LEGISLATIVE COUNCIL

Tuesday, 23 October 2018

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 14:15 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

CHILDREN AND YOUNG PEOPLE (SAFETY) (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Report of the Auditor-General—Health Budget Performance 2017-18

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2017-18—
- Australian Children's Performing Arts Company (Windmill Theatre Co.)
- Carclew
- Child Development Council
- History Trust of South Australia
- Office of the Director of Public Prosecutions

Regulations under the following Acts—
- Aboriginal Lands Trust Act 2013—Miscellaneous

Section 74B(9) of the Summary Offences Act 1953—Road Blocks for the period from 1 July 2018 to 30 September 2018.

Section 83B of the Summary Offences Act 1953—Dangerous Area Declarations for the period from 1 July 2018 to 30 September 2018

By the Minister for Human Services (Hon. J.M.A. Lensink)—

Reports, 2017-18—
- Animal Welfare Advisory Committee
- Board of the Botanic Gardens and State Herbarium
- Dog and Cat Management Board
- Lake Gairdner National Park Co-management Board
- Ngaut Ngaut Conservation Park Co-management Board
- Parks and Wilderness Council
- Pastoral Board
- South Australian Heritage Council
- South Eastern Water Conservation and Drainage Board
- Stormwater Management Authority
- Witjira National Park Co-management Board
- Yumbarra Conservation Park Co-management Board

Regulations under the following Acts—
- Children and Young People (Safety) 2017—Miscellaneous No. 2

By the Minister for Health and Wellbeing (Hon. S.G. Wade)—

Construction Industry Training Board—Report, 2017-18

Personal Explanation

ROYAL ADELAIDE HOSPITAL

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:23): I seek leave to make a personal explanation.

Leave granted.

The Hon. S.G. WADE: I previously advised the council that I was advised of the installation of privacy screens at the ambulance bay at the Royal Adelaide Hospital on 31 May 2018. I seek to correct the record and advise the council that I was advised two days earlier, on 29 May 2018. I did not recall being briefed on 29 May when I made those statements. I apologise to the council for the error.

Question Time

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding screens at the Royal Adelaide Hospital.

Leave granted.

The Hon. K.J. MAHER: During question time on 5 June, I asked the minister the following questions:

1. When was the minister or his office first informed of the intention to build the wall at the Royal Adelaide Hospital?

2. When did the minister or the minister's office first inform the Premier or the Premier's office about the intention to build the secrecy wall at the Royal Adelaide Hospital?

3. Did the minister ask for the Ambulance Employees Association and the South Australian Salaried Medical Officers Association to be consulted on the secrecy wall?

4. How long will the secrecy wall remain in place at the Royal Adelaide Hospital?

In response to those questions on 5 June, the Minister for Health and Wellbeing responded, and I quote:

I thank the member for his question. In terms of when I was first advised, I have already told the media that I was first advised on Thursday afternoon. In terms of when the Premier's office was first advised, I will take that on notice. I have issued no directions in relation to the consultation between the AEA, SASMOA and SA Health in relation to privacy measures at the hospital.

On that day, I asked a further supplementary question to the minister:

…just so we are very clear, is the minister saying neither he nor anyone in his office had any knowledge of the plans for this wall to be erected before Thursday of last week?

To that supplementary the minister responded, and I quote:

The question I was asked was when I was first advised. I'm not aware of anybody in my office being advised before I was, but I will take that on notice.

This is a critical point: the minister took that question on notice. He took that question back to his office for consideration. Then, on Thursday 3 July 2018, the minister tabled a response to that question on notice. That's almost one full month after the questions were originally asked. The minister's tabled, considered response, one month after the question was answered, was, and I quote:

I have been advised:

The Premier's office was made aware of screening to protect patient privacy on the afternoon of Thursday 31 May 2018.

Neither my office nor myself were advised of the erection of the screening before Thursday 31 May 2018.

That means the minister and his office spent a whole month turning their minds to this question, researching and considering how to answer, checking their documents and looking at what they knew and exactly when they knew.

The PRESIDENT: Don't put inferences into the personal explanation. Stick to the facts.

The Hon. K.J. MAHER: One month later, there was a response tabled to the question on notice—one full month later. My questions to the minister are:

1. What is the process in the minister's office for checking parliamentary answers? How is it possible that when you took a question on notice and a full month later responded, you missed the fact that you had actually been briefed and personally signed correspondence?

2. On what exact date were you advised about the erection of the screens? In what form was that advice and exactly what did the advice say?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:28): In terms of the advice, the opposition already has that document through freedom of information. I signed it on 29 May. In terms of the process, there is a range of statements that relate to this issue and they were handled in accordance with office protocols. The fact of the matter is that the document that's been provided through FOI, signed and dated by me on 29 May, I provided to the opposition through FOI and I have corrected the record today.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:28): Supplementary: the document that the minister himself signed on 29 May, who provided that advice to the minister? Who was that advice from?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): The advice originated from the chief executive of the Central Adelaide Local Health Network.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:29): A further supplementary, arising from the answer: the minister answered that he himself signed a document on 29 May in relation to this issue. Was that the first time he or anyone in his office, to his knowledge, became aware of this issue?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): To the best of my knowledge, that is the first indication that I have that the matter was raised with my office.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:30): I thought the minister used the date of 28 May in his personal explanation. He may wish to reflect on that.

The PRESIDENT: Don't give comments, just ask the question. Supplementary.

The Hon. K.J. MAHER: The supplementary question: between the time the minister took the question on notice and the full month before he brought back his answer to the question on notice, did he seek briefings from his department in relation to when he was first informed of this matter?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:30): I am not aware of any briefing requests that I made to my department in relation to that briefing. I will take that on notice, but in terms of the issue itself, the privacy screens were an issue in the media. The opposition, in particular, was trying to make out that it was about trying to hide the fact that there were ambulances that were waiting on the ramp for treatment. The fact of the matter is that the opposition knows full well that the privacy screens were necessitated by its own design flaws in relation to the Royal

Adelaide Hospital. In fact, it was only a week before the election that *The Advertiser* carried an article entitled 'Exposed, exhausted at RAH'. Brad Crouch, dated 10 March, said:

> CLOUDS of diesel fumes mean patients arriving by ambulance at the Royal Adelaide Hospital now face the ignominy of being treated, and unloaded, in public view.
>
> Chronic ramping by ambulances due to lack of room in the ED—

The Hon. I.K. HUNTER: Point of order: the question was to what the minister knew and when he knew it, and who in his office might also have known it, not the history of the erection of the screens. It is about his knowledge.

The Hon. D.W. Ridgway: He knew that you had mucked up the project. He knew what happened when you were in government.

The PRESIDENT: The Hon. Mr Ridgway, it is a point of order, which I have to listen to. I am allowing the minister some latitude to answer the question. He has only just begun his answer. Minister.

The Hon. S.G. WADE: The whole point I am trying to make here is that this needs to be understood in the context. The opposition was alleging that we were trying to cover up ambulance ramping. The fact of the matter is that we, in fact, were trying to deal with their mismanagement of Health. Over 10 years, they built a hospital, continually failing to engage clinicians, which meant that there were significant design flaws, and the ambulance bay was one of those design flaws. The ambulances, instead of facing outwards—in other words, the front of the vehicle towards North Terrace and Port Road—needed to face the other way. As a result, patients were left in the predicament of being exposed. That is the point I am trying to make. I continue to quote:

> The solution has been to order ambulances to use the undercover parking bays so their exhausts—and rear doors—face the open air car park and North Tce.
>
> The result for patients is the public can see them being treated if the doors are open and also watch them as they are unloaded onto trolleys.
>
> Ramping has become a regular feature of the $2.3 billion hospital…

It says later, in paragraph 3 of that article:

> SA Ambulance Service paramedics and ambulance officers do everything they can whether at an accident, home or hospital to protect the privacy of patients and for certain cases when necessary they can use sight screens to further protect patient privacy.

Before the election and after the election, there were discussions within SA Health about how they were going to cope with patient privacy. In the short term, they used screens. In the medium term, they used privacy fencing, which was erected in late May.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:33): Supplementary arising from the answer, Mr President.

The PRESIDENT: Alright, I will allow it. We have plenty of other questions to come. We have had a reasonable period of time. I will allow this one.

The Hon. K.J. MAHER: I only have a couple more on this question. These are important issues, Mr President.

The PRESIDENT: Alright; I will allow this and one other.

The Hon. K.J. MAHER: I haven't interjected once and I am trying to—

The PRESIDENT: The President is in amazement.

The Hon. K.J. MAHER: This is an important question. The minister has answered that he is not aware of any information being sought from the department. What that means is it is squarely on his shoulders this issue that he has misled. Can the minister confirm that no information was sought from his department in that one month that the question was taken on notice? If that's the case, then it is squarely on his shoulders the fact that he has misled this chamber.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:34): If I could clarify my previous answer, I understood the member to be asking about the process. What I am trying to distinguish between is the process and the issues. I don't recall any briefing sought from the department in relation to the process in relation to the explanation I have given.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:35): Again, a very quick supplementary. Is the minister aware of whether any departmental officers, located either within his ministerial office or the health department, listen to question time and review the answers for their accuracy?

The Hon. T.J. Stephens: How is this a supplementary question?

The PRESIDENT: It does arise from the question. If you want a point of order, the Hon. Mr Stephens, you stand on your feet and you articulate it. Minister.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:35): A number of officers in both my ministerial office and in the department do overview parliamentary business. The fact of the matter is that a lot of material comes through the ministerial office and this was very much in the early stages. I was appointed, I think, on 22 March, and it took some time to establish the office and have it operating as effectively as we would all wish. In fact, I have only completed appointing all my staff in recent weeks.

ROYAL ADELAIDE HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:36): My final supplementary, Mr President.

The PRESIDENT: I will allow you one more.

The Hon. K.J. MAHER: At any stage, either after the minister originally misled parliament or after the minister brought back an answer on notice that again misled parliament, did anyone from his office or from his department inform him that he had misled parliament, or was it only through the FOI that the secret was let out?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:36): As I have indicated, I did not recall being briefed on 29 May. I don't believe that issue was brought to my attention before last week.

The Hon. K.J. Maher: Will the minister take that on notice and bring back an answer?

The PRESIDENT: You have other questions on the whipping list, so if you wish to raise that in a minute, you can raise it in a minute.

The Hon. K.J. Maher: Okay.

The PRESIDENT: Leader of the Opposition, sit down. Try to restrain the use of arguments, inferences, imputations and epitaphs in your supplementaries. Keep them crisp and direct. It is an important issue, and I have allowed you many supplementaries. Go to your second question.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (14:37): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding misleading parliament.

Leave granted.

The Hon. K.J. MAHER: Throughout commonwealth parliaments, there have been numerous instances of ministers who have resigned as a result of misleading parliament. In 1992, New South Wales minister Ted Pickering resigned when evidence before a select committee indicated that he had misled parliament when he claimed that the police service did not inform him about some particular information. Minister Pickering said at the time:

> Although my incorrect statement to the House was unintentional, I believe it is my duty to resign my Ministry.

In 1998, South Australian minister Graham Ingerson resigned after he was found by a privileges committee to have misled parliament regarding a call to a Liberal Party figure about the future of the chief executive of the SA Thoroughbred Racing Authority. There are many, many other instances of ministers resigning for misleading parliament, including former premier of this state, John Olsen; Tasmanian deputy premier, Steve Kons; New South Wales minister, Carl Scully; Queensland ministers, Gordon Nuttall and Damian Green; and Queensland committee member, Anna Leahy. The ministerial code of conduct says:

> Ministers must ensure they do not deliberately mislead the public or the Parliament on any matter of significance arising from their functions.

Given the fact that ministers in the past have believed it is their intention and their duty to resign, even for unintentionally misleading the parliament, why shouldn't this minister resign?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:39): I will continue to strive to provide the council with accurate information. My misstatements were not deliberate and I did not misrepresent advice received. I would argue that, on the other hand, Labor tried to misrepresent the action as an attempt to reduce visibility of ambulance ramping when the issue of privacy was paramount, and it was raised before the election. The ambulance bay can be readily viewed, yet the privacy of patients has been protected.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (14:39): Supplementary arising from the answer: has the minister spoken to the Acting Premier about the minister misleading the parliament, and what was the nature of that conversation?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): I have had no conversations with the Acting Premier in relation to the privacy screens at the RAH since the end of last week.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (14:40): Supplementary question: has the minister spoken to anyone from the Acting Premier's office or the Premier's office regarding the minister having misled this parliament on numerous occasions?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): The fact of the matter is that I have discussions with the Premier's office frequently, but certainly no member of the Premier's office has raised with me the issue of needing to resign. The fact of the matter is that as soon as I became aware that I made a misstatement I undertook to provide a correction to the parliament. That is exactly what I have done today. I apologised for that. But the hypocrisy of the Labor Party is gobsmacking. I have made an error in relation to the timing of a briefing. They have managed to build a hospital the construction of which was $600 million more than it was budgeted for. It was delivered 17 months late and with numerous design flaws. One of those was a poorly designed ambulance bay, which has necessitated the installation of privacy screens.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (14:41): Supplementary arising from the answer: exactly when did the minister become aware that he had misled parliament, and who informed him that he had misled parliament on this matter?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:41): My recollection was that the issue was raised with me by one of my office members on Friday.

DIALYSIS TRANSPORT SERVICE

The Hon. K.J. MAHER (Leader of the Opposition) (14:41): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding dialysis treatment.

Leave granted.

The Hon. K.J. MAHER: Previously, Aboriginal dialysis patients who needed assistance travelling to and from lifesaving medical treatment in metropolitan Adelaide were transferred through a service delivered by a community organisation, Sonder. This service was funded through the Adelaide public health network and the federal government's Closing the Gap program. However, on 1 October the program was discontinued after the Adelaide public health network and the federal government slashed funding for this service.

Nari Sinclair, who I had the pleasure of spending time with today, is one of those dialysis patients who relies heavily on this service. Nari has started a petition to urge the state government to step up and make sure that either they fill this funding gap or that the federal government continues to make this funding available. I also had the pleasure of speaking to a number of Kungas from Ernabella who also receive similar dialysis treatment at hospitals around Adelaide.

Many Aboriginal people face levels of disadvantage most of us don't in metropolitan Adelaide. These services are relied on very heavily by many Aboriginal people from some of the most remote communities in South Australia when they come to Adelaide to receive such treatment. My question to the minister is: what will the minister do for Nari and other such patients about these cuts and what guarantee will he give that the state government will cover the cost and make sure that she and other patients can be transported to the treatment that they have had in the past and that they deserve to continue in the future?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:44): I thank the honourable member for his question. I am advised that the federally-funded programs ceased for transport for Aboriginal people requiring ongoing dialysis on 1 October. The Central Adelaide Local Health Network, I am advised, was notified of this change at the end of August and has been working to review transport services across all dialysis units using the SA Health transport policy. All patients, Aboriginal and non-Aboriginal, are assessed, and some have had changes to transport as a result.

We will continue to work through this, with the support of the Aboriginal health and allied health teams, to minimise any disruption to patients. I would remind the council that the Marshall Liberal government has demonstrated its strong commitment to Aboriginal services, particularly in the renal space, by our long advocacy for APY lands renal services, particularly through the Purple House network, and we will certainly continue to both develop renal dialysis opportunities for Aboriginal people on their own country but where they need to travel for other services to support them as we are able.

DIALYSIS TRANSPORT SERVICE

The Hon. K.J. MAHER (Leader of the Opposition) (14:45): Supplementary arising from the answer: the minister said he will support them as the government is able to. Is the minister undertaking to make sure that the funding will be replaced that the federal government has cut so that many of these Aboriginal people can continue the treatment they have had in the past?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:45): That is not an undertaking that I am giving. What I am undertaking is that SA Health teams, particularly Aboriginal health teams and allied health teams, will work with patients to try to maximise access to services. Some of that might be through subsidised transport through the SA Health network, but there may well be other opportunities. We will continue to work with patients to, if you like, bring together a range of services to support their needs.

DIALYSIS TRANSPORT SERVICE

The Hon. K.J. MAHER (Leader of the Opposition) (14:46): Supplementary arising from the original answer: approximately how many patients have been affected by this cut in funding that used to be funded by the Adelaide public health network and the federal government's Closing the Gap program? How many Aboriginal patients are impacted by the decision not to continue this funding?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:46): I will take that question on notice.

DIALYSIS TRANSPORT SERVICE

The Hon. K.J. MAHER (Leader of the Opposition) (14:46): Supplementary arising from the original answer: what representation has the minister made to anyone in the federal government on this issue; and has the minister read the petition that has been started in relation to this issue?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:47): I will certainly get a briefing on this as to what extent—if you like, to what entity would be the best to engage in relation to these services. My understanding is that Adelaide PHN is a statutory authority of the commonwealth and I doubt if the commonwealth minister is in a position to direct them. In terms of advocating, I will certainly look forward to a briefing, but the primary task at the moment is to make sure that we—considering this service has already stopped as at 1 October—work with patients to ensure they continue to have access to this very important service.

DIALYSIS TRANSPORT SERVICE

The Hon. T.A. FRANKS (14:47): Supplementary: how many appointments have patients missed, and have there been any adverse health outcomes of missed appointments?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:48): I am sure the member appreciates that I will need to take that question on notice but I certainly will do so.

DIALYSIS TRANSPORT SERVICE

The Hon. K.J. MAHER (Leader of the Opposition) (14:48): Final supplementary on this matter: if the minister is so concerned about people missing appointments, why is he only now, when questions are being asked in parliament, thinking about getting a briefing? Why wasn't the minister asking for briefings when this funding ran out on 1 October?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:48): To the best of my recollection, I haven't been briefed on this issue.

INTERNATIONAL STUDENTS

The Hon. J.S. LEE (14:48): My question is to the Minister for Trade, Tourism and Investment on the topic of the international student sector. The contribution of international students to South Australia has been enormous. Can the minister please update this council on how the South Australian government is attracting private investment into the state's international education industry?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:49): I thank the honourable member for her ongoing interest in this topic and today's question. South Australia is a great destination for international students wanting to study overseas in a safe environment with a fantastic lifestyle for high-quality education and bright employment opportunities. With our state's national share of international student numbers decreasing each year, the Marshall Liberal government has been forthright in our desire to grow the international student numbers. I have already implemented key policies to make this happen, as I outlined in the chamber last Tuesday. Increased funding to StudyAdelaide and the establishment of the Ministerial Advisory Committee for International Education (MACIE) are just a few of the measures we are implementing.

