they provided us with suggested amendments should the Liberal Party seek to improve the existing bill. We thank them for their wisdom, patience and guidance during the period that we have given consideration to this bill. For the benefit of honourable members, I will set out the members of this coalition: the Law Society; the Australian Medical Association (South Australia); the South Australian Council of Social Services; the Child and Family Welfare Association; the Council of Carers of Children; the Youth Affairs Council; and, the Child Protection Reform Movement.

Certain amendments moved by the Liberal Opposition did not find favour with this council; I have touched on two in particular. The bill before us as amended does not identify a guiding priority that refers to the best interests of the child as being a paramount consideration. This has been something that the coalition and stakeholders consider critically important. The Liberal Party agrees.

Our amendment was drafted to also accommodate the government's view that the concept of safety should also be clearly stated as a priority in the bill. Our view is that this clause would have worked, and it kept faith with the concept of best interests that is referred to throughout the Nyland report.

The guiding principle, as stated in this bill, is of vital importance to the opposition, as is making the minister responsible under this bill. To the Liberal Party this was an important amendment, having regard to the ongoing public debate regarding ministerial accountability and, in particular, the circumstances in Oakden, although obviously not related to children, but was related to the accountability of a minister and a department.

We must remember, honourable members, how we arrived at this place. We have had a litany of failures in child protection and safety. If the government is not willing to take responsibility for its leadership failings, at the same time the problems have festered, while the reviews and reports have mounted up. We have Layton, Mullighan, a select committee, Debelle, Allen, Moss and, finally, Nyland.

In addition to those there have been coronial inquires. It is a roll call of examinations of the government's moral failings, incompetence as well as its inaction. The Liberal Party has come to the difficult conclusion that it would not support the passage of the bill at the third reading. It encourages honourable members to take a similar position to the opposition. The Liberal Party has not made the decision lightly. We have done so based on our genuine deep desire to seek the best legislative framework for the protection of our children when they are in need. We are not convinced the bill in its current form will achieve this outcome.

We hold the same view as the coalition of stakeholders that the existing legislation is sufficiently adequate at this time but not perfect after Nyland. It would serve us adequately until the expected second bill, which the government has committed to during the course of this debate, to be placed on the table in the two houses of parliament and passed with regulations. I will complete my remarks by saying that we will not vote for the third reading.

The Hon. T.A. FRANKS (01:35): I reiterate that the Greens have not been convinced by this debate to support this bill. We do so with the advice of many in the child protection sector. I received an email this afternoon from Ross Womersley from SACOSS. After thanking those members of this council who have participated in the debate on this piece of legislation, he noted:

> ...that it is our continuing view that despite your best efforts at negotiation, some desirable amendments and indeed, despite limited ideas about its contents a promise that the government will introduce some complimentary legislation, the current legislation is still by no means overall an improvement on the existing legislation.
>
> It is our continuing belief that this legislation (and the complementary early intervention/prevention bill if it is ever forthcoming) should be singularly directed at ensuring the least number of children ever need to enter into our child protection system. Despite amendments, the proposed legislation also remains flawed in whole raft of other ways. We do not believe the bill will result in addressing this overarching and desirable objective of limiting entrance to the child protection system nor will it ensure adequate, let alone great continuing care for any child or young person who needs to be brought into care.
>
> The reasons for this have been canvassed widely across time and thus I will not repeat them here. However, it is on this basis that when the bill comes before you for consideration we strongly encourage you to reject the bill in its entirety.

That is signed off by the CEO of the South Australian Council of Social Service, who has spoken and worked with the coalition of groups in child protection. Those words were echoed this afternoon in an email sent on behalf of Simon Schrapel, Chair, Council for the Care of Children, who also indicated his appreciation and the council's appreciation for the work that has been done to make this government accountable for its legislative agenda through the moving of amendments and obtaining commitments to bring a prevention bill before parliament before the end of this year. The letter states:

> However without seeing the provisions of the Prevention Bill which together with further amendments to the Child Safety Bill is needed to realise real reform to South Australia's beleaguered Child Protection system the Council for the Care of Children could not support the Child Safety Bill in its current format. We do not believe it will achieve the change required to ensure improved safety and wellbeing for SA children and young people and indeed has the potential to make the situation worse for children, young people and families than the current legislative framework.

The Council for the Care of Children believes South Australia does need legislative and policy reform to improve safety and wellbeing for children and young people. Unfortunately the Child Safety Bill even with the amendments passed today will fail to deliver this reform. It will only serve to drive more children into out of home care, add considerable cost to the provision of child protection in South Australia and result in fewer families receiving the support they need to ensure the proper care and protection of children.

We believe better legislation, including a Prevention Bill that addresses problems for families and children at an earlier point, can and should be delivered in this term of Parliament. By working with stakeholders like the Council this is possible in a relatively short period of time. Passing poor legislation like the current Safety Bill is not the answer and the Council would urge you not to support it.

I conclude that I observed that the government even railed in this bill against a motherhood statement of adequate resourcing for child protection and for early intervention. This government has form when it comes to child protection issues. They railed against the children's commissioner having full investigative powers and proper investigative powers.

They railed against a community visitor scheme under the Mental Health Act when that was debated. On both of those occasions, it was the crossbench and the opposition that finally brought reform that was positive to those areas, and I would hope that it will be the opposition and the crossbenchers who will hold the government to account on this bill and make them bring back something that will indeed provide safety and protection for the children of this state.