The industry has stood up and taken notice of this government's fresh approach to tackling international student numbers head on, and we have seen a good deal of investment into South Australia to build further capacity and to grow our student numbers from around the globe. A prominent example of the private investment into our state's international education infrastructure is the healthy pipeline of planned and under construction and recently completed student accommodation projects around the city

Today, I would like to share with the council another investment that has recently come to fruition as an example of the confidence in our state's future. On 8 October, I was proud to open a new English examination centre together with the federal Minister for Trade, Tourism and Investment, Senator the Hon. Simon Birmingham. The establishment by the international education company Pearson of the Adelaide professional training centre joins the ranks of some 200 other Pearson professional centres and networks in affiliated cities all over the globe. The centre will provide secure

and certified English competency testing for international students looking to enter the Australian education institutions and language services for migrants seeking permanent residency.

I have visited the new facilities on Waymouth Street and was very impressed by the examination facility, the friendly team and some of the tight security measures they employed to ensure fair and genuine testing. Pearson tells me their first Adelaide professional centre will attract up to 400 test takers per week and employ seven staff.

The more international students we are able to attract to the state, the greater the benefits to our local economy. As we know, the sector is already worth over $1.5 billion to our state's economy. International students spend on accommodation, goods and local services while they are living here, and it creates more jobs for South Australians. I thank Pearson for their confidence in this government's plan to grow the international student numbers in this state and congratulate them for opening their facility, which will provide greater choice and easier access for international students and migrants to our state.

Last week, while I was giving an answer, speaking on MACIE, the ministerial council, a supplementary question from the Hon. Russell Wortley asked me for the names of the people who were on that committee. If it is okay, Mr President, as a follow-on from this question, I will put those names on the record. They are: Professor Justin Bilby, Mr Brett Blacker, Dr Joy de Leo, Professor Nancy Cromar, Dr Bronwyn Donaghy, Ms Karen Kent, Mr Peter Klar, Mr Brett Mahoney, Mr Phuong Phan, Mr Bill Pecker, Mr Lino Strangis, Mr Sebastien Raneskold, Mrs Gabrielle Rolan, Ms Cathy Schultz, Ms Karen Weston and Ms Marilyn Sleath.

TEACHERS

The Hon. F. PANGALLO (14:52): I seek leave to make a brief explanation before asking a question of the Treasurer, representing the Minister for Education.

Leave granted.

The Hon. F. PANGALLO: On the FIVEaa breakfast program last week, it was revealed that a teacher from a southern suburbs school had been charged with sex offences against a child under the age of 14. In a letter to parents advising them of the charges, the principal urged parents to keep the matter confidential and said they were not permitted by law to name the teacher.

In addition to this situation, the 2018 Teachers Registration Board of South Australia annual report reveals five teachers were disqualified from being registered as a teacher permanently for actions including child exploitation and unlawful sexual intercourse. One is said to have had a preoccupation with sexual partners wearing school uniforms. These five teachers were part of 13 local teachers overall who were struck off or faced other disciplinary action in the last year.

In recent years, there have also been several teachers from government and non-government schools charged and convicted of sexual offences involving students. My questions are:

1. Does the minister and the Treasurer believe that teachers, prospective or otherwise, should now undergo psychological and psychometric testing to determine their suitability for teaching children before being appointed to a teaching position?

2. What does the Treasurer think about this move in the context of his position of managing the state budget?

3. Apart from a police check, what other legal and behavioural testing do teachers, prospective teachers or otherwise, need to complete before teaching children?

The Hon. R.I. LUCAS (Treasurer) (14:54): I thank the honourable member for his question, and I can answer the member's question relatively simply. What the Treasurer thinks about this issue is: he thinks he should take advice from the Minister for Education, then listen to what the Minister for Education says and share that with the member. Then I might even share my personal views after that.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (14:55): Mr President, I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question regarding departmental advice.

Leave granted.

The Hon. K.J. MAHER: On 8 May this year, I asked the minister whether he had read and understood all of his incoming government briefs, whether the minister had received any further advice beyond the incoming government briefs and if he fully understood that advice. The minister responded, and I quote:

> I have received a set of incoming briefs and numerous briefs since then. I continue to read and digest them and seek further briefs from agencies.

My question to the minister is: does the minister still stand by the answer that he gave on 8 May, and does the minister in fact actually read and digest the briefings he receives from his agency?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:56): It's absolutely breathtaking that the Labor Party can be so fixated on an issue in terms of when I first viewed a brief. What they are studiously avoiding is the systemic mess they left this government. Even while we were sitting here today, the report of the Auditor-General was tabled, and what it shows is that Health was left in an absolute mess as a result—

The Hon. I.K. HUNTER: Point of order, sir.

The PRESIDENT: The Hon. Mr Hunter.

Members interjecting:

The PRESIDENT: Minister, let me hear the point—

Members interjecting:

The PRESIDENT: Liberal benchers, I cannot hear the point of order. A point of order is a serious matter.

The Hon. I.K. HUNTER: Mr President, the point of order is one of relevance. The question was directed to the minister about him reading his departmental briefs and then, of course, going on from that, how he replies in parliament to questions on those briefs. All he wants to do is talk about other things like the Auditor-General's Report, which has no relevance to the question about why did he get a briefing and tell this parliament—

Members interjecting:

The PRESIDENT: Through me, the Hon. Mr Hunter.

The Hon. I.K. HUNTER: —Mr President, why he told this parliament something that was untrue, and then—

Members interjecting:

The PRESIDENT: The Hon. Mr Hunter, sit down. You are going a little bit far. Under Erskine May, the minister has considerable latitude to attempt to answer the question; therefore, I am going to allow the minister to go on. Minister.

The Hon. S.G. WADE: The honourable member wants—

Members interjecting:

The PRESIDENT: Alright, sit down, minister. The Hon. Mr Ridgway, you are a minister; I am holding you to a higher standard. Please do not engage with the Hon. Mr Hunter. The Hon. Mr Hunter, you have been a minister and you know that you shouldn't be doing that; please restrain yourself.

The Hon. I.K. Hunter: I'll try my best.

The PRESIDENT: Minister.

The Hon. S.G. WADE: The point I am trying to make, Mr President, is that there are huge challenges facing the health system in South Australia. One of the most serious is the financial mess left to us by the former government. What the Auditor-General's Report today says is that:

- At May 2018 LHNs and SAAS collectively were expected to exceed their 2017-18 budgets by $467 million…

Later on that page, it has a damning indictment of the former Labor administration in Health. I am sure that the Treasurer will be chilled by this one:

- There was no long-term financial plan that drew together all strategies across the Health portfolio and described how it intended to meet budget forward estimates and savings expectations.

In fact, later on it says:

To achieve the budgets provided by [the Department for Health and Wellbeing], LHNs would need to not only reverse health expenditure growth trends but spend at levels lower than previous years.

So what this government has been faced with is an extraordinarily challenging financial environment. We were also faced with a government which, over 16 years, had totally destroyed its credibility. We had a Labor Party that promised not to close the Repat; that is exactly what they did. Labor promised upgrades to The QEH at the 2010 election, at the 2014 election, and it did not deliver.

It is now the Marshall Liberal government that has begun the upgrade. Labor promised that the Women's and Children's Hospital would be located with the new Royal Adelaide Hospital in 2013. By the end of the last term, they had abandoned it, deciding to leave children's services at North Adelaide. When it comes to credibility, I put my credibility against the Labor Party's any day.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:00): Supplementary question arising from the answer: does the minister stand by his statement that he continues to read and digest all the briefings his department give to him?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:00): I continue to diligently discharge my ministerial duties, and I am stressing the magnitude of the task. Much of the neglect of the former Labor ministers is now being sheeted home to this government. I would remind honourable members that the former minister for health, who refused to be frank about the budget blowout referred to in the Auditor-General's Report, is now the Leader of the Opposition in the other place. The minister who failed to tell the people of South Australia about the accreditation failures of the Central Adelaide Local Health Network was the former minister for health, now the Leader of the Opposition in the other place. It is appalling for this opposition to come in and hold us accountable at the seven-month mark for a disaster that they created over 16 years.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:01): A further supplementary arising from the answer: the minister correctly said that there are enormous challenges in the health system. Does he think those challenges are exacerbated by having a minister who doesn't know from one week to the next what he has read, what he has signed or can't remember the advice he has been given?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:01): I thank the honourable member for his question. What I cannot forget are the failures of the former Labor government in terms of the RAH. Now we are focusing on one in particular, which is the failure to properly design an ambulance bay for the Royal Adelaide Hospital, but it wasn't the only one.

We also had the resuscitation room that was not fit for purpose. The outpatient capacity is dramatically reduced. Clinical research space is at a shortage to the point where university space is being used. We have problems with the chest clinic, the emergency department flow, which is bad, and there are problems with the mental health units. I remind honourable members that the former government's failure to have an ambulance bay that worked was by no means the only failure in relation to the new RAH.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:02): Supplementary: does the minister understand the optics of how it looks if he won't say whether or not he understands his briefings?

The PRESIDENT: That's debating the question, the honourable Leader of the Opposition. You can't ask that as a supplementary. The Hon. Mr Hunter, you rose to your feet and were seeking a supplementary. I give you the call.

MINISTERIAL RESPONSIBILITY

The Hon. I.K. HUNTER (15:02): My supplementary question to the minister is this: how can the public trust anything you say in the health portfolio when you can't even recall you were briefed; when you checked with your agency and your staff, presumably, one month later, you said you still didn't have that briefing; and now, just last Friday, you told us that you have a system in place when you have been told that you misled this parliament, not once but twice? How can anyone in the public trust you?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:03): As I said, I am part of a Marshall Liberal team which is faced with 16 years of mismanagement and a litany of broken Labor proposals. I will not take a sermon from a former member of that government.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:03): Final supplementary: on all briefings that require the minister's signature, does he actually sign them and return them to the department?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:03): The fact of the matter is that whenever a briefing is put to me, I seek to read it and to sign it. The fact of the matter is that many briefings become superseded by later events, and a new briefing is prepared. It is a very broad question. The fact of the matter is that I will continue to diligently discharge my duties, reading a range of briefs. To be frank, not all briefings are to be sent back. For one thing, I have the mountain of parliamentary briefing notes. The fact of the matter is that I will continue to diligently discharge my duties to the best of my capacity, and I am pretty confident that it is going to be better than most members on the other side.

QUEEN ELIZABETH HOSPITAL

The Hon. J.S.L. DAWKINS (15:04): My question is directed to the Minister for Health and Wellbeing. Will the minister update the council on progress on delivering commitments on The Queen Elizabeth Hospital?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:04): I thank the honourable member for his question. This morning, I had the privilege of turning the first sod in the building of the new car park at The Queen Elizabeth Hospital. I acknowledge that I have given an undertaking to the Hon. Tung Ngo that I will consider naming that car park after him considering that in the Transforming Health select committee the member became known as the shadow minister for car parks. Sorry, it would have been the minister, wouldn't it? Perhaps it was the assistant minister assisting the minister for health for car parks. This is an important moment in the redevelopment of TQEH and, seriously, the Hon. Tung Ngo particularly had an interest in TQEH, being a man of the western suburbs.

The Marshall Liberal government is investing more than $270 million in TQEH. These funds will support community access to quality health care in a modern hospital setting. The new car park extension is due for completion in mid-2019 and will support the increase in future services. The $17.4 million invested specifically in the car park will deliver a multideck, five-level car park providing 500 parking spaces for patients, families and visitors. Importantly, this will include more than 70 accessible spaces for people living with disabilities.

I know the Minister for Human Services will be pleased to hear that I am advised that that number of disability car parks is well above what is required. My understanding is that it is in the order of at least five times what is actually required. This should be a facility which is broadly

accessible for not only people with disabilities but other people with mobility issues such as families with young children and older people.

As the car park construction gets underway, planning for the new services for the next stage of redevelopment continues with the recent establishment of reference groups to support and advise the redevelopment of the new TQEH clinical services building. The reference groups will play a key role in consultation, ensuring genuine clinician, consumer and community input into the project. This has included working closely with the SA Ambulance Service to ensure access to the emergency department is maintained during works. A new pathway has been completed. One of the first tasks for construction will be a new public road so that access to the ED will continue unaffected. It is intended that construction of the new clinical services building will begin on the site of the current car park at the end of 2019.

The capital works underway demonstrates the difference between the Marshall Liberal government and the previous Labor government. When we make a commitment we deliver. Labor promised redevelopment of TQEH stage 3 twice, in 2010 and again in 2014, but on neither occasion did the people of the western suburbs see the project delivered. Labor dumped the stage 3 redevelopment and spent the money on Transforming Health as services at the TQEH were downgraded.

The Marshall Liberal government committed to the re-establishment of 24/7 cardiac services at the hospital. In June we delivered on that commitment. The Marshall Liberal government is delivering the stage 3 redevelopment. Unlike Labor, who broke the promises on the redevelopment twice, today we are demonstrating that we are delivering it, and I did so in the presence of one of the local members, Mr Cowdrey.

Labor can't be trusted on health. The Marshall Liberal government will continue to work to clean up the mess and support the South Australian health system.

EPILEPSY CENTRE

The Hon. T.A. FRANKS (15:08): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about The Epilepsy Centre.

Leave granted.

The Hon. T.A. FRANKS: Epilepsy can be a devastating condition to manage. The Epilepsy Centre in South Australia, in providing support to our community, is an absolute necessity. Epilepsy affects anyone at any age, and 61,000 people in a diversity of cohort in South Australia live with epilepsy.

SA and the Northern Territory are the only jurisdictions in Australia that do not receive government funding to support children and families living with epilepsy. Here, The Epilepsy Centre continues to provide support and services to those affected and is funded solely by private donations. Epilepsy is not just falling to the ground and shaking—a seizure can kill. The suicide rate amongst youth living with epilepsy is 25 per cent higher than that of the general population. It is a life of uncertainty, confusion, isolation and embarrassment, which no-one should have to endure alone.

The team at The Epilepsy Centre ensure that they don't have to endure this alone. They have been helping people for 40 years and work consistently and tirelessly to raise the awareness of epilepsy in our community but also to reduce the stigma and to provide, of course, that support for an inclusive society. That support includes such measures as a seizure monitor, which costs about $1,000 but means that a parent can sleep at night knowing that their child will not die in that bed.

They do this, as I said, solely by private donations. Government funding would help the centre employ additional full-time nurses, social workers and counsellors to manage the enormous workload. These workers, of course, would reduce hospital admissions and give families and individuals that much-needed support and community understanding by combating stigma associated with the seizures. My questions to the minister are: what efforts will the Marshall government make to ensure recognition that epilepsy is indeed a chronic health condition? What support will it provide to the good work of The Epilepsy Centre?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:11): I thank the honourable member for her question. I would just make the point that the honourable member is rightly highlighting one of the gross failures of the former Labor government. Particularly through the McCann review in 2011, there has been significant disinvestment in preventive health, leaving a gap to effectively tackle the challenges arising from the changing profile of community, the increasing prevalence of chronic conditions and the rising levels of health inequalities. The honourable member rightly highlights the work done by a whole range of community organisations that are often disease or condition-specific, such as The Epilepsy Centre, but also broad community organisations, particularly the churches and other non-government organisations.

The Marshall Liberal government released two specific policies which demonstrate our commitment to reinvesting in preventive health, the first being 'Better prevention for a healthy South Australia' and the 'Targeted preventative health' policy. These are platforms which outline the vision and long-term approach for effective prevention in our state, with the aim of reaching all South Australians.

The honourable member's focus on epilepsy is particularly related to the targeted prevention strategy, because that talks about working with people who either have a condition or are at risk of a condition, to work with them to avoid the condition either onsetting or escalating. The sorts of tools that you mention in relation to epilepsy are the sorts of tools that would help a person who is living with the condition.

One of the key strategies under the preventive health policies, the pair of policies I referred to, is the establishment of Wellbeing SA as a prevention, health prevention and primary healthcare agency within SA Health, which will lead and support the implementation of the policy platforms. Creating good health and wellbeing for all people in South Australia is not something the health system can do on its own. Strong partners, including organisations such as The Epilepsy Centre, will be important. Strong partnerships across the sectors and with the community and the use of evidenced-based policy and practice and qualitative data for decision-making are all fundamental, delivering better preventative health outcomes.

Whilst we are still in the process of establishing Wellbeing SA, the government has already taken steps in relation to promoting good health in the preventive space with the establishment of the South Australian Healthy Towns challenge. It was launched in the first 100 days of government, and it will provide $1 million over four years to fund preventive health projects. Projects such as community projects related to epilepsy would be eligible for those grants.

I think it is a program that demonstrates what I was just saying about partnerships. We are strongly of the view that Wellbeing SA won't be merely a commissioning agency like a PHN, but will be a partner, perhaps brokering, blending, funding services, whether it might be a GP-based service bringing in Medicare-based funding, perhaps bringing in some Adelaide PHN money plus state government money. Certainly, I have heard of programs that blend those three elements in other areas of preventative health such as asthma, and a strong community-based program is also important in an area such as epilepsy.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:15): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing on ministerial responsibility.

Leave granted.

The Hon. K.J. MAHER: Premier Steven Marshall made a statement on ministerial responsibility, which in part said, and I quote:

> I have told my ministers that they cannot expect to remain in cabinet if they see nothing, hear nothing and question nothing. Ministers have to be inquisitive, inquiring and challenging. Responsibility ends on the minister's desk, not at the departmental door.

With that in mind, my question to the minister is: when you received the briefing on the RAH security fence, what further questions did you ask or what further advice did you ask for before you personally signed off on that briefing?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:16): I don't recall any additional information being sought in relation to the brief itself. After all, the brief that has been released through FOI has my signature. There would have been ongoing discussions in relation to the privacy screens because, as I said earlier, it was a matter of topical debate.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:16): Supplementary: after the minister signed the briefing, he says there was ongoing discussions about the issues raised. I just want to be very clear about that, that after he signed the briefing, there continued to be ongoing discussions and he knows that from his own knowledge.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:16): It is more actually common sense. The fact of the matter is, the issue of why the privacy screens were being erected was a matter for public debate at the time. The former government, now the opposition, was trying to suggest that it was about hiding ambulance ramping in spite of the fact that anybody who goes to the RAH knows full well that that screen does nothing to stop people being able to see it.

I presume that the diligent minister the honourable member is referring to, minister Malinauskas, would have been briefed in February and March because it was certainly being discussed in government in those months. The fact of the matter is, I have no doubt that an issue of public debate such as that I would have continued to have discussions about with my office, my department and my colleagues elsewhere in government.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:18): Supplementary: will the minister take on notice and bring back the exact dates and times of those further briefings that occurred after—

The Hon. R.I. Lucas: He didn't say briefings: he said discussions.

The Hon. K.J. MAHER: —and discussions and notes after the one that he has referred to, which has lead to him twice misleading parliament?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:18): It will hardly surprise the honourable member that I don't keep diaries of every conversation I have and I am not able to provide the information he is seeking.

MINISTERIAL RESPONSIBILITY

The Hon. K.J. MAHER (Leader of the Opposition) (15:18): Final supplementary: in the minister's view, what does one have to do to be sacked or resign for misleading the parliament?

The PRESIDENT: It is hypothetical, minister. I am ruling it out of order. The Hon. Mr Stephens, you have the call.

IRISH AUSTRALIAN CHAMBER OF COMMERCE

The Hon. T.J. STEPHENS (15:19): My question is to the Minister for Trade, Tourism and Investment. Can the minister inform the council about the recent opening of the SA chapter of the Irish Australian Chamber of Commerce and the great work being done by its members?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:19): I thank the honourable member for his question and his ongoing interest in international relations.

The Hon. R.I. Lucas: Especially Irish.

The Hon. D.W. RIDGWAY: Especially Irish international relations.

The Hon. R.I. Lucas: Exactly.

The Hon. D.W. RIDGWAY: No, not yet. On 4 October, I had the great pleasure of attending the official launch of the South Australian chapter of the Irish Australian Chamber of Commerce. It was attended by the Governor, His Excellency the Honourable Hieu Van Le, and the Irish

ambassador to Australia, the Honourable Breandán Ó Caollai. We all had the pleasure of addressing the gathering of businesspeople, predominantly Irish Australians, who were part of the launch.

Both dignitaries highlighted the common bonds we share and the desire to deepen the relationship between our two economies and our two societies. The president of the South Australian chapter, Mr Ryan McClanahan, spoke of his journey to South Australia and his vision for the new chapter of the IACC to facilitate closer ties between Irish businesses in South Australia and vice versa.

I took the opportunity to lay out South Australia's new trade policy agenda and the opportunities for Irish companies to set up and do business in our great state. We are already close to the United Kingdom, and as it departs from the European Union connections with EU member states like Ireland will become even more important. Obviously, we want to focus on the business to business of government relationships, but ultimately it is the individuals and the personal connections that are crucial to a closer integration.

Incidentally, one of the members asked me if I had any connection to Ireland. I said I didn't, but it was actually exactly four weeks from that date that Ireland's greatest cricketing export will join my family when he marries my daughter. I think it will be a wonderful opportunity for bringing the two great nations closer together. I would expect to see many investment opportunities that will spring from that relationship.

Another obvious example of this is the South Australian finalist for the Young Professional of the Year at the IACC business awards, Georgina Carpendale. The winners were announced on 12 October. Unfortunately, Georgina did not win overall the national award, but we have many reasons to be proud of her. She came here with her now husband in the aftermath of the GFC, when the Irish economy had crashed. She started her career there as an auditor, but left for greater opportunities here.

She became the chief financial officer of Micro-X, the winner of the IACC SME of the year in 2018, and at the age of 30 is certainly an impressive young woman. She is helping Micro-X take on the world with their innovative portable lightweight X-ray technology with a range of applications in clinical and military settings.

Georgina is just one example of the human face of international business, and I wish her and Micro-X every success in the future. In closing, the Marshall Liberal government will work with associations like the Irish Australian Chamber of Commerce to grow mutually beneficial opportunities for our two great economies.

AGED-CARE FACILITIES AUDIT

The Hon. C. BONAROS (15:22): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing.

Leave granted.

The Hon. C. BONAROS: Last month, on 20 September, I asked the minister specific questions about a tender process the government was undertaking for an external audit of all 45 of the state government-run residential aged-care facilities and multipurpose services facilities in regional and remote South Australia. The audit was in the wake of the Oakden aged-care scandal and subsequent investigation and damning report by ICAC.

The expected start date for the audit was August this year, with an expected end date of April next year, with the preferred tenderer expected to spend a minimum of two days at each facility. The minister undertook at the time to get back to me with information as to whether that contract had been finalised. I recently received further information that after the day I asked my original question several companies that had submitted tenders received notification that they had been unsuccessful. This has sparked some alarm in the industry that the government might have done an eleventh-hour backflip and returned to the drawing board on the audit process and/or criteria. My questions are:

1. Can the minister confirm that the contract has now been awarded, and if so, to whom?

2. What was the cause of the delay for the contract being awarded?

3. When is the contractor now due to report back to the government?

4. If the contract is yet to be awarded, what is the minister doing to progress the audit and to reassure the people of South Australia that the harrowing events that took place at Oakden are not going to be repeated in our regional and country nursing homes, including Indigenous settlements?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:24): I thank the honourable member for her question. If there was an implication in there that perhaps the project had been abandoned, that's certainly not my understanding. I will certainly take on notice the detailed questions the honourable member asks. The honourable member highlights the difference between the former Labor government and this government. The former Labor government, over 10 years, managed to completely mismanage the Older Persons Mental Health Service, and Oakden resulted.

In contrast, during the election campaign, the Marshall Liberal team became aware of a gap in coverage, particularly in relation to services such as multipurpose services. So we undertook in government, even though it wasn't a statutory duty, to do an assessment of residential aged-care services in South Australia. The government will continue to take what measures it believes are necessary to assure itself and the people of South Australia that the services we provide to older South Australians are safe and of quality. After all, people, particularly in country South Australia more than any other region in the state, put their trust in the government of South Australia to provide residential aged-care services.

As I think I have mentioned to this house before, Country Health SA is the largest provider of residential aged care in country South Australia and one of the largest in the state. We need to be continually developing our systems to ensure quality and safety. In that regard, I would like to thank the Hon. Frank Pangallo for facilitating my access to a briefing yesterday about one of the emerging technologies that are available to provide assurance in terms of CCTV in aged-care facilities.

Whereas the previous government continued to discount the possibility of CCTV having value in aged-care facilities, this government is keen to look at what's possible, not what's not possible. I thank the honourable member for facilitating the briefing together with Oakden families because it is important that we take whatever steps necessary both in terms of accreditation and similar mechanisms but also in terms of the capital assets themselves in terms of security. There may well be opportunities to improve quality of care through mechanisms such as CCTV.

Bills

PUBLIC INTEREST DISCLOSURE BILL

Second Reading

Adjourned debate on second reading.

(Continued from 6 September 2018.)

The Hon. C. BONAROS (15:27): I rise to speak on behalf of SA-Best in support of the second reading of the Public Interest Disclosure Bill 2018. The bill, as we know, repeals the Whistleblowers Protection Act, now 25 years old, and replaces it with a contemporary scheme that is more suited to current attitudes about disclosure of wrongdoing in public administration. It also recognises the existence of the Independent Commissioner Against Corruption and the Office for Public Integrity.

Harrowing scandals, such as occurred at Oakden, demonstrate the need for robust and effective whistleblower protection, something that has never been needed more. Public trust in our institutions is at an all-time low, and there is no doubt that whistleblower protection is integral in fostering transparency, promoting integrity and uncovering misconduct. By protecting whistleblowers we are promoting a culture of accountability and integrity in our public institutions. Whistleblowers perform a vital service to our organisations by forcing us to focus on failings, on our failings, on challenging our ideals and shining a light on the limits and failings of our institutions. It is for these reasons that SA-Best supports the bill.

The bill has had a long and difficult history. In March 2013, the then attorney-general requested that the Independent Commissioner Against Corruption review the legislation. A report was subsequently prepared for parliament, with the commissioner making 30 recommendations supporting a rewrite of the law. Regrettably, there was little advancement with respect to whistleblower reform, and the resulting Labor government bill did little to give effect to the commissioner's recommendations and provided little in the way of real whistleblower protection reform. The bill subsequently languished throughout 2017 following a deadlock on the former government's substandard bill.

A change in government has seen the issue of whistleblower protection firmly placed front and centre of a suite of reforms that have included updated shield laws which recently passed in this place, which is something we are extremely grateful for. We thank the government for its commitment to whistleblower reform, and for the way in which it has engaged with us on the bill, specifically in relation to our amendments.

The legacy left by Nick Xenophon of SA-Best with respect to whistleblowers and their need to be protected and properly compensated cannot be overstated in this regard. He fought for strengthened protections for whistleblowers and was instrumental, with the support of the federal government, in establishing the commonwealth Parliamentary Joint Committee on Corporations and Financial Services' report into whistleblower protections in 2017. He fought for many years for substantive protection for whistleblowers and he continued to make the case for a reward scheme for whistleblowers, sometimes referred to as a bounty scheme.

Whilst I note that Commissioner Lander's 2014 review considered and ultimately rejected a bounty or reward scheme being offered to public servants who report wrongdoing, our team continued to argue for a reward scheme in exceptional circumstances. The commissioner stated in his review that, and I quote:

> In my view there would need to be evidence of a very serious corruption in public administration in South Australia before it would be appropriate to introduce incentives in the public sector in such a radical way.

For the life of us, we do not need to wait for another Oakden scandal for a rethink on this issue. Indeed, SA-Best went into the 2018 state election with a clear policy for a reward scheme for whistleblowers. We were heartened by the now Premier's comments in relation to this issue as reported in *The Advertiser* on 15 January this year, where he said, and I quote:

> The push for payments was supported by the Liberal Opposition Leader, Steven Marshall, who has said his party had adopted a policy of paying whistleblowers "years ago".

I am keen to understand Premier Marshall's change of heart, if that is what it is, in relation to these comments on this issue of a reward scheme, and will be asking questions in that regard during the committee stage of the bill.

Turning now to key aspects of the bill, its purpose is to facilitate disclosure about public administration, information by public officers or former public officers; ensure that public disclosures are properly assessed and, where necessary, investigated and actioned; and ensure that a public officer making a disclosure is protected against reprisals. The bill also provides for protection for disclosures by members of the public about any wrongdoing in the private or public sector where the information is disclosed to an appropriate recipient and the information relates to a substantial risk to public health or safety and the environment.

Further, it imposes a duty on the person who receives an appropriate disclosure to take action in relation to the disclosure and take reasonable steps to keep the informant advised of the action or the outcome of any investigation. The bill also allows a disclosure to be made to a member of parliament or a journalist where a person has made a disclosure in accordance with the requirements under the bill and either does not receive notification within 30 days that an assessment has been made or does not receive notification within 120 days, or longer as specified in a written notice, of the disclosure of the outcome of the assessment.

I will be moving a number of amendments on behalf of SA-Best: firstly, an amendment to this provision which will reduce the amount of time a person is required to wait before they can approach a journalist or member of parliament from 120 days down to 90 days to receive a response of the outcome of the action taken, because 120 days is simply too long. SA-Best is only too aware that in

some situations wrongdoing may be so serious in nature and so requiring the utmost urgency that any outcome of an assessment into the disclosure must be done in a reasonable period. In our view, 90 days strikes the right balance.

I note that the Hon. Mark Parnell has filed an amendment that recalibrates the definition of journalist in line with the definition that ultimately passed when we dealt with shield laws. SA-Best supported the broader definition at the time and we will again support the Greens' amendment in that regard. So too the government has filed amendments which delete the regulation-making power in line with the similar SA-Best amendment which was successfully passed when the chamber dealt with shield laws.

The opposition has introduced amendments that raise questions about whether there are people who need the protection of this law who are not currently protected—that being people who are not public servants. SA-Best's position on those amendments, whilst not final, is sympathetic, and we are keen to hear from the opposition once we enter the committee stage of the bill in relation to the rationale behind those amendments.

Meanwhile, the state Ombudsman conducted a review of the freedom of information laws, with a report on the same tabled in approximately June 2014. This report highlighted the need for the protection of FOI officers against ministerial interference. Notably, both reports recommending substantial reform appeared after the 2014 state election.

Effective and robust whistleblower protections provide an absolutely essential service in fostering integrity and accountability while deterring and exposing misconduct, maladministration and corruption. We know that the cost for disclosing such conduct can be catastrophic for the whistleblower, with many individuals suffering future reprisals and having to leave their field of employment, while others remain in fear for their jobs and livelihoods. This was evident in submissions received by the parliamentary joint committee that I referred to earlier, the report of which was published in September last year—in relation to a reward scheme.

On behalf of SA-Best, I will also be moving amendments to increase the penalties to a number of clauses in the bill to recognise the gravity of breaching those provisions and bringing those penalties in line with similar proposed federal legislation. I will also be moving an amendment which expands the scope of the proposed definition of 'detriment' under clause 9 of the bill. Whilst we note that the list is inclusive and not exhaustive, SA-Best remains of the view that it is of benefit to broaden the scope of loss or damage to include damage to reputation and that injury or harm include psychological damage.

I will also be moving a further amendment which clarifies the meaning of a ‘threat’ for the purposes of the victimisation clause in the bill. The proposed amendment clarifies that a threat to cause detriment need not be express or unconditional but may also be implied or conditional. In addition, it is not necessary for a person seeking an order to prove that he or she actually feared that the threat will be carried out. This is consistent with the federal Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017.

Finally, we will also be moving amendments about a reward scheme, as previously referred to. The amendment provides for the ability of the minister in his or her absolute discretion to make an ex gratia payment to a whistleblower where an appropriate disclosure is made—as a reward for doing so. The amendment also provides for the minister to reimburse a whistleblower for reasonable expenses incurred in making that disclosure, regardless of whether a detriment was suffered, as a means of recognising any reasonable expenses a whistleblower would ordinarily expend in making an appropriate disclosure.

Reward schemes, we know, exist in Canada and the US, and they have worked in those jurisdictions with great effect. The bill represents a missed opportunity with respect to a reward scheme. That is something that I would have thought, given the comments I referred to earlier, this government would have jumped on. Offering legal protections is not enough for someone who has knowledge of corruption or misconduct to come forward and risk their livelihoods. Whilst I note that the bill provides for a whistleblower to pursue litigation, for many that is too costly or traumatic to endure.

As the Greens Senator Peter Whish-Wilson has stated to the Senate inquiry into the Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017:

> Rewards work. They encourage disclosure. They recover ill-gotten gains. And they help compensate whistleblowers.

I also note the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services report on whistleblower protections previously referred to, which also recommended the implementation of a reward scheme.

The protection of whistleblowers is something that SA-Best's federal colleague Senator Rex Patrick has continued to advocate for, following Nick Xenophon's departure from the Senate. Along with Senator Nick McKim of the Greens and Independent MP Andrew Wilkie, Senator Patrick continues his strong advocacy and support of Witness K following revelations of the ASIS operation to bug the East Timorese cabinet offices in 2004 during the oil and gas revenue treaty negotiations. Senator Patrick stated that:

> Not only was the bugging operation wrong, it has been a total foreign policy, defence and economic disaster.

Senator Patrick believes that the operation was morally bankrupt and unlawful, whereby the Australian government ordered an espionage operation against East Timor's negotiators to gain a significant advantage in those negotiations.

As we know, Witness K and his lawyer, Bernard Collaery, have been charged for revealing the bugging operation. As this case exemplifies, whistleblowers face a large number of potential adverse consequences if they speak up. They are real, they are emotional and they are financial, and they can affect people for many years thereafter when all they were doing by speaking out was their job.

In the ICAC's 2015 annual report, a survey of 7,000 public servants revealed that one in four were reluctant to report alleged acts of corruption, misconduct or maladministration, with the most common concern being personal repercussions and job losses. Providing effective legal protection and clear guidance on reporting procedures will serve to support an open organisational structure where public servants are not only aware of how to report but also have confidence in the reporting procedures.

It is hoped that this bill will address failings of the current act and offer substantive protection to whistleblowers, in which our public servants can have confidence. With those words, we will be supporting the legislation. We look forward to the committee stage of the debate and we also hope that this is the beginning of a further consideration of a reward system for South Australia. I would just like to correct the record. The Hon. Mark Parnell might be able to clarify this, but I think the amendments I referred to are not going to be moved by the Hon. Mark Parnell on behalf of the Greens.

The Hon. M.C. Parnell: That's right.

The Hon. C. BONAROS: That is right, so there is no need to indicate our position on those. With those words, we support the second reading of the bill.

Debate adjourned on motion of Hon. I.K. Hunter.

STATUTES AMENDMENT AND REPEAL (BUDGET MEASURES) BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (15:43): I move:

> That this bill be now read a second time.

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

Leave granted.

The 2018-19 Budget delivers on the government's election commitment to grow jobs, including through tax relief, improve services and invest in our future. It also recognises the need to make a range of savings and reforms

to government services to address the financial position left by the former government, and ensure the state's finances are sustainable going forward.

This Bill contains measures relating to the government's 2018-19 Budget.

Consolidation of the Independent Gambling Authority in Consumer and Business Services.

It is proposed to consolidate the gambling regulatory regime in South Australia removing the unnecessary regulatory burden on industry. The Independent Gambling Authority (IGA) will be consolidated within Consumer and Business Services, which will perform the regulatory functions of the IGA. The Liquor and Gambling Commissioner, through Consumer and Business Services, will become the sole regulator and assume the operational enforcement responsibilities currently undertaken by the IGA.

The *Independent Gambling Authority Act 1995*, *Authorised Betting Operations Act 2000*, *Casino Act 1997*, *Gaming Machines Act 1992, Intervention Orders (Prevention of Abuse) Act 2009, Liquor Licensing Act 1997*, *Problem Gambling Family Protection Orders Act 2004, Racing (Proprietary Business Licensing) Act 2000* and *State Lotteries Act 1966* will be amended to remove the reference to the IGA and replace with a reference to the Liquor and Gambling Commissioner.

The consolidation of operations into a single regulator is consistent with the recommendations of the Administrative Review of Gambling Regulation in South Australia by the Hon TR. Anderson QC, which was initiated by the former government. The review determined that the simplest and most effective way of regulating commercial gambling in South Australia would be through a single regulator rather than the current confusing and competing duopoly.

It is proposed that the transfer of the IGA's existing powers and functions to the Liquor and Gambling Commissioner will take effect from 1 December 2018. The abolition of the IGA and the transfer of its functions to the Consumer and Business Services is expected to provide savings of approximately $483,000 (indexed) per annum from 2019-20.

Liquor licence fees

The 2018-19 budget includes additional revenue of $3.16 million per annum (indexed) from 2019-20 from an increase in annual liquor licensing fees. The Review of the *South Australian Liquor Licensing Act 1997* by the Hon. TR Anderson QC recommended increases in all annual liquor fees.

The revised fee structure included in the budget reflects lower increases generally, with smaller increases for single venue licensees and regional venues. To effect this, Consumer and Business Services has developed a fee structure that provides discounts for certain licence holders within licence categories.

A minor amendment is therefore proposed to the *Liquor Licensing Act 1997* to clarify the extent of the regulation making power in that Act relating to fees, to make it clear that the discounted fees can be set by regulation.

New mine royalty rate

This Bill removes the royalty concession on new mines from 1 July 2020. The new mine concession was introduced in the *Mining Act 1971* in January 2006.