The Hon. S.G. WADE (01:39): I, too, join my colleagues in urging the council to not support this bill at the third reading. I think it is important to understand that, in the context of the legislative program that the government has already outlined, this bill is the first of two child protection bills that the council is going to consider this year; if I can call this the child safety bill and the second bill the early intervention bill. The stakeholders have been urging since last year—perhaps the middle of last year—that the early intervention aspects of the legislative regime should be considered in concert with the child safety provisions.

The government has ignored those pleas up until this point, but I would urge the government to reconsider, and particularly I would urge all crossbench members to pause and reflect on this opportunity to provide the best possible legislation we can. Some may say, 'Well, we have done all this work on this bill; why don't we just put it through?' I would say to honourable members, the work on the legislation at this point is indeed a foundation for a comprehensive bill. Certainly, the debate is not wasted. The conversation is advanced, but what stakeholders have consistently said is that you cannot understand the protection elements without seeing them in the context of efforts towards early intervention and child protection generally.

The second element, we are told, is already in the process of being drafted. The government told us that as a result of meetings with stakeholders, parliamentary counsel is already working on the second bill, and the government made it clear that they are committed to completing the second bill this year. That is at least one point on which we have a cross-chamber consensus. The Select Committee on Statutory Child Protection and Care unanimously recommended that the child safety bill and the early intervention bill be considered together. Our recommendation was that the child safety bill should lie on the table and be considered at the same time. The committee specifically said that we believe that that was achievable within this calendar year. This is not going to produce a delay. The reality is that it is unlikely that the regime will be implemented by the end of the year anyway, so all let's work on an integrated piece of legislation and get it right.

The broad range of stakeholders have called on us consistently not to pass this bill. First of all, they say that it is not to be preferred to the current law, and secondly, as I have said, they have said that it should be considered in concert. I would urge honourable members to remember, if you like, the relationships between the houses in a situation where we, as a legislative council, cannot insist on amendments without the government agreeing in the House of Assembly. Why would we pass a component of the legislation that we may well want to revisit in the context of issues that arise in relation to the second bill? I think to pass the first instalment without access to the second is undermining our capacity to fulfil our duties.

I agree with the Hon. Tammy Franks in highlighting the concerns of stakeholders that this bill may actually make the situation worse for children and young people. I urge the council to join the Liberal opposition in opposing this bill at the third reading so that these issues, together with issues

in relation to early intervention, can be considered at the earliest opportunity, and certainly for the whole process to be concluded within this calendar year.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (01:44): If I may, I would just like to respond to some of the remarks that have been made by representatives of the Greens and also—

The PRESIDENT: You will be closing the debate, by the way. Does anyone else want to speak? Okay. Go ahead.

The Hon. P. MALINAUSKAS: I have to say the government is deeply disappointed that after all of the debate, discussion and amendments, many of which have been moved by members of this chamber, this bill is not being supported by the opposition or the Greens. It is important to remember that this bill provides important and needed reform for our child protection system, including rights for foster carers, greater rights and involvement of children and young people and greater powers to the department to be able to enable quicker and more proactive intervention for families at risk. It also provides for a community visitor scheme.

The opposition in particular has moved a substantial number of amendments, to their credit in some respects, and many of those amendments have been successful. However, the opposition's amendments to change the paramount consideration of the act to best interests was not successful. I take this opportunity to remind members that the current act—the Children's Protection Act—currently has protection from harm as its paramount consideration, a change that was supported by this very parliament last year in response to the tragic death of Chloe Valentine.

I think it is of serious concern that the positive reforms in this bill are not being supported because the opposition lost their amendments, not all of them but some of them, particularly the one to change the paramount consideration, and prefers the current act. However, the current act has the same paramount consideration to keep children from harm.

When the chamber contemplates this bill, or for those people who may not already have made their mind up, it is important that we remember the very substantial process that has got us to this point. This bill is principally based upon the recommendations that came out of the Nyland royal commission, an extensive exercise that, naturally, went through all of these complex issues and sought to form a set of recommendations based upon the extraordinary amount of evidence that was brought before that commission. That is the underpinning basis for this new bill, so to vote against this bill in many respects is also to vote against the recommendations of the Nyland royal commission, which I think is an extraordinary position.

We would very much hope, notwithstanding the remarks that have been made by representatives of the Greens and the Liberal Party, that this bill still succeeds in getting through this chamber.

The council divided on the third reading:

Ayes 10
Noes................ 9
Majority............ 1

AYES

Brokenshire, R.L.	Darley, J.A.	Gazzola, J.M.
Hanson, J.E.	Hood, D.G.E.	Hunter, I.K.
Maher, K.J.	Malinauskas, P. (teller)	Ngo, T.T.
Vincent, K.L.		

NOES

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.

PAIRS

Gago, G.E.	Lensink, J.M.A.

Third reading thus carried; bill passed.

APPROPRIATION BILL 2017

Estimates Committees

The House of Assembly requested that the Minister for Employment (Hon. K.J. Maher), the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter) and the Minister for Police (Hon. P.B. Malinauskas), members of the Legislative Council, attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (01:53): I move:

That the Minister for Employment (Hon. K.J. Maher), the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter) and the Minister for Police (Hon. P.B. Malinauskas) have leave to attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

At 01:53 the council adjourned until Thursday 6 July 2017 at 11:00.