The 2 percent new mine royalty rate provides a concession of 60 percent compared to the applicable mineral royalty rate in South Australia of 5 percent for ores and concentrates, and a 43 percent concession compared to the 3.5 percent royalty for refined metals or industrial minerals. Since its inception, a number of new mines have benefitted from the reduced royalty rate. However, a number of marginal mines have received the new mine rate, with the mine closing shortly after the expiry of the 5 year new mine rate royalty period.

To help with mine project planning, this Bill provides fair and reasonable transitional arrangements. Any new mine approved prior to 1 July 2020 will continue to be eligible for new mine rate concession up to 5 years after 1 July 2020 or 30 June 2026, whichever comes first.

South Australia will continue to remain one of the most competitive jurisdictions in Australia to undertake mining activities.

Royalties on extractive minerals recovered from council borrow pits

The Bill amends the *Local Government Act 1999* so that from 1 July 2019, the 52 cents per tonne royalty on extractive minerals recovered from council borrow pits will be abolished.

This measure delivers on the government's election promise to remove the initiative introduced in July 2015 by the previous government. The government's removal of this royalty will help to reduce the financial and administrative burden on councils, particularly regional councils, when delivering and maintaining local roads for the benefit and safety of their communities.

The previous arrangement provided that a component of the royalty would be paid to the Local Government Association Research and Development Scheme. This will cease upon the royalties no longer being paid by councils.

This measure will reduce revenue by over $1.0 million per annum, with a net budget deterioration of $231,000 per annum.

Commissioner for Kangaroo Island

Consistent with our election commitment, the government will close the office of the Commissioner for Kangaroo Island. As a result, the *Commissioner for Kangaroo Island Act 2014* will be repealed.

Kangaroo Island is an important South Australia region and we will ensure our resources are directed to support the island's economic growth and community services rather than supporting unnecessary bureaucracy.

Stamp duty amendments

The *Stamp Duties Act 1923* will be amended to expand the current stamp duty exemption for family farm transfers to include those involving companies. Stamp duty is an impediment to family farm transfers involving companies and we are therefore amending the *Stamp Duties Act 1923* to ensure all genuine transfers of family farms are treated similarly and are exempt from stamp duty.

This exemption is subject to all other criteria regarding family farm transfers being met, including that the land to which the transfer relates is used wholly or mainly for the business of primary production land and is not less than 0.8 hectares in area, the sole or principal business of the transferor is the business of primary production, and a business relationship has existed between the parties for a period of more than 12 months immediately before the relevant transfer.

The Bill also includes an amendment to provide a stamp duty exemption on premiums paid in relation to multi-peril crop insurance policies entered into from 1 January 2018.

Multi-peril crop insurance policies provide cover for crop loss resulting from a range of perils including fire, frost, hail and drought. This exemption will reduce the cost to South Australian farmers who take out multi-peril crop insurance to manage risks and give them the confidence to plant more crops and target higher yields with the reassurance that they can be financially protected for their input costs in the event of a peril. It is estimated that this exemption will provide a benefit to around 100 insurance policies each year. These amendments commence retrospectively from 1 January 2018.

In addition, this Bill also makes a number of minor amendments to the *Stamp Duties Act 1923* to facilitate the collection of data as part of the Commonwealth Government's initiatives on third party reporting and the National Register of Foreign Ownership of Land Titles.

Amendments to the *Taxation Administration Act 1996* are also included in the Bill to provide the Commissioner of State Taxation with the ability to collect and disclose the information required by the Commonwealth Government.

Land tax relief

The Budget Bill includes amendments to give effect to our election commitment to provide land tax relief. The tax-free threshold will be increased and we are introducing a new tax bracket and marginal tax rate from 1 July 2020.

The tax-free threshold for land tax in 2020-21 will be $450,000 compared to the current level of $369,000.

The top marginal tax rate will also be reduced from 3.7 percent to 2.9 percent for holdings currently valued at $1.2 million up to $5 million.

The top threshold will become $5 million in 2020-21 with an associated marginal tax rate of 3.7 per cent for land tax ownerships over this amount. All other marginal tax rates remain the same.

This measure is estimated to benefit over 50 000 land tax ownerships including around 8,000 that will no longer have a land tax liability.

Land tax thresholds will continue to be indexed up to and after these changes in line with average increases in site values as determined by the Valuer-General to limit the impact of bracket creep.

Payroll Tax Act 2009

The Bill makes two technical amendments to the *Payroll Tax Act 2009*.

The first amendment reinstates the policy intent on the introduction of the owner-driver exemption within the contractor provisions prior to the adverse decision in the New South Wales Supreme Court in the decision of *Smith's Snackfood Company Limited v Chief Commissioner of State Revenue* (NSW) [2012] NSWSC 998.

In that matter, the Court concluded that the owner-driver exemption provision can be apportioned into taxable and non-taxable services. The contractor provisions were not intended to apply to allow services provided under a contract to be apportioned between exempt and taxable services. They are intended to operate on the basis that the contract is either fully exempt because it falls within the relevant exemption or is taxable because it does not fall within the relevant exemption.

The second amendment is required to reflect changes to income tax legislation relating to the exempt rate for motor vehicle allowances. The amendments reflect the fact that the Australian Taxation Office now allows for the use of a standard rate for all motor vehicles, which is 66 cents per kilometre for the 2016-17 income year, rather than being based on the car's engine size.

These amendments take effect from 1 July 2016 to coincide with the change at the Federal level. Taxpayers are aware of the proposal to back date these changes and they have been paying payroll tax in accordance with the proposed amendments.

Regulation of underground petroleum storage systems

The *Environment Protection Act 1993* will be amended to require facilities with underground petroleum storage systems to hold an environmental authorisation. Commencing in 2019-20, this initiative will recover the costs associated with the regulation of issues such as soil vapour, groundwater contamination and odour.

Approximately 60 percent of contaminated sites regulated by the *Environment Protection Act 1993* are petrol stations and other sites with underground storage tanks for petroleum.

Real Property Act 1886 & Real Property Regulations 2009.

The Real Property Regulations require transacting parties to pay a registration fee for the transfer of land. Unless an exception applies, the registration fee increases on a sliding scale based on the consideration or the value as assessed under the *Stamp Duties Act 1923*. Currently the *Real Property Act 1886* and the *Real Property Regulations 2009* only allow the Registrar-General to recalculate registration fees where the assessed value of the transferred land is increased by the Commissioner of State Taxation (Commissioner) pursuant to a reassessment of stamp duty. The changes in the Bill will prevent potential revenue loss for the State and enable the Registrar-General to recalculate registration fees for transferred land based on the correct value of the land (including on land where stamp duty is not payable) in all cases where fees have initially been paid based on a basis that does not accurately reflect the value of the land.

The Bill will also give the Registrar-General powers to secure a charge against the title for any unpaid registration fees, because currently whilst the Registrar-General has the ability to recover any unpaid registration fees as a debt, he does not have the ability to secure the unpaid fees against the title.

The 2018-19 Budget delivers on the election commitments of the government, focusing on creating more jobs, providing better services and lowering costs for families. This Bill is consistent with the budget's principles to deliver strong economic reform South Australia needs.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Authorised Betting Operations Act 2000*

4—Amendment of section 3—Interpretation

The amendments in this clause delete the definition of Authority, meaning the Independent Gambling Authority, a reference in the definition of *authorised officer* to members and staff of the Authority and the definition of *licensing authority*.

5—Amendment of section 6A—Codes of practice etc

The reference to the *Independent Gambling Authority Act 1995* is replaced with the *Gambling Administration Act 1995*. The requirement for matters prescribed by the Commissioner to be subject to the *Subordinate Legislation Act 1978* is deleted.

6—Amendment of section 6B—Criminal intelligence

This amendment removes references to the Authority.

7—Amendment of section 12—Approved licensing agreements

These amendments remove the requirement for the approved licensing agreement to be approved by the Authority and substitute the reference to the *Independent Gambling Authority Act 1995* with the *Gambling Administration Act 1995*.

8—Amendment of section 15—Approved licensing agreement to be tabled in Parliament

This clause recasts the section as a consequence of the removal of references to the requirement for the approved licensing agreement to be approved by the Authority.

9—Amendment of section 18—Other transactions under which outsiders may acquire control or influence

10—Amendment of section 23—Investigations

These amendments remove references to the Authority.

11—Amendment of section 24—Investigative powers

This amendment substitutes the reference to the *Independent Gambling Authority Act 1995* with the *Gambling Administration Act 1995*.

12—Amendment of section 28—Licensee to supply Commissioner with copy of audited accounts

The reference to the Authority is substituted with Commissioner.

13—Amendment of section 29—Duty of auditor

The reference to the Commissioner is deleted. This clause needs to be read in conjunction with clause 35 (Other amendments of Act).

14—Amendment of section 34—Classes of licences

15—Amendment of section 36—Conditions of licences

16—Amendment of section 37—Application for grant or renewal, or variation of condition, of licence

17—Amendment of section 38—Determination of applications

These amendments remove references to the licensing authority and replace them with the Commissioner.

18—Amendment of section 40H—Regulations

19—Amendment of section 43—Prevention of betting by children

20—Amendment of section 60—Prevention of betting with children by bookmaker or agent

21—Amendment of section 62—Rules relating to bookmakers' operations

22—Amendment of section 62A—Prevention of betting by children

These amendments remove references to the Authority.

23—Amendment of section 62I—Prosecution requires Commissioner's consent

References to the Authority are substituted with Commissioner.

24—Amendment of section 63—Responsibility of the Commissioner

25—Amendment of section 64—Power to obtain information

These amendments remove references to the Authority.

26—Amendment of heading to Part 7

The heading is amended in connection with the other amendments to the Part.

27—Amendment of section 77—Review of Commissioner's decision

The Licensing Court of South Australia is to review decisions of the Commissioner (as a result of the abolition of the Authority).

28—Repeal of section 78

This amendment is consequential on the abolition of the Authority.

29—Amendment of section 85—Reasons for decision

This amendment is consequential on the other amendments to the Part.

30—Amendment of section 86—Power of Commissioner in relation to approvals

31—Amendment of section 87—Confidentiality of information provided by Commissioner of Police

32—Amendment of section 89—Evidence

These amendments remove references to the Authority.

33—Amendment of section 90—Annual report

The annual reporting provisions are amended as a result of the abolition of the Authority.

34—Amendment of section 91—Regulations

A reference to the Authority is removed. The power to make savings and transitional regulations is amended so that such regulations may be made in connection with the measure.

35—Other amendments of Act

The clause contains an amendment to delete all occurrences of 'Authority' and 'Authority's' in the Act and substitute in each case a reference to the Commissioner and Commissioner's (as the case requires).

36—Transitional provisions

This clause sets out transitional provisions consequent on the abolition of the Independent Gambling Authority.

Part 3—Amendment of *Casino Act 1997*

37—Amendment of section 3—Interpretation

The amendments in this clause delete the definition of Authority, meaning the Independent Gambling Authority, and a reference in the definition of *authorised officer* to members and staff of the Authority.

38—Amendment of section 9—Term and renewal of licence

These amendments remove the requirement for the approved licensing agreement to be approved by the Authority.

39—Amendment of section 14—Other transactions under which outsiders may acquire control or influence

The amendment in this clause removes a reference to the Authority.

40—Amendment of section 15—Surrender of licence

The amendment in this clause removes a reference to the Authority.

41—Amendment of section 16—Approved licensing agreement

These amendments remove the requirement for the approved licensing agreement to be approved by the Authority.

42—Amendment of section 18—Agreements to be tabled in Parliament

This clause recasts section 18(1) as a consequence of removal of references to the requirement for the approved licensing agreement to be approved by the Authority.

43—Amendment of section 23—Investigative powers

This clause substitutes the title of the *Independent Gambling Authority Act 1995* with the *Gambling Administration Act 1995*.

44—Amendment of section 41A—Codes of practice

Subclause (1) substitutes the title of the *Independent Gambling Authority Act 1995* with the *Gambling Administration Act 1995*. Subclause (2) removes the requirement for matters prescribed by the Commissioner to be subject to the *Subordinate Legislation Act 1978*.

45—Amendment of section 47A—Requirement for Commissioner to consult licensee

This amendment is consequential on the amendment in section 46.

46—Repeal of section 47B

This amendment is consequential on the abolition of the Authority.

47—Amendment of section 50—Duty of auditor

This amendment is consequential on the abolition of the Authority.

48—Amendment of section 53—Responsibility of Commissioner

This amendment removes a reference to the Authority.

49—Amendment of section 54—Power to obtain information

This amendment removes a reference to the Authority.

50—Amendment of section 55—Powers of inspection

This amendment removes a reference to the Authority.

51—Amendment of heading to Part 8

This clause makes a consequential change to a heading.

52—Amendment of section 65—Review of decisions

The Licensing Court of South Australia is to review decisions of the Commissioner (as a result of the abolition of the Authority).

53—Repeal of section 66

This amendment is consequential on the abolition of the Authority.

54—Amendment of section 66A—Procedure in relation to criminal intelligence

This amendment is consequential on the other amendments to the Part.

55—Amendment of section 68—Reasons for decision

This amendment is consequential on the other amendments to the Part.

56—Repeal of section 68A

This clause repeals an obsolete section.

57—Amendment of section 69—Confidentiality of criminal intelligence and other information provided by Commissioner of Police

This amendment removes references to the Authority.

58—Amendment of section 70—Prohibition of gambling by Commissioner etc

The clause amends section 70 to extend a prohibition on gambling in the casino to staff of a class prescribed by the regulations.

59—Amendment of section 71—Annual report

The clause makes a number of amendments relating to the reporting requirements of the Commissioner under the Act that currently refer to the Authority.

60—Amendment of section 72—Regulations

The power to make savings and transitional regulations is inserted in connection with the measure.

61—Other amendments of Act

The clause contains an amendment to delete all occurrences of 'Authority' and 'Authority's' in the Act and substitute in each case a reference to the Commissioner and Commissioner's (as the case requires).

62—Transitional provisions

This clause sets out transitional provisions consequent on the abolition of the Independent Gambling Authority.

Part 4—Repeal of *Commissioner for Kangaroo Island Act 2014*

63—Repeal of Act

This clause repeals the Act.

Part 5—Amendment of *Environment Protection Act 1993*

64—Insertion of section 135A

This clause inserts new section 135A.

135A—Recovery of administrative and technical costs associated with action under Part 10A

This section enables the Authority to recover administrative and technical costs associated with action that it takes under Part 10A (relating to site contamination). Costs are recoverable from the person in respect of whom the action is taken under that Part.

65—Amendment of Schedule 1—Prescribed activities of environmental significance

This clause inserts a new prescribed activity of environmental significance in Schedule 1 of the principal Act, namely the conduct of a petrol station.

66—Transitional provisions

This clause deals with the transition of persons who will be required to hold licences to conduct petrol stations under Schedule 1 of the principal Act.

Part 6—Amendment of *Gaming Machines Act 1992*

67—Amendment of section 3—Interpretation

One amendment in this clause deletes the definition of Authority (ie. the Independent Gambling Authority) and the other amendment is consequential.

68—Amendment of section 5—Commissioner responsible for scrutiny of operations under all licences

The amendment in this clause deletes a reference to the Independent Gambling Authority.

69—Amendment of heading to Part 2 Division 3

This clause substitutes a heading to remove a reference to the Independent Gambling Authority.

Division 3—Commissioner's power to prescribe, recognise and give directions

70—Amendment of section 10A—Certain matters prescribed by Commissioner

Subclause (1) amends section 10A to substitute a reference to the Authority with the Commissioner. Subclause (2) substitutes the title of the *Independent Gambling Authority Act 1995* with the *Gambling Administration Act 1995*. Subclause (3) removes the requirement for matters prescribed by the Commissioner to be subject to the *Subordinate Legislation Act 1978*.

71—Amendment of section 10B—Recognitions

The amendments in this clause substitute references to the Authority with references to the Commissioner.

72—Amendment of section 11—Commissioner may give directions to licensees

The amendments in this clause substitute references to the Authority with references to the Commissioner, and make other consequential amendments.

73—Amendment of section 12—Criminal intelligence

The amendment in this clause removes a reference to the Authority.

74—Amendment of section 47—Offence of breach of mandatory provisions of codes

The amendment in this clause substitutes a reference to the Authority with a reference to the Commissioner.

75—Amendment of section 53A—Prohibition of certain gaming machines

The amendments in this clause remove references to the Authority.

76—Amendment of heading to Part 6

The heading is amended in connection with the other amendments to the Part.

77—Amendment of section 69—Right of review

The Licensing Court of South Australia is to review decisions of the Commissioner (as a result of the abolition of the Authority). Many of the amendments relate to aligning the provision with the *Authorised Betting Operations Act 2000* and *Casino Act 1997* (so that the provision refers to a review rather than an appeal).

78—Amendment of section 70—Operation of decisions pending review

These amendments are consequential on the other amendments to the Part.

79—Amendment of section 70A—Procedure in relation to criminal intelligence

The amendment in this clause removes a reference to the Authority.

80—Amendment of section 73BA—Gamblers Rehabilitation Fund

The amendment in this clause removes references in the section to the Authority.

81—Substitution of sections 74 and 74A

The clause deletes section 74A which is obsolete and substitutes section 74 as follows:

74—Annual report

The proposed section sets out the annual reporting requirements on the performance of the Commissioner's functions under the Act.

82—Amendment of section 76—Power to refuse to pay winnings

This amendment is consequential on the amendments to Part 6.

83—Amendment of section 82—Service

The amendment in this clause removes references in the section to the Authority.

84—Amendment of section 87—Regulations

The power to make savings and transitional regulations is inserted in connection with the measure. The other amendment in this clause removes a reference in the section to the Authority.

85—Transitional provisions

This clause sets out transitional provisions consequent on the abolition of the Independent Gambling Authority.

Part 7—Amendment of *Independent Gambling Authority Act 1995*

86—Amendment of long title

This clause amends the long title to reflect the proposed amendments.

87—Amendment of section 1—Short title

This clause amends the short title consequentially to the abolition of the Authority.

88—Insertion of section 2

This clause inserts a new provision setting out the purpose and objectives of the Act (as proposed to be amended).

89—Amendment of section 3—Interpretation

This clause deletes the definition of 'Authority' and inserts new definitions for the purposes of the proposed amendments.

90—Substitution of Part 2

This clause deletes the Part that established the Authority and substitutes a new Part as follows:

Part 2—Functions of Commissioner

4—Functions and powers of Commissioner

This section sets out the gambling-related functions and powers of the Liquor and Gambling Commissioner. The *Liquor Licensing Act 1997* sets out other provisions (such as a power of delegation) relevant to the Commissioner.

Part 2A—Gambling Advisory Council

5—Establishment of Advisory Council

This clause establishes the Advisory Council and sets out its functions.

6—Proceedings

The Commissioner or the Advisory Council will determine the procedures of the Advisory Council.

7—Use of staff and facilities

The Advisory Council may (by agreement with a Minister) make use of the services of the staff, equipment or facilities of an administrative unit.

8—Committees

The Advisory Council may establish committees.

91—Substitution of heading to Part 3

This clause makes a minor change to a heading.

92—Repeal of section 12

This clause repeals a provision that related to the Authority and the manner in which it, as a body, conducted proceedings.

93—Amendment of section 13—Inquiries by Commissioner

94—Amendment of section 14—Powers and procedures of Commissioner

These clauses make consequential amendments deleting references to the Authority and replacing them with references to the Commissioner.

95—Amendment of section 15—Representation before Commissioner

This clause makes consequential amendments deleting references to the Authority and replacing them with references to the Commissioner and also provides for representation of the welfare agency (defined in proposed amendments to section 3) in proceedings before the Commissioner.

96—Amendment of section 15C—Barring orders

97—Amendment of section 15D—Variation or revocation of barring order

98—Amendment of section 15E—Notice of barring order etc

99—Amendment of section 15G—Review of barring order by gambling provider

100—Amendment of section 15H—Reconsideration of barring order by Commissioner

101—Amendment of sections 15L and 15M

102—Amendment of section 16—Participation in gambling

These clauses make consequential amendments deleting references to the Authority and replacing them with references to the Commissioner.

103—Amendment of section 17—Confidentiality

This clause amends the confidentiality provision to ensure it will capture the Commissioner and the Advisory Council as well persons who have, at any time, been engaged in the administration or enforcement of this Act or a prescribed Act and any other body or committee established, at any time, under the Act (including the former Independent Gambling Authority or a committee established by that Authority). The clause also deletes a reference to the Authority that will no longer be necessary.

104—Repeal of sections 18 and 19

This clause deletes provisions relating to the Authority that will no longer be necessary. The Commissioner is subject to the Ombudsman's jurisdiction and is required to produce an annual report under the *Public Sector Act 2009*.

105—Amendment of section 20—Regulations

This clause amends the regulation making power, in particular to allow regulations to include provisions of a saving or transitional nature.

106—Review

The Attorney-General is to undertake a review of the functions of the Commissioner and the Gambling Advisory Council with a view to achieving greater consistency in regulatory requirements and processes applicable to the gambling industry.

107—Transitional provisions

This clause sets out transitional provisions relating to the abolition of the Authority and the transfer of functions to the Commissioner.

Part 8—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

108—Amendment of section 3—Interpretation

This clause inserts a definition of *Commissioner* (being the Liquor and Gambling Commissioner).

109—Amendment of section 24—Problem gambling order

110—Amendment of section 27—Problem gambling orders

These clauses replace references to the Independent Gambling Authority with references to the Commissioner.

Part 9—Amendment of *Land Tax Act 1936*

111—Repeal of section 8

This clause deletes an obsolete section.

112—Amendment of section 8A—Scales of land tax

This clause amends section 8A to set new thresholds for land tax for the 2020-21 financial year and subsequent financial years.

Part 10—Amendment of *Liquor Licensing Act 1997*

113—Amendment of section 9—Inspectors and other officers

This clause ensures that the language of section 9 is wide enough to reflect the fact that the Commissioner is exercising functions and powers under other legislation.

114—Amendment of section 10—Delegation

This clause makes a minor change to the delegation power to enable further delegation (consistently with other statutory delegation powers).

115—Amendment of section 138—Regulations

This clause clarifies the extent of the power to make regulations prescribing licence fees under the Act.

Part 11—Amendment of *Local Government Act 1999*

116—Amendment of section 294—Power to enter and occupy land in connection with an activity

The requirement on councils to pay royalty on extractive minerals recovered under section 294 is repealed. Other amendments are consequential on the repeal of that requirement.

117—Transitional provision

A transitional provision relating to the requirement to pay royalty on extractive minerals recovered under section 294 for the 2018/2019 financial year is provided for.

Part 12—Amendment of *Mining Act 1971*

118—Amendment of section 17A—Reduced royalty for new mines

Section 17A as amended by this clause will provide that an application under the section for declaration that a mine is a new mine cannot be made on or after 1 July 2020. A reduced royalty rate applying in relation to a mine that is declared to be a new mine on an application made before that date will cease to apply five years after the day on which the first royalty payment is due or on 30 June 2026, whichever occurs first.

Part 13—Amendment of *Payroll Tax Act 2009*

119—Amendment of section 29—Motor vehicle allowances

This clause makes amendments to section 29 of the *Payroll Tax Act 2009* to reflect changes to the *Income Tax Assessment Act 1997* of the Commonwealth regarding calculating deductions for motor vehicle expenses.

120—Amendment of section 32—What is a relevant contract?

This clause amends section 32 of the *Payroll Tax Act 2009* which defines *relevant contract*. The amendments address deficiencies in the owner-driver exemption which were identified in a 2012 New South Wales Supreme Court decision (*The Smith's Snackfood Company Limited v Chief Commissioner of State Revenue*).

121—Transitional provision

The transitional provision relates to the backdating of the amendments to section 32 to 1 July 2018.

Part 14—Amendment of *Problem Gambling Family Protection Orders Act 2004*

122—Amendment of section 3—Interpretation

This clause deletes the definition of *Authority* (being the IGA) and inserts a definition of *Commissioner* (being the Liquor and Gambling Commissioner).

123—Amendment of section 7—Complaints

This clause is consequential to the amendments proposed in relation to the *Independent Gambling Authority Act 1995*.

124—Amendment of section 9—Making problem gambling family protection order in respondent's absence

This clause is consequential. The provision is unnecessary where there Commissioner is conducting the hearing instead of the IGA.

125—Substitution of section 11

This clause substitutes a new provision on conduct of proceedings which is framed appropriately for conduct of proceedings by an individual (the Commissioner) rather than a body (the Authority).

126—Amendment of section 13—Notification of orders by Commissioner

127—Amendment of section 15—Removal of respondent barred from certain premises

These clauses update references to the *Independent Gambling Authority Act 1995* (consequentially to the proposed change to the short title of that Act).

128—Substitution of section 18

This clause deletes the current reporting provision (because the Commissioner is required to report on the Commissioner's operations in accordance with the *Public Sector Act 2009*) and inserts a regulation making power instead.

129—Other amendments of Act

This clause replaces references to the Authority with references to the Commissioner.

130—Transitional provision

This clause is a transitional provision.

Part 15—Repeal of *Racing (Proprietary Business Licensing) Act 2000*

131—Repeal of Act

This clause repeals the *Racing (Proprietary Business Licensing) Act 2000*.

Part 16—Amendment of *Real Property Act 1886*

132—Amendment of section 277—Regulations

This clause amends the regulation making power of the *Real Property Act 1886* so that the regulations can, in addition to prescribing fees, provide for the payment, recovery, waiver, reduction or refund of fees. Section 277 as amended by this clause will also provide that an unpaid fee or charge for registering a transfer of land is, until payment, a first charge in respect of the land.

Additionally, under the section as amended, a regulation prescribing fees or charges for registering a transfer of land will be able to provide that the Registrar-General may, after having regard to the capital value of land as determined by the Valuer-General or any other relevant information—

- recover an amount (including interest) as a debt if the Registrar-General determines that the value of the transferred land at the time of the transfer was higher than the value of the transferred land used as the basis for calculating the fee or charge; or
- refund an amount if the Registrar-General determines that the value of the transferred land at the time of the transfer was lower than the value of the transferred land used as the basis for calculating the fee or charge.

Part 17—Amendment of *Stamp Duties Act 1923* that takes effect on assent

133—Amendment of section 71CC—Interfamilial transfer of farming property

This clause amends section 71CC(1) of the *Stamp Duties Act 1923* so as to extend the exemption that currently applies where land used for the business of primary production is transferred between family members (including trusts with beneficiaries who are family members) to include transfers involving companies where the shareholders of the company are family members and a family relationship exists between the transferor and transferee. For the exemption to apply, the sole or principal business of at least one shareholder of the company must be the business of primary production, and there must have been a business relationship between at least one of the shareholders and the other party for a period of 12 months with respect to the use of the property for the business of primary production.

134—Transitional provision

This clause provides that the amendments made to section 71CC of the *Stamp Duties Act 1923* only apply in relation to instruments executed after the commencement of this Part.

Part 18—Amendment of *Stamp Duties Act 1923* taken to have effect from 1 January 2018

135—Amendment of section 32—Interpretation

This clause inserts a definition of 'multi-peril crop insurance', which is insurance covering the total or partial loss of crops resulting from drought (whether or not the policy under which the insurance is provided also covers loss resulting from other perils).

136—Amendment of section 36—Certain premiums exempt from duty

Section 36 as amended by this clause will provide an exemption from duty for any premium received or charged in respect of multi-peril crop insurance if the policy under which the premium is payable commenced on or after 1 January 2018.

Part 19—Amendment of *Stamp Duties Act 1923* that takes effect on day fixed by proclamation

137—Amendment of section 2—Interpretation

This clause defines the proposed new stamp duty certificates and sets out the legal effect of such certificates.

138—Insertion of Part 1 Division 4

This clause inserts a new Division allowing the Commissioner to determine classes of instruments that may be the subject of an application for a stamp duty certificate and providing for the issue of such certificates.

139—Transitional provision

Section 2(13) of the *Stamp Duties Act 1923*, as in force immediately before the commencement of clause 137, will continue to apply in relation to dutiable instruments described in that provision that are executed before the commencement of clause 137.

Part 20—Amendment of *State Lotteries Act 1966*

140—Amendment of section 3—Interpretation

The definition of *Authority* is deleted in connection with the abolition of the Authority. A definition of *Liquor and Gambling Commissioner* is inserted (as that Commissioner is assuming the functions of the Authority under the measure).

141—Amendment of section 13B—Codes of practice etc

The title of the *Independent Gambling Authority Act 1995* is substituted with the *Gambling Administration Act 1995*. The requirement for matters prescribed by the Commissioner to be subject to the *Subordinate Legislation Act 1978* is deleted. References to the Authority are substituted with references to the Liquor and Gambling Commissioner.

142—Transitional provision

A transitional provision is inserted consequent on the abolition of the Independent Gambling Authority.

Part 21—Amendment of *Taxation Administration Act 1996*

143—Amendment of section 78—Permitted disclosure in particular circumstances or to particular persons

144—Amendment of section 80—Prohibition of disclosures by other persons

145—Amendment of section 81—Restriction on power of courts to require disclosure

These clauses make consequential amendments.

146—Insertion of Part 9 Division 4

This clause inserts a new Division as follows:

Division 4—Collection of information for disclosure to Commonwealth

81A—Interpretation

This section defines certain terms used in the proposed new Division, including the concept of 'reportable information'.

81B—Relationship with other laws

Other laws do not prevent the collection of information under the Division (and the Division does not prevent the collection of information under other laws). Reportable information may be collected under the Division for disclosure to the Commonwealth even if the information is not required for the purposes of any State law.

81C—Collection and disclosure of reportable information

The Commissioner or a public sector agency may collect reportable information. Where it is collected by a public sector agency, it may then be disclosed to the Commissioner. The Commissioner may disclose reportable information to the Commissioner of Taxation of the Commonwealth.

81D—Commissioner may direct agency to collect and disclose

The Commissioner may direct that reportable information be collected and disclosed by a public sector agency.

81E—How reportable information may be collected

Reportable information may be collected by requiring a person providing information for the purposes of a function carried out under a State law to provide the reportable information (for example, by requiring it to be provided in connection with the lodgment of an instrument, record or return, or the making of an application, under a State law).

81F—Enforcement

This section provides for the application of various enforcement powers in the *Taxation Administration Act 1996*.

Debate adjourned on motion of Hon. I.K. Hunter.

TERRORISM (POLICE POWERS) (USE OF FORCE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2018.)

The Hon. R.I. LUCAS (Treasurer) (15:44): I understand that no-one else is intending to speak to the second reading, so on behalf of the government I thank honourable members for their contributions and for their indication of support for the bill.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. K.J. MAHER: The bill allows for declarations to be made by a person who is appointed as Acting Deputy Commissioner of Police. Essentially, how far down the chain of command would this ability extend, that is, down to what rank could someone be the Acting Deputy Commissioner of Police and therefore able to make this declaration? Is there a limit to how far, potentially, down the chain of command that could go?

The Hon. R.I. LUCAS: My advice is that it essentially goes down to the level or rank of assistant commissioner.

The Hon. K.J. MAHER: I thank the minister for his very precise and easy answer to that question. When the declaration is issued, will it be necessary for reasons to be provided?

The Hon. R.I. LUCAS: My advice is that, essentially, it is left to the discretion of police, so it might include reasons but it does not have to include reasons.

The Hon. K.J. MAHER: I thank the honourable member for his answer. Where a declaration is made in writing, where does that go, essentially? Who is the declaration in writing presented to, and is some sort of register kept of all such declarations?

The Hon. R.I. LUCAS: My advice is that that would be left to the discretion of the commissioner again. The commissioner would have to determine which particular police officers in what particular section of the police force needed to be advised of the declaration, and he has discretion in relation to doing so. My advice is that there would be annual reporting of the number of directions.

The Hon. K.J. MAHER: My final question on clause 1 is: how may a terrorist act declaration be revoked: in writing, orally or both, and does it need to be revoked in the same way in which it was made?

The Hon. R.I. LUCAS: I am advised that the legislation does not specify and so it is likely that both options would be open to the commissioner: in writing or orally.

The Hon. M.C. PARNELL: The Attorney-General made it clear that this bill is a direct response to the Coroner's finding in New South Wales in relation to the Lindt cafe siege. Are there any examples that the minister can provide where South Australian police officers have behaved in a manner that was unnecessarily restrictive in dealing with an incident or where South Australian police officers got into trouble with the criminal law for overreaching their powers? In other words, is there any South Australian example, either similar to or vaguely relevant to the Lindt cafe situation, that shows a need for this bill in this state?

The Hon. R.I. LUCAS: My advice is, no, we have not been provided with advice of any such circumstances in South Australia along the lines that the honourable member has raised.

The Hon. M.C. PARNELL: I thank the minister for his response. In my second reading speech I went through some of the paragraphs of the Coroner's findings. He spent a fair bit of time talking about how the police had powers, they just did not know they had the powers, and he talks about the failure to properly educate front-line officers as to the extent of their powers. My question is: did the government consider improved education responses rather than legislative reform?

The Hon. R.I. LUCAS: It will not surprise the honourable member to know that all good governments and oppositions consider a range of alternatives before they ultimately determine their policy option. I would be stunned if the Greens were not similarly inclined: that they would consider all policy options and then settle on their particular policy option.

My advice is that, whilst the honourable member has referred to some aspects of the Coroner's considerations, I have been referred by my adviser to recommendation 24 which, after having considered all of those options, the actual recommendation was, 'Use of force in terrorist incidents'. The Coroner said:

> I recommend that the Minister for Police consider whether the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public.

The Hon. M.C. PARNELL: I do not propose to ask further questions at clause 1 but just put on the record that the Greens will be opposing this bill, as we have in Western Australia and New South Wales.

The Hon. F. PANGALLO: The definition of terrorism or terrorist act, we know what the broad one is in the modern context of today, but acts of terror can take many forms, as we have seen in the past. We have had siege situations in the city. We had a famous one in Rundle Street many years ago; we had one in the Riverland, where a police officer was shot several times and it took hours for that officer to be rescued; we had one on the corner of Hindley Street and Rundle Mall. Again, people were terrified. Do you have a definition of a terror act?

The Hon. R.I. LUCAS: You should not have asked for this. I have a three-page answer that has been prepared. I was hoping you were not going to ask. A similar question was evidently asked in another place by another member.

Definition of a terrorist act: the bill does not define 'terrorist act'. Section 2 of the Terrorism (Police Powers) Act 2005, which is being amended by this bill, provides that a terrorist act has the same meaning as in part 5.3 of the Commonwealth Criminal Code except that it does not include a terrorist act comprised of a threat.

This approach is consistent with the other suite of terrorism legislation on the South Australian statutes books such as the Terrorism (Commonwealth Powers) Act 2002, Terrorism (Surface Transport Security) Act 2011 and the Terrorism (Preventative Detention) Act 2005. It ensures that a consistent definition of 'terrorist act' applies across all jurisdictions. Furthermore, the Commissioner of Police would sit on a number of national groups related to counterterrorism and would be well versed in what is considered to be a terrorist act under the Commonwealth Criminal Code.

I would also note that, under the 2004 Intergovernmental Agreement on Counterterrorism Laws, the commonwealth must consult with states and territories and obtain the agreement of a majority of other parties, including at least four states before amending part 5.3 of the Criminal Code. So that it is clear, section 100.1 of part 5.3 of the Criminal Code defines a 'terrorist act' as:

> …an action or threat of action where:
>
> (a) the action falls within subsection (2) and does not fall within subsection (3); and
>
> (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
>
> (c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

Subsection (2) provides that action falls within this subsection if:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(c) causes a person's death; or

(d) endangers a person's life, other than the life of the person taking the action; or

(e) creates a serious risk to the health or safety of the public or a section of the public; or

(f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:

(i) an information system; or

(ii) a telecommunications system; or

(iii) a financial system; or

(iv) a system used for the delivery of essential government services; or

(v) a system used for, or by, an essential public utility; or

(vi) a system used for, or by, a transport system.

Subsection (3) provides that action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person's death; or

(iii) to endanger the life of a person, other than the person taking the action; or

(iv) to create a serious risk to the health or safety of the public or a section of the public.

A concern was also raised in the lower house member's contribution about what happens if a declaration is made and later found to have not been validly made; that is, where it was found to have not met the threshold of a terrorist act. Although I think this would be an extremely rare occurrence, the protections offered by the bill do not simply vanish in that situation. Section 27B(4) provides that, if a court finds that a purported terrorist act declaration was not validly made, the protections in section 27B continue to apply to any action taken by a police officer before the finding, as if it were a valid declaration.

Clause passed.

Clause 2.

The Hon. F. PANGALLO: We do not have any other questions. I will just say here that we will support the remainder of the bill.

The CHAIR: Leader of the Opposition, when you said, 'Two,' was that clause 2? I think you mean part 2. Clause 3?

The Hon. K.J. MAHER: I just have one more question and I might ask it with the—

The CHAIR: I do not mind when you are going to ask it, I just—

The Hon. K.J. MAHER: I will ask it now and then we can put them all together. In terms when a declaration is made, under what circumstances would a terrorist act declaration be taken not to have been validly made? Under what circumstances would, if a declaration has been made, it be taken that it was not validly made?

The Hon. R.I. LUCAS: As much as I would like to assist the member, I am just not in a position with my adviser to countenance the sort of hypothetical position that the member has

outlined. However, what I did in the tail end of the answer to the question of the Hon. Mr Pangallo was indicate that, in the event that it was found to have not been validly made, then the protections still apply. I read onto the record the government's advice in relation to that.

Clause passed.

Remaining clauses (3 and 4) and title passed.

Bill reported without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (16:02): I move:

That this bill be now read a third time.

Bill read a third time and passed.

OFFICE FOR THE AGEING (ADULT SAFEGUARDING) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2018.)

The Hon. K.J. MAHER (Leader of the Opposition) (16:04): I rise indicating that I will be the opposition's lead speaker on the bill and note from the outset that the opposition intends to support the bill. Sadly, instances of abuse against vulnerable adults, and in particular older South Australians, remain all too prevalent. We know that instances of elder abuse can come in many different and varied forms and this abuse is often severely underreported. The establishment of a stand-alone unit tasked with investigating instances of elder abuse against vulnerable adults is something the opposition believes to have merit. When it comes to the protection of vulnerable adults, we recognise the importance of ensuring we do everything we can to further reduce instances of abuse.

The concept of this unit started with the Joint Committee on Matters Relating to Elder Abuse, which was established by the previous Labor government. The select committee produced a report, tabled in October of last year, which contained a number of recommendations on tackling elder abuse in our community, and much of this has focused on the establishment of a new act and a dedicated unit. In particular, recommendation 4 called on the South Australian government to develop a new South Australian adult protection act, and recommendation 5 called on the government to provide ongoing funding to establish a South Australian elder abuse prevention unit.

We commend the new government for picking up on the recommendations of the committee established under the previous Labor government. Although the opposition supports the overall direction of the bill, we do have some points of clarification that we will tease out during the committee stage, and some amendments will be put into the council for their consideration, which we believe will further improve the operation of the unit in practice.

Before delving into the specific areas of concern the opposition has with the bill, I wanted to note for the council a matter of concern regarding the government's consultation on the bill. During a briefing that was received, we discovered that in their consultation there was one key stakeholder the government overlooked in the process; that is, the Independent Commissioner against Corruption.

The opposition, I am informed, immediately reached out to seek the commissioner's views on the bill. When that was done and the bill run through in detail, there were a number of points of clarification, and I am informed that the shadow minister in another place, who has responsibility for this bill, took the advice and the consideration that was given with that.

I note that the opposition has requested a list of stakeholders who were consulted with on the bill. We are yet to receive this after many weeks of asking, so we cannot comment on the nature of other consultation that may or may not have taken place, but I am confident that in his second reading summing-up, or during the committee stage, the minister responsible will be able to inform us in greater detail of that.

The opposition does have several queries and amendments, which we will delve further into during the committee stage. We are concerned that yet again we are seeing the appearance of a clause attempting to exclude the bill from the typical two-year maximum enactment period under the Acts Interpretation Act. We have seen this clause in several bills put to us by the health minister so far, without a compelling reason why this should be the case. If the government is prepared enough to bring a bill before the parliament and is asking for this chamber, the opposition and crossbench to consider its merits, surely the government should be prepared enough to enact this legislation within what is not an unreasonable two-year time frame.

If the government is not ready to put a scheme into place within two years, perhaps they need to reconsider the amount of background work that has been done on the preparation of the bill and come back at a time when they think they can have a scheme in operation within two years. Introducing a bill to parliament does not equate to delivering on an election promise. There is a lot more that needs to happen in between.

The inclusion of this clause is particularly confusing when we look to the minister's own second reading explanation, where he notes the unit is anticipated to come into operation in early 2019. To exclude the possibility of the bill coming into operation within two years, we do not understand. When we discussed this clause during the briefing, it was noted that the chart and regulations were yet to be developed, and as such it was difficult to determine when this unit would be ready to come into operation. There seems to be a disconnect between what was said in the briefing and the minister's statements in the second reading explanation that it was anticipated in early 2019.

We are also concerned about the lack of clarity when it comes to the independence afforded to the director of the adult safeguarding unit and the delegated officers acting under the director. During the verbal briefing, it was not clear whether the unit was independent. It was something to be worked through. We would say, given the bill is before parliament, we need clarity on that now rather than later. We certainly want to ensure that the director and their delegates can act knowing with confidence that they have full independence from the chief executive and the minister.

Another key concern we have is that the unit is constrained to investigating specific incidents of abuse in isolation rather than possessing the ability to investigate, consider and report on more systemic issues of abuse. When we asked the government about this during the briefing, they clarified that this was an intentional decision, that they did not want to broaden the scope of the unit too much. From the opposition's perspective, if the unit is going to have this amount of oversight over so many individual instances of alleged abuse they should also have the ambit to link those cases and to act accordingly where linkages and trends are found.

The opposition is of the opinion that the unit should possess the ability to provide additional public reports, where they are of the belief that the matter is of public importance, in the spirit of openness and accountability. If this government truly does believe in openness and accountability I think they will see the merits of such amendments. All of the concerns I flagged are those we will be considering in more detail in the committee stage. As I said, the opposition overall supports this bill and recognises the importance of taking these steps forward. I look forward to fleshing out further details during the committee stage.

The Hon. F. PANGALLO (16:10): I rise today to speak in support of the Office for the Ageing (Adult Safeguarding) Amendment Bill, and I commend the Marshall government for its swift action and getting it to this point. I will not repeat much of the same level of detail about this bill as others have in the second reading thus far. Regrettably, it took the revulsion of Oakden to shock authorities both here and interstate into action. We had the damning ICAC report, which indirectly led to a royal commission which will be based in South Australia.

The federal government is yet to work out the terms of reference, but when it does I sincerely hope there are going to be safeguards built in for whistleblowers. The royal commission will undoubtedly bring forward more appalling stories of abuse and neglect in aged and disabled-care facilities, mental institutions and, most likely, even in the homes of vulnerable people. It is particularly pleasing that whistleblower protection is enshrined in this bill. This will empower and encourage care workers and others who are or were witness or privy to the abuse to come forward with impunity.

The bill makes it an offence for anyone trying to prevent another from making a report or attempting to hinder or obstruct them from doing so. It will also be an offence to victimise an informant where they suffer injury, damage or loss, intimidation and harassment, be discriminated, disadvantaged or adversely treated in their work and threats of reprisal. Furthermore, there are important safeguards. There are protections, immunities and legal privileges, including being able to refuse to answer questions or produce documents if they may incriminate them.

The safeguarding unit will work with other regulatory and enforcement bodies to respond to reports of abuse. However, this needs to happen in a timely manner, not be allowed to drag on to the detriment of the victims of the loved ones. However, I can foresee problems with getting consent from vulnerable persons with a decision-making capacity before any action is taken by the unit. While they may seem to be capable or sensible enough to make that decision, people can be beguiled either by family members caught in acrimonious divisions or come under the influence of opportunistic carers. I have only recently met with constituents caught up in that type of situation, who are left powerless to act.

As a journalist, I documented many cases like this. Twenty years ago, I investigated horrendous abuse in a large nursing home in the eastern suburbs. The contact came from distraught family members, usually at the behest of some brave staff who needed to remain anonymous because they were in genuine fear of retribution not just from the place where they worked but also from their employment agency. Exposing wrongdoing is difficult to tell without evidence. I had to deploy staff and family members with hidden cameras, crude and lacking the technology available today, to capture the footage that revealed abject neglect and cruelty which was beyond my comprehension.

Dementia patients unable to eat, choking on food, poor standards of basic care and despairing elderly people crying out in the middle of the night because they were left freezing cold after management turned off air conditioning to save on heating, and then locking the controls so they could not be turned back on. There was no love in this hellhole that was run for profit and not for the wellbeing of seniors in their last years. It took a six-month court battle to defeat an injunction and finally broadcast that story nationwide on the Seven Network's *Today Tonight*. Sure, there was the usual hue and cry for a while. The Howard government beefed up compliance inspections, which were essentially useless because they were pre-empted with advance warnings.

Sadly, public and media interest in the aged-care sector tends to ebb and flow depending on the extent of the next scandal. Only two years ago, I reported on a tragic case where a 58-year-old resident with Down syndrome had to be rescued or, to put it bluntly, abducted by her Adelaide-based uncle from neglect in one of Sydney's biggest care facilities. Nicky was in such a frail state from a lack of proper nutrition that one worried staff member called the family, urging them to remove her. There was also alleged financial abuse in Nicky's case, where staff, acting as her carers, took her on unnecessary expensive exotic holidays that they seemed to enjoy more than Nicky. Her uncle informs me that Nicky could not be in a better emotional and physical state in her new surroundings in Adelaide. He happily said, metaphorically, 'It's like she died and went to heaven.'

I think it is shameful that in 2018 we are still revisiting this type of abuse and the absence of acceptable quality standards. The cover-ups will continue unless government authorities do what they promise: take charge and take firm control. Thankfully, the advent of sophisticated communications technology like smart phones make it much easier to quickly and instantly gather the necessary evidence to assist investigations. I am predicting that one of the cornerstone recommendations of the coming royal commission will be the mandatory installation of CCTV cameras in all communal areas in care facilities. But it needs to go a lot further and South Australia has an opportunity to lead the nation on this.

After consulting with people like Stewart Johnston of the Oakden residents' action group; Noleen Hausler, who had to resort to using hidden cameras to capture a staff member brutally abusing her father; and aged-care advocates, SA-Best is now drafting a bill for CCTV in communal areas and an opt-in measure in individual rooms. Any fears that people and operators of care facilities may have about this initiative can be dispelled with the advent of a stunning new camera system known as Care Protect that is currently in use in the UK.

We were given a demonstration of the system at Parliament House yesterday by Priory health care and Care Protect's managing director, Philip Scott. I can say that it has the overwhelming endorsement of Mr Johnston, Ms Hausler, representatives from aged-care reform and advocate for the aged, Mr Ian Henschke. The Minister for Health and Wellbeing, the Hon. Stephen Wade, was also present for part of the presentation, and I could see that he too was impressed and plans to follow it up. This is cutting edge 24/7 monitoring done by an independent third party using trained observers, qualified nurses and social workers with full security clearances to monitor and document activities of staff and residents, incidents and performance in care facilities and hospitals.

Another advantage is to deter and detect criminal activity, with the information collected used in investigations and any subsequent prosecutions. Monthly reports to care providers, as well as families of loved ones, are provided. The system puts personal safety and the wellbeing of adults first. It has the capacity to create instant alerts to the facility if there is a risk to the wellbeing of a patient in the event of a serious or life-threatening incident, and provides details.

Cameras would be active and in permanent use in all communal areas. In resident bedrooms the cameras will only be activated where the resident has provided the necessary consent or where a resident is deemed to be unable to consent and it has been decided that it is in the resident's best interests. The cameras can be programmed with what is known as virtual motion windows, which will only record where there is an audio or visual image to the room which is above the usual setting, like someone experiencing a fall or crying out. Recorded events are reviewed by Care Protect off site.

One of the concerns often cited about CCTV cameras is privacy. The system can apply redaction windows or thermal imaging in specific areas of the camera's view that will block out personal care situations like bathing and changing. There is also an ability for family members to be able to log in to check on a resident's wellbeing; however, this is restricted to about three minutes. Recordings will be deleted after a maximum of 90 days unless, of course, they are required for any review. The collected data has a high level of data security and is unable to be accessed by the provider.

Mr Scott also reported on another coming innovation to the system: Fitbit bracelets which, when worn by residents or patients, can provide vital information about a person's state of hydration. Dehydration and nutrition deficiencies are the main causes of admissions of aged persons in hospitals in the UK and most likely here, too. In the four years these systems have been used in the UK, Mr Scott claims there has been a 24 per cent reduction in safeguarding incidents like falls, and facilities have obtained acceptable key performance indicators. He says they highlight good and poor practices and, where they have been installed, monitoring has changed the culture and improved care.

So to the costs. Well, it is not as expensive as many might think. Care Protect pay for the equipment and installation; the monitoring costs the facility and/or the resident just $20 a week plus GST. For a 100-bed care provider it would be around $104,000 a year. Care Protect says it now has legal opinion which supports its system in New South Wales, Victoria, Tasmania and now South Australia, where it will not infringe privacy laws provided consent has been obtained from individual residents being recorded in private areas.

Every second person in Australia will end up in residential care. That is a staggering figure. The average age of entering an aged-care home is around 84. The latest data suggests that almost two-thirds of people in aged care have some form of dementia, and the mortality rate is around 30 per cent per year. So we are talking about end-of-life care when people are at their frailest and most vulnerable. The picture is of someone who is no longer able to look after themselves at home, or their family or partner can no longer look after them. If they are in their mid-80s they are more than likely to have dementia and, on average, to die within three years of entering the home.

To encourage technology which costs $20 a week which can help monitor their care and wellbeing is a small price to pay. In fact, caring for them better will keep them out of the hospital system by helping put an end to preventable falls and other health-related incidents, resulting in significant savings to the health budget.

This technology is world's best practice in the care of aged and vulnerable adults. Had it been available we may never have had the horrendous Oakden situation that left families of residents

devastated, like Mr Johnston, Barbara Spriggs, Deanna Stojanovic, Patrina Cole, Rina Serpo and her daughter Alma Krecu. It would have stopped the violent abuse of Noleen Hausler's father, instead of Noleen having to do the detective work herself to get justice. It would have sounded the alarm sooner for Nicky's family in another state, and it would have avoided the totally preventable, gruesome death of Dorothy Baum at the hands of a dementia patient and the attempted cover-up by some staff at the St Basil's Aegean Village nursing home in 2012. Perhaps we may not have even needed a royal commission. We support the second reading of the bill.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (16:25): I would like to sum up the debate, and in doing so I thank honourable members for their contributions. Sadly, one in 20 older Australians experience some form of abuse, often by someone they know and trust. Recent national and state inquiries have found that, despite the efforts and resources committed to addressing elder abuse, there are still gaps reported in our current system.

In particular, there is no single government agency in South Australia that has a clear statutory role for vulnerable adults who, despite having full decision-making capacity, are experiencing abuse or neglect and are left to navigate complex systems alone. The complex nature of abuse means there is no one-size-fits-all response, with potential responses ranging from a person just needing information, advice and follow-up through to the coordination of a number of services to effectively support the person.

In the shadow of Oakden, the Marshall government made an election commitment to introduce legislation to safeguard the rights of vulnerable adults within our first 100 days of forming government. This bill fulfils a recommendation of the 2011 Closing the Gaps report into elder abuse. The report's author was Professor Wendy Lacey, Dean and Head of School of Law, University of South Australia.

The government worked closely with Professor Lacey in developing the Office for the Ageing (Adult Safeguarding) Amendment Bill to establish an adult safeguarding unit within the Office for the Ageing within the Department for Health and Wellbeing. This bill also provides that the name of the Office for the Ageing will be changed to the 'office of ageing well', in line with the government's commitment to challenging ageism and supporting all South Australians to age well.

As a member of the Joint Committee on Matters Relating to Elder Abuse, I beg to differ with the Leader of the Opposition's interpretation of history with regard to the committee being the genesis of this bill. I remind the honourable Leader of the Opposition that the former Labor government received the Closing the Gaps report in 2011. A clear recommendation of that report was the introduction of legislation in relation to vulnerable adults.

In June 2017, the Australian Law Reform Commission urged legislation such as this. It was not until October 2017 that the Joint Committee on Matters Relating to Elder Abuse reported. The fact of the matter is that if the former Labor government had taken up the recommendations of the 2011 Closing the Gaps report on elder abuse, there would have been less likelihood that the Oakden saga would have reached the level it did.

Prior to its introduction in the parliament, the Office for the Ageing undertook a targeted consultation process on the draft bill with a range of state and commonwealth government agencies with an interest in this area, as well as key community organisations. People involved in the Oakden Response Plan Oversight Committee and those affected as friends and carers in relation to Oakden were also consulted.

With the events of Oakden and the topic of elder abuse more broadly still prominent in the media and public consciousness, the South Australian community wants an adult safeguarding unit that is empowered, accountable and transparent but also approachable. We know that people are often hesitant to report elder abuse, especially when the perpetrator is a family member. This is because, in many cases, the vulnerable adult does not necessarily want to see the perpetrator punished; they just want the abuse to stop, while preserving the relationships that are important to them.

This bill provides for an adult safeguarding unit—an agency that is empowered with the ability to investigate and pursue matters, whose role is to walk alongside a vulnerable adult and their

supporters and work together to help them navigate complex systems, understand their options and put in place the support the vulnerable adult wants and needs.

The intent is to safeguard vulnerable adults from abuse and to support them to live their lives free from abuse or exploitation. The bill does this by taking a consistent rights-based approach, which places the vulnerable adult at the centre of any safeguarding measures, actions or interventions. Under this legislation the adult safeguarding unit will have a statutory responsibility and accountability for responding to reports of vulnerable adults, whether these reports are about abuse happening in the community, in an aged-care facility or some other place. Anyone with concerns or suspicions about abuse or neglect of a vulnerable adult will be able to report their concerns to the adult safeguarding unit, whether they are family, friends, service providers or the person themselves.

The bill, however, does not require a person to make a report against the express wishes of the vulnerable adult. Securing consent before making a report or undertaking an investigation is important in respecting the vulnerable adult's autonomy and self-determination, and this importance is widely supported by stakeholders. It is important to ensure that the community meets the expectation that, as adults, we all have the right to make our own decisions, even if these decisions are considered by others to be wrong or risky. Just because an adult is vulnerable for some reason does not mean they lose their right to self-determination and to live their life as they choose.

The practical challenges of obtaining consent, creating opportunities for a vulnerable adult to freely express their wishes, responding to the needs of vulnerable adults who need support with decision-making, and how this will be operationalised as part of the day-to-day work of the unit, will be addressed in the code of practice, which will be developed in consultation with key stakeholders and guided by best practice examples.

The bill deliberately sets a high threshold for acting without the consent of the vulnerable adult, that is, that the person is at immediate risk to life or physical safety. The guiding principle is that a vulnerable adult with decision-making capacity who is experiencing abuse has the right to decline support, assistance or other measures designed to safeguard them from abuse.

Mandatory reporting for adult safeguarding in the community is not supported for these reasons. It also raises a number of other issues, including an increase in required resources to cope with demand; additional training for the health, aged care, legal and financial sector workforce so that they can understand their legal obligations; and an increased stigma further driving abuse behind closed doors.

However, once a report of actual or suspected abuse is made to the adult safeguarding unit, the bill creates an obligation for the unit to assess this report and then take specified action; that is, a mandatory response is required. This is consistent with the recommendation in the Closing the Gaps report. The bill provides that, when a report of alleged or suspected abuse is received, the director of the adult safeguarding unit must assess the report and then make a decision as to whether to carry out an investigation into the matter, refer the matter to an appropriate state authority or other person or body, or, in a small number of circumstances, decline to take further action.

Authorised officers within the unit will be empowered with a range of information-gathering powers to enable them to effectively investigate reports of serious abuse, such as the power to require a person to answer questions and produce documents. These investigatory powers are in line with the Australian Law Reform Commission's recommendation and are similar to the powers conferred on authorised officers by other legislation.

The Office for the Ageing is gathering information from a range of other government authorities with investigative powers, including police, child protection and the retirement villages unit, to guide the development of clear protocols around how investigations will be conducted. Key to this will be balancing functional effectiveness of the investigation, whilst ensuring that the powers are used appropriately and not misused, and still maintaining the rights and wishes of the vulnerable adult as the core consideration.

Where this report relates to a residential aged-care facility, as was the case with Oakden, the unit will work in collaboration with other agencies, including the commonwealth Aged Care Quality and Safety Commission, to respond to the concerns in a way that puts the vulnerable adult at the

centre. Whilst the investigation into the matter might rightly be referred to another agency, the adult safeguarding unit will have the power to follow up on what happened to that referral, to receive a report on how the matter was dealt with by that other agency, to talk to the vulnerable adult and any other person or organisation to ensure that appropriate action has been taken, and to liaise with other organisations, such as the Aged Rights Advocacy Service, that can assist the vulnerable adult with advocacy support in their dealings with a residential aged-care facility.

It is important to note that the intention of the adult safeguarding unit is to be an individual support agency, to investigate current individual cases of suspected abuse of a vulnerable adult and to walk alongside that person to ensure that they understand their options and receive the support they require through the development of a safeguarding plan. The unit is not intended to be a watchdog agency nor duplicate the functions of other agencies. It is also not within the remit of the unit to punish perpetrators. Where the circumstances require such steps the unit will have the power to refer matters to other appropriate agencies such as the police, the Ombudsman or the commonwealth Aged Care Complaints Commissioner on a case-by-case basis.

Instead, a key role of the unit will be to investigate the circumstances around a particular report of suspected or actual abuse and then work collaboratively with other relevant organisations to support the referral of clients between services or coordinate a multiagency response, multidisciplinary safeguarding plan, as agreed with the vulnerable adult. By adopting such an approach to case management the unit will be responsible for ensuring that early intervention can occur, ensuring that abuse does not escalate and that serious cases can be responded to in a timely and coordinated manner.

A key focus of the unit will be on awareness raising and education and it is expected that this will build on the existing work of the office for ageing well, the Department of Human Services and the Mental Health Commission. The unit will use trusted networks, community groups, social media and other forms of media to share information about rights and strategies, to stay informed, independent and connected. All are important protective factors from abuse. Discussions are currently underway with relevant parts of government to work together on a coordinated approach to this work.

The bill provides for the development of a comprehensive code of practice which will be developed in consultation with key stakeholders across government, non-government and the community. The purpose of the code is to outline in a detailed and practical way how the act is to be implemented and how the service model for the unit will operate. In particular, it will set out how the various organisations will work together in a way that does not duplicate effort nor create excessive burden but maximises the vulnerable adult's right to autonomy and self-determination.

An adult safeguarding advisory group and implementation working group are being convened to provide advice on the establishment and operationalisation of the unit and to guide the development of the code of practice in alignment with international best practice examples. These groups will be made up of senior representatives from a range of government and non-government organisations across the ageing, mental health and disability sectors. A charter of the rights and freedoms of vulnerable adults will also be developed to ensure that the rights-based approach informs the operation of the act and the adult safeguarding unit.

It is anticipated that the charter, which will be developed in consultation with vulnerable adults, their carers and families, will be an adaptation of the South Australian Charter of the Rights and Freedoms of Older People, which was designed and developed in response to the Closing the Gaps report. Given that the Oakden Older Persons Mental Health Service was an SA Health facility and that SA Health may be the subject of future reports, transparency and accountability of decision-making was a key consideration in the drafting of the bill. Locating the unit within the Department for Health and Wellbeing provides a clear reporting line between the unit, the chief executive, SA Health and the Minister for Health and Wellbeing, enabling the director to quickly brief up if abuse is reported to be occurring within an SA Health facility or by an SA Health employee.

This bill includes the statutory right of review of decisions of the unit or the director made in relation to the safeguarding of vulnerable adults by the chief executive of SA Health and, as a secondary step in cases of serious abuse, to the Ombudsman. This further ensures that the unit is acting appropriately and responsibly to reports received. These additional checks and balances will

work to strengthen our response to elder abuse by providing a place where vulnerable adults can have their voices heard, where their concerns will be responded to and where issues can be followed up to ensure that matters raised have been acted on appropriately, both by the unit and other agencies.

The operation of the act will also be independently reviewed within its first three years of operation to ensure that it is meeting the needs and expectations of the South Australian community. This bill is the first of its kind in Australia. This bill is an important milestone for South Australia and I trust it will lead the way for adult safeguarding reform across the nation.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. K.J. MAHER: My question to the minister is: why did the government not think to consult the ICAC commissioner regarding this bill?

The Hon. S.G. WADE: The bill supports the role of the Office for Public Integrity and the obligation on all public officers to report conduct that they reasonably suspect raises a potential issue of corruption, misconduct or maladministration of that office. In particular, section 6, which relates to the interaction with the Independent Commissioner Against Corruption Act 2012, provides that:

> Nothing in this Act limits the operation of the Independent Commissioner Against Corruption Act 2012.

As all staff of the unit will be public sector employees, they will be subject to the obligations to report reasonable suspicions of corruption, misconduct or maladministration under public sector conditions of employment, including the obligations set out in the Independent Commissioner Against Corruption Act 2012.

The commissioner has subsequently provided feedback on the bill and will be invited to participate in the development of the regulations and code of practice for the unit. The regulations and code of practice will set out how the legislation and the unit will operate in practice, including criteria for referring matters to relevant agencies.

The Hon. K.J. MAHER: My question to the minister is: when did the government then seek the views of the ICAC commissioner? Was it before or after the opposition received a briefing on the bill?

The Hon. S.G. WADE: I am told that the engagement of the ICAC—or presumably ICAC and the Office for Public Integrity—occurred after the briefing with the opposition. The initial targeted consultation with stakeholders was targeted on agencies with a focus on elder abuse. The vulnerable adults unit is primarily focused on supporting individual adults. It is not about maladministration and it is not a monitoring agency. The ICAC commissioner was not identified as a relevant stakeholder in that stage of the consultation phase. I would stress that the provision that I have referred to initially was in the bill, as tabled. The ICAC/OPI has expressed no concerns with the bill that is before the parliament.

The Hon. K.J. MAHER: I am just wondering if the minister can elaborate. The minister made much, in his second reading summing-up speech, about what has been uncovered through inquiries that the ICAC has made in relation to instances of abuse against elder or vulnerable adults, particularly at Oakden. If the minister was genuine about the concerns raised there, is he telling us that he did not turn his mind at all to the ICAC commissioner or the ICAC at all being consulted until the opposition raised it in a briefing? Is that what the minister is telling the chamber?

The Hon. S.G. WADE: Can I just make it clear that the consultation was managed by officers and I think the targeted consultation, which focused on agencies that were active in the elder abuse alliance and beyond, was appropriate. Of course, the bill is tabled for broader consultation and we welcome the ICAC commissioner's input.

The Hon. K.J. MAHER: Who are the stakeholders that the minister thought of consulting without having to be suggested by the opposition?

The Hon. S.G. WADE: First of all, I will take the opportunity to again pay tribute to Professor Wendy Lacey, the Dean and Head of the law school at the University of South Australia. I think it is important, as a matter of record, to acknowledge the steadfast work of Professor Lacey in promoting vulnerable adults legislation. Her Closing the Gaps report of 2011 has not only been influential within this state, but, I know, beyond this state.

In terms of what has happened since 2011, during May 2018, the Office for the Ageing undertook a targeted consultation process on the bill with a range of state and commonwealth government agencies with an interest in this area, as well as key community organisations. The consultation process included an information forum where stakeholders from across government had an opportunity to hear from Professor Lacey on key issues related to the bill, as well as a number of one-on-one meetings with Professor Lacey and Office for the Ageing staff.

People involved in the Oakden Response Plan Oversight Committee and people affected as family, friends and carers in relation to Oakden were also consulted on the draft bill. Feedback on the draft bill was received from entities such as the Attorney-General's Department, SA Police, the Ombudsman SA, the commonwealth Attorney-General's Department, the commonwealth Department of Health, the Office for Data Analytics, Housing SA, the Legal Services Commission, the South Australian Civil and Administrative Tribunal, the Office of the Public Advocate, the Public Trustee, the disability policy unit in the Department of Human Services, Domiciliary Care, the Crown Solicitor's Office, the Courts Administration Authority, the Office for Women, the Department of Treasury and Finance, Cabinet Office, the Aged Rights Advocacy Service and the Council on the Ageing South Australia (COTA SA).

Overall, our stakeholders were overwhelmingly in support of legislative change that recognises the need to safeguard the rights of vulnerable adults who are experiencing or are at risk of abuse and neglect and responded positively to the draft bill presented. In particular, stakeholders were supportive of the rights-based approach underlying the bill and of the human rights principles guiding its operation.

Support was also given to the establishment of an adult safeguarding unit within the office for ageing well and to the voluntary reporting mandatory response approach proposed. Much of the specific feedback provided on the draft bill was able to be either incorporated in the final version that is now before the parliament, or collated into a list of matters relating to the implementation of the act, which can be addressed in either the regulations or the code of practice.

The Hon. K.J. MAHER: I take it that the minister correctly answered my questions and was not misleading the council again, and that this was the list of organisations that were consulted with before the briefing with the government. If that is the case, can the minister explain why, for example, he thought it was more important that the Courts Administration Authority was consulted with than OPI or ICAC?

The Hon. S.G. WADE: I make the point again that as minister I did not personally direct the consultation, but it makes eminent sense that my officers would have consulted the Courts Administration Authority, considering that the bill itself—

The Hon. K.J. Maher interjecting:

The CHAIR: Leader of the Opposition, you are interfering with the minister trying to answer your own question, and you are also interfering with my ability to listen to the minister.

The Hon. S.G. WADE: The bill itself provides for court orders. It only makes sense that my officers engaged the Courts Administration Authority on the implementation of the bill, considering it related to court orders.

The Hon. K.J. MAHER: I will not labour the point anymore. The bill does actually also provide to the interaction with ICAC, but that was not thought by the minister important, be that as it may. In correspondence—

The Hon. S.G. Wade interjecting:

The Hon. K.J. MAHER: I have not finished asking my question. In correspondence, the AMA—

The CHAIR: Leader of the Opposition, complete your statement and then, minister, you can speak.

The Hon. K.J. MAHER: Thank you, Mr President. The AMA queried, I believe, in correspondence, whether other countries' models were considered, to ensure the unit would be in accordance with the best practice or evidence-based policy. My question is: what other countries' experiences were relied upon in the formation of the bill?

The Hon. S.G. WADE: If the honourable member had consulted the Closing the Gaps report, considering how often I have referenced the Closing the Gaps report, he would realise that Professor Lacey's treatise, for want of a better word, specifically focuses on the models in British Columbia and Scotland. There is an officer of SA Health, from the Office for the Ageing, currently in North America, specifically looking at overseas models. To be frank, considering that this is the first piece of such legislation in Australia, we can only look overseas for models.

The Hon. K.J. MAHER: Just to confirm, I think the minister referenced British Columbia and Scotland. Were they the only two jurisdictions that were looked at and analysed?

The Hon. S.G. WADE: It is one of the challenges of being pioneering that there are not that many models to look at. From my recollection, I persistently hear talk about Britain, Scotland and some other UK jurisdictions, but the fact of the matter is that in pioneering legislation we draw on what we can from other jurisdictions, but in pioneering situations you also need to blaze a few trails. To put it explicitly, being the first Australian jurisdiction to have a vulnerable adults legislation, we are the first to tackle the idiosyncrasies of such legislation in the Australian context.

The Hon. K.J. MAHER: If I can ask the minister about a comment he made earlier. Did I hear correctly that there is an officer of his department based somewhere overseas specifically looking at this issue of adult safeguarding?

The Hon. S.G. WADE: As I indicated earlier, an officer from the Office for the Ageing—as it currently is, and hopefully after the passage of this bill it will be the office for ageing well—is in North America at the moment. It is not the sole purpose for her trip, but it is part of her trip. She will be specifically speaking to officers in the government of British Columbia about the issues that SA Health will need to consider as it operationalises the bill.

The Hon. K.J. MAHER: Just to be clear, the minister has an officer from somewhere in his department overseas at the moment, and part of the reason they are overseas is to investigate how these schemes operate, yet we are debating a bill right now before we know the results of those investigations from the overseas travels. Did the minister personally authorise that overseas travel for that officer?

The Hon. S.G. WADE: It demonstrates that the Labor Party seems to be determined to demonstrate its naysayer approach to this legislation. They failed to act on a report that they themselves were part of commissioning. My understanding is that the Closing the Gaps report in 2011 was at least partly commissioned by the government of South Australia, yet over the seven years since this parliament has waited in vain for legislative action. If the honourable member is serious in suggesting that I should withdraw this bill and wait until my officer comes back to see if adult safeguarding is a good idea, then it completely casts a pall over his so-called support for this bill.

We are relying on the Closing the Gaps report of 2011, the Australian Law Reform Commission report of 2017 and the Joint Committee on Matters Relating to Elder Abuse to know that this is not just a good idea: it is a moral imperative. We make no apologies for taking the opportunity to learn what we can, to do the best job we can and implement what is a very important piece of legislation.

The Hon. K.J. MAHER: I thank the minister for his answer, but he did not answer a significant part of that question. Did the minister personally authorise the overseas travel of the officer involved, who is investigating the issues that we are debating today?

The Hon. S.G. WADE: I did not personally organise the travel.

The Hon. K.J. Maher: Did you sign off on it?

The Hon. S.G. WADE: I do not sign off on officers' travel before it occurs. I am provided with overseas travel reports in relation to officers in different parts of SA Health.

The Hon. K.J. MAHER: Just to be clear, because I think the minister has had some problems recently with being clear to this chamber, the minister at no stage before the travel has to authorise officers to travel overseas?

The Hon. S.G. WADE: I am advised that overseas travel is authorised by the chief executive. The fact of the matter is that I welcome the fact that this officer is taking the opportunity to learn more about what we will need to do to effectively implement this legislation.

The Hon. C. BONAROS: During the second reading debate, minister, you indicated a key focus of the unit will be on the prevention of abuse through raising awareness and community education. Can you inform us about what that campaign is likely to look like? For instance, will the unit have its own office? Will there be a website? How will we target interest groups? When is that campaign likely to commence?

The Hon. S.G. WADE: I thank the honourable member for her question. It is proposed that awareness raising and education will build on the existing work developed by the office for ageing well, Department of Human Services and the Mental Health Commission. It will use trusted networks, community groups, social media and other forms of media to share information about rights and strategies to stay informed, independent and connected, all of which are important protective factors from abuse. Discussions are underway with the relevant parts of government to work together on a coordinated approach to this work. There is also a small budget to raise awareness about the work of the unit, how to make contact and what to expect.

There is a strong foundation for the unit to build on to raise awareness of safeguarding vulnerable adults through the range of resources, programs and partnerships currently funded by the Office for the Ageing to safeguard older people's rights and prevent elder abuse. This includes the 'stop elder abuse' media campaign and educational resources, which is on our bus stops as we speak, and the statewide abuse prevention, education, support and information program provided through the Aged Rights Advocacy Service. The office for ageing well will be well placed to garner support from its range of government and non-government partners to assist in raising community awareness of the role of the unit.

The Office for the Ageing is also currently negotiating with commonwealth and statewide collaborative projects to explore what role they may have in supporting the work, awareness-raising and education role of the unit. I think it is important to stress that it will not be two different silos in the unit. A key part of walking alongside a vulnerable adult to support them to deal with abuse is to provide them information: information to know what abuse is, information to recognise abuse when they see it and information that provides them options in how they might respond. That is an important part of developing trust so that people do not feel as though they will lose control of their own situation.

The Hon. C. BONAROS: Following on from that, the minister indicated that there would be a small budget to deal with some of those issues. Do we know what that budget will be?

The Hon. S.G. WADE: I think it is important to make the point, first of all, that the office for ageing well will continue to have responsibility for awareness but, in relation to this unit, I am advised that the advertising budget for 2018-19 is estimated to be $40,000 and communications $10,000.

The Hon. K.J. MAHER: On the budget issues, I understand the Royal Australian and New Zealand College of Psychiatrists have stressed the need for a unit like this to be well resourced and that mandatory reporting responses are likely to fail when they are not properly resourced. I know the minister has just quoted some numbers, but where are the figures in the budget papers; and, over the forward estimates, exactly how much has been set aside specifically for the changes being detailed here?

The Hon. S.G. WADE: I thank the leader for his question and I advise that the 2018-19 state budget provides $538,000 in 2018, growing to around $756,000 per annum from 2021, for the establishment of a new adult safeguarding unit. An additional $100,000 will be reallocated from the existing SA Health budget in 2018-19 towards the establishment of the new unit.

Whilst actual demand on the resources of the adult safeguarding unit is currently untested, we have estimated costs based on a phased commencement of the act and the potential for increasing demand. In 2018-19, the following public sector employees will be recruited to establish the adult safeguarding unit: a principal project officer, a chief adult safeguarding practitioner, a senior social worker, an investigator and an administration officer.

The Hon. K.J. MAHER: The minister said a phased commencement of the act. If there is a plan already in place that phases in how the act operates, what are the parts that will come in last?

The Hon. S.G. WADE: I thank the honourable member for his question. There are two key phase-in elements. The first is that the review provisions will not apply for the first 12 months. Secondly, it will only apply to people under the age of 65 after three years of operation. In particular, that would be relevant to people living with disability.

The Hon. C. BONAROS: During the second reading debate I think I flagged some questions—and this is not the position that we have adopted, but I just flagged it—as to whether a mandatory reporting scheme in relation to serious physical or sexual abuse or neglect was something that was on the government's radar. This would be limited to abuse that is at the higher end of the spectrum, so it would have to be serious abuse or neglect. Can the minister provide any details as to whether that has been taken into consideration?

The Hon. S.G. WADE: I thank the honourable member for her question. This issue is very important so, if you do not mind bearing with me, I will give a fulsome answer. The bill's intent is to safeguard vulnerable adults from abuse, to support their right to live their lives free from abuse or exploitation and to uphold their right to autonomy and self-determination. Anyone with concerns or suspicions about abuse or neglect of a vulnerable adult can report their concerns to the safeguarding unit, whether they are family, friends, service providers or the person themself.

However, the bill does not require a person to make a report against the express wishes of the vulnerable adult. The bill and the role of the safeguarding unit is to support and uphold the human rights of vulnerable adults. Securing consent before making a report or undertaking an investigation is one way of respecting that person's human rights, particularly their right to autonomy and self-determination. Taking action against an adult's express wishes compromises these basic human rights.

I might pause at that point to stress that both the Closing the Gaps report and the Australian Law Reform Commission report support voluntary reporting. It is important to ensure that the bill meets the community expectation that adults have the right to make their own decisions, even if those decisions are considered by others to be wrong or risky. Just because an adult is vulnerable for some reason does not mean they lose their right to self-determination and to live their lives as they choose. The importance of this was widely supported by stakeholders.

Having said that, there is provision in the act for acting without the consent of the person, but that is limited to the immediate risk to life or physical safety. I am aware that there are some provisions in commonwealth residential aged-care facilities which require mandatory reporting in specified circumstances below that threshold. However, I indicate that those provisions are not without controversy.

I think it is very important to appreciate that if a person does not have the capacity to say whether they want their particular issue to be pursued, you run the risk that people will actually avoid contacting the unit because they feel they might lose control. We are acting in line with the guiding principle that:

> (f) a vulnerable adult with decision-making capacity who is experiencing abuse has the right to decline support, assistance or other measures designed to safeguard them from abuse;

I think it is very important to stress that this is a voluntary reporting/mandatory response regime. Once a report of actual or suspected abuse is made to the unit, the bill creates an obligation for the adult safeguarding unit to assess the report and then take specified action; that is, a mandatory response is required. As I mentioned earlier, this is consistent with the recommendations in the Closing the Gaps report.

The bill provides that the consent of the affected adult must be obtained before the adult safeguarding unit investigates reports of abuse or takes any other action, except in a small number of exceptional circumstances. It is expected that the first step for the unit will be to speak with the vulnerable adult about their situation, where possible.

Mandatory reporting for adult safeguarding in the community is not supported for these reasons. It also raises a number of issues, including an increase in the required resources to cope with demand; additional training for the health, aged-care, legal and financial sector workforce so that they can understand their obligations; and increased stigma, further driving abuse behind closed doors. As has been mentioned earlier in the committee stage, British Columbia, a province of Canada, has similar legislation; however, there are no mandatory requirements.

The act sets out a number of guiding principles similar to those contained in this bill, particularly that all adults are entitled to live in the manner they wish and to accept or refuse safeguarding support. The Scottish act is focused on safeguarding the rights of adults unable to safeguard their own rights. There is not one central unit; rather, responsibility to respond to reports rests with local councils.

A review of the act is required after three years of operation. By this time, demand on the unit will be known. Mandatory reporting could be considered as part of this review process. It will be critical to ensure that the community's views on mandatory reporting are canvassed and that the experience of three years of operation are taken into account. On the basis of the best models available to us, and consistent with the advice of stakeholders in consultation, we believe it is most appropriate to maintain a voluntary reporting regime.

By way of postscript, I would mention that people might have mandatory reporting duties under all sorts of other legislation. In particular, the two that come to mind are legislation pertaining to health professionals under the AHPRA framework, and also obligations on people in relation to residential aged care.

The Hon. C. BONAROS: I appreciate that very detailed response from the minister. Often one of the criticisms we hear in this place is that the loved ones of those who are subjected to other assessments find it very difficult to either be involved in that process or to receive a fair hearing during those processes, insofar as there are issues raised with them about vulnerable people.

I am assuming that that will be covered under this. If we are having an assessment being undertaken in relation to someone who is deemed to be a vulnerable person, then the family and/or friends and loved ones of that person are equally able to participate in that assessment because, as you said, people have a right to self-determination and there may be things that agencies, departments or units do not consider appropriate, but that individual deems fit for themselves. That is an important point that needs to be clarified.

The Hon. S.G. WADE: I thank the honourable member for highlighting what is a very important point. Vulnerable adults will be more vulnerable if they are isolated from networks of social support, whether that is family, friends, community organisations and the like. It is important to stress that families and friends are expected to play a key role in the operation of this legislation, significantly in relation to reports. Anybody can make a report; it is whether or not that report is pursued through assessment and investigation that the consent of the person becomes an issue for the unit.

So the families and friends can be involved in reporting. You would also expect that they would be actively engaged in the assessment and investigation phase. Often families and friends will be able to provide validation, a better understanding of the wider context, and every individual is different, every situation is different. The way a particular cultural family interaction might take place might be seen as abuse by somebody from the unit, but understanding it, discussing it with their families and friends, and the vulnerable person, can give the unit a more fulsome understanding.

The next stage where families and friends are likely to be very important is, as we leave the assessment investigation phase and develop a multiagency response, moving towards a safeguarding plan, you would expect that families and friends would be actively engaged in developing a safeguarding plan.

As the Hon. Frank Pangallo mentioned in his second reading speech, CCTV is seen by many stakeholders as a key way for families and friends to, if you like, be with their loved one inside a residential aged-care facility and, whether the vulnerable adult is in a residential aged-care facility or beyond, families and friends will be an important phase, whether it is keeping an eye on their loved one, reporting abuse that they suspect or are aware of, being part of the assessment and investigation phase, or the implementation of a safeguarding plan. It is certainly intended that the vulnerable adult would be respected in their social context.

The Hon. C. BONAROS: In relation to that same point, individuals who find themselves in this situation, or their families, often access respite facilities. One of the concerns that I have personally is that those respite facilities are not geared towards looking after young people with serious health issues. The options available to a young person in their 20s or 30s are either aged-care facilities or somewhere for people with, for instance, learning disabilities.

I know Minda provides those services as well but they are not geared towards dealing with individuals who simply have health issues. Is this something that the minister and, indeed, the government is willing to look into further with a view to ensuring that we do have suitable beds for those people who are young and still relatively fit, or whatever the case may be? There is nowhere where they fit at the moment. So that is something that we need to explore. Is that something that this government is open to exploring?

The Hon. S.G. WADE: I thank the honourable member for her question. Certainly, the government is aware and the response is primarily a response for the Minister for Human Services, being the minister responsible for disability services. However, I think it would be fair to say that the disability sector in South Australia is acutely aware of this issue. I know of a lot of work done by Purple Orange, the Julia Farr Association, to try to keep an eye on this group.

In terms of how this legislation will impact on respite facilities, the first point I would make is that the legislation applies no matter where you are, whether you are in a registered or unregistered aged-care facility, whether you are in a respite facility, or in the community, the unit, through the legislation, is empowered to walk alongside any South Australian. In terms of a young person with serious health problems in a respite facility, for the first three years they will not be able to apply. In that transition phase it is not available for young people—people under the age of 65. I am glad that I have just put myself in the young people's category.

However, I certainly acknowledge the issue. The government, through the Minister for Human Services and her officers, is aware of the issue. As this bill matures through the effluxion of time, if nothing else, it will also be able to provide some support to people in that situation.

The Hon. K.J. MAHER: On that point, what is the rationale behind this scheme being operational, the adult safeguarding scheme, in the Office for the Ageing bill? Were there no other bills that were suitable? I might expand on that to help the minister. Was consideration given to placing it in another bill? Stakeholders have raised with the opposition concerns that by placing this bill within that act and the unit under ageing it leaves the possible impression that vulnerable adults are constrained solely to older persons, which we know is not the case. Why not a stand-alone act or another act so that it does not create the impression that it is only aged people who are vulnerable?

The Hon. S.G. WADE: I thank the honourable member for his point, and his point well made. I think it is very important that, when we legislate on vulnerable adults and when we engage with South Australians about this bill, we do not inadvertently reinforce ageism which says that every older person is vulnerable and needy. Considering that under some state government legislation I am already aged, we need to make sure that we have a community that allows people to live to the full and that we should not assume that every older person is vulnerable.

The honourable member raises a very legitimate question: why is the adult safeguarding unit being located within the office for ageing well? What other options did the government consider? The government has chosen to establish the adult safeguarding unit as a function of the new office for ageing well primarily because it enables coordination with the continuum of responses to elder abuse that unit already provides, including statewide policy development, awareness raising, including across culturally and linguistically diverse groups, workforce training and other policy initiatives.

A core function of the current Office for the Ageing is the implementation of the strategy to safeguard the rights of older South Australians. The office currently undertakes a significant program of work in the area of elder abuse awareness, prevention and response. This aligns well to the new adult safeguarding unit's focus on early intervention and the supporting and empowerment of vulnerable adults to age well through awareness raising and community education.

The adult safeguarding unit's other key functions of coordination, monitoring and, where necessary, investigation are also complementary to the statewide investigation and mediation functions undertaken by the Office for the Ageing through the administration of the Retirement Villages Act and the statewide service coordination and referral functions for older South Australians seeking aged care through the office's role in administering the statewide aged-care assessment program and advising on aged-care reform. I just pause to make the point that, in that sense, the Office for the Ageing already has a piece of legislation that reaches below the age of 65, because the Retirement Villages Act applies to any South Australian over the age of 55.

The other point the officer quite rightly makes is that the Office for the Ageing does not itself have an age limit. After all—I am sure there is a quotable quote here but I do not know it—we are all ageing from the day we are born. Acknowledging the honourable member's interest and passion for Aboriginal people, there is recognition in a number of pieces of legislation and policies that Aboriginal Australians may well be experiencing elements of ageing at an earlier age than other Australians. In that sense, the office for ageing well supports all South Australians to age well at whatever stage they are in their journey.

In terms of alternatives, the Office of the Public Advocate was an alternative considered. However, this option was not preferred due to the potential conflict of interest that may be created in instances where the Office of the Public Advocate is required to act as both advocate and investigator and the perception that locating the unit in the Office of the Public Advocate may undermine the independence of that office in advocating for persons with limited capacity. Locating the new adult safeguarding unit within the Office of the Public Advocate would also complicate the governance arrangements with crossing over of responsibilities between departments and ministers. Premier Marshall has a clear preference that we maintain clear lines of accountability.

The Aged Rights Advocacy Service undertakes significant work in promoting elder abuse awareness and prevention, but it was not considered as a potential location for the new adult safeguarding unit, as the Closing the Gaps report recommended that the power to coordinate a multiagency response in cases of actual or suspected abuse should be located within government.

The Hon. K.J. MAHER: I thank the honourable member for his response to that question. Another question in particular comes from a concern that was raised by COTA about the reviewability of the work of the unit. Can the minister confirm that the unit is reviewable by statutory officers such as the Health and Community Services Complaints Commissioner and the Ombudsman?

The Hon. S.G. WADE: In the bill itself—I am advised it is part 5—decisions of the adult safeguarding unit can be reviewed in the first instance by the chief executive and, secondly, in cases of serious harm, by the Ombudsman.

The Hon. K.J. MAHER: In relation to the Health and Community Services Complaints Commissioner, what role will they have, if any?

The Hon. S.G. WADE: The Health and Community Services Complaints Commissioner is always an avenue that a person might take. They might actually report a particular incident to both the Health and Community Services Complaints Commissioner and the adult safeguarding unit.

The Hon. K.J. MAHER: I thank the minister for that answer. To be clear, can the actions of the unit or any individual officer of the unit be investigated by the Health and Community Services Complaints Commissioner?

The Hon. S.G. WADE: I would need to consult the Health and Community Services Complaints Commissioner legislation, but I doubt if it would. The Health and Community Services Complaints Commissioner reviews health services, such as hospitals and community services such as disability group houses. This is an administrative unit and that is why we believe it is appropriate that the reviews are made by the Ombudsman. I reiterate my earlier point that there is nothing

stopping anybody reporting to both the Health and Community Services Complaints Commissioner and the adult safeguarding unit.

The Hon. K.J. MAHER: In relation to the transparency of the work of this unit, I understand that COTA also recommended a statutorily-enshrined external committee to ensure the transparent operation of the act and the unit. What was the reason that the minister decided to dismiss this suggestion?

The Hon. S.G. WADE: The honourable Leader of the Opposition can clarify if he wants me to unpack more of part 5 and how decisions will be reviewed. If I hear him correctly, to put it in a binary term, what he is asking me is: if the choice was between decisions being reviewed by SACAT and decisions being reviewed by the Ombudsman, why did we choose the Ombudsman?

If I could address that issue, the issue that people are most likely to want to have reviewed out of the vulnerable adults unit is the unit's decision whether or not to investigate a matter. Considering that that is not a decision about enforcing a decision on somebody, it is therefore more like a decision that would be considered by the Ombudsman than a decision that would be considered by SACAT. The department engaged Professor Wendy Lacey, and it was her view that the Ombudsman would be a more appropriate agency to undertake reviews.

The Hon. K.J. MAHER: I am not sure what the SACAT reference was in relation to. If it helps the minister, I am referring to dot point 10 of COTA's submission. Maybe he would like to speak to that, because I am not sure of the relevance of SACAT.

The Hon. S.G. WADE: I do not have a copy of the COTA letter with me, but our understanding is that COTA's concern was that decisions were reviewable, and the legislation, through part 5, first of all through the CE and secondly through the Ombudsman, does ensure that decisions are reviewable.

Clause passed.

Clause 2.

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

Amendment No 1 [Maher–1]—

Page 3, lines 8 and 9 [clause 2(2)]—Delete subclause (2)

This is a similar amendment that we have seen in other legislation that the minister has brought to this parliament. As a general rule, the Acts Interpretation Act allows that, if an act has not been proclaimed after two years, it is deemed to have come into force. Again, in this bill, that provision of the Acts Interpretation Act is sought to be circumvented by not having the bill presumed to come into force after two years. We are seeking to take that out of this bill.

We think that if this is, as we agree it is, a bill of enough importance, that there ought not be concern about it coming into force after two years because the government will want to have it in force well within two years. I think the minister has even talked about large parts of this coming into force in early 2019. We think it makes sense to not have a part of the bill that says, if we do not want to, we are not going to enforce, enact or have proclaimed parts of this bill within the two years that the Acts Interpretation Act would presume it to come into force.

The Hon. S.G. WADE: This amendment, as the honourable member has highlighted, proposes to delete the clause stating that section 7(5) of the Acts Interpretation Act does not apply. The effect is that, if an earlier proclamation day is not set, the act will automatically come into effect two years after it was assented to. It is intended that all the provisions of the act will be proclaimed within the first two years of the act being assented to, so the effect of this section is nil and the government supports the amendment. I am delighted that the opposition has suddenly, after ignoring the Closing the Gaps report for seven years, developed an eagerness for it to be implemented.

Amendment carried; clause as amended passed.

Clauses 3 to 5 passed.

Clause 6.

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

Amendment No 2 [Maher–1]—

Page 11, after line 19 [clause 6, inserted section 13]—After inserted subsection (1) insert:

(1a) The Adult Safeguarding Unit is, in the performance of functions under this Act, independent of direction or control by the Crown, the Minister, the Chief Executive or any other Minister or officer of the Crown.

This amendment seeks to clarify and make abundantly clear that the unit is independent of the minister and the chief executive in the performance of its duties. We believe it is important that a unit such as this acts knowing they are not bound by the specific directions of the minister or the department in performing their functions.

The Hon. S.G. WADE: The government will not be supporting this amendment. This amendment would, in effect, require the unit to be set up separately to the Office for the Ageing without any clear lines of accountability. It would be highly unusual to establish a unit as an independent statutory authority that is independent of the Crown, the minister, the chief executive or any other minister or officer of the Crown. It may in fact diminish the accountability of the unit and excuse the unit from complying with a whole range of government policies and procedures.

It is important that the adult safeguarding unit be accountable through both a chief executive and a minister. The office of the unit will have important statutory responsibilities and interface with vulnerable adults. Its effective functioning and conduct will be imperative in ensuring community confidence in the unit through accountability to the chief executive and the minister. Both the chief executive and the minister will be ultimately responsible for the actions of the unit. The proposed amendment to establish the unit as an independent statutory agency does not align with its operations. I remind members that it is a support agency for individuals, not an independent regulator.

The intention of the adult safeguarding unit is to be an individual support agency to investigate individual cases of suspected abuse of a vulnerable adult and to walk alongside that person to ensure that they receive the support they require. The primary outcome of the unit's work with a vulnerable adult will be to develop a multiagency, multidisciplinary safeguarding plan to ensure that the person is receiving the supports they want and need to safeguard them against abuse.

The unit is not intended to duplicate the functions of other agencies or to investigate perpetrators' criminal or other conduct. Where the circumstances require such steps, the unit will be required to refer matters to either appropriate agencies such as the police, the Ombudsman or the commonwealth Aged Care Complaints Commissioner on a case-by-case basis. Parts of the unit will be to facilitate and coordinate safeguarding plans to support the vulnerable adults to live free from abuse or neglect, if that is the person's wish.

Having the adult safeguarding unit as a part of the Department for Health and Wellbeing will facilitate a close working relationship with the department's wide network of support services, ensuring that the unit is able to provide a coordinated and multiagency response to individuals wanting safeguarding support. Rather than a need for the unit to be independent, it is important that the adult safeguarding unit be accountable through the chief executive, the department and the minister to ensure that the chief executive and the minister are kept informed of, and are ultimately accountable for, the actions of the unit.

Independence, as is proposed by this amendment, would not facilitate access to support services and networks. It would hamper a seamless response for the individual wanting safeguarding support and is not consistent with the Closing the Gaps report.

The Hon. K.J. MAHER: I thank the minister for his views on the opposition amendment. The amendment is designed to make sure that the adult safeguarding unit is free from the direction of the minister. Can the minister outline what directions he would envisage giving this unit?

The Hon. S.G. WADE: My reading of the amendment is that it frees the unit from direction or control by the Crown, the minister, the chief executive or any other minister or officer of the Crown. It is basically a carte blanche to ignore all government policies. For example, considering that the Treasurer is a member of this chamber, being free from direction or control by any other minister

would include the Treasurer: 'You can basically spend what you like because the parliament has put in a provision which says you are not subject to direction or control.'

The Hon. K.J. MAHER: I think the minister is being ridiculous. The Courts Administration Authority, for example, is an independent body that sets its own policy but is given a budget from the government each year to work within and, of course, that would be the situation here. Given the minister is concerned that he would not be able to give directions to the adult safeguarding unit, I repeat my very simple question: what sort of directions would the minister envisage directing the unit on that he is so concerned about losing?

The Hon. S.G. WADE: The honourable member's amendment does not have any of the sophistication of statutory authority legislation. This amendment is a carte blanche. Basically, the adult safeguarding unit would be a part of the bureaucracy which would live by its own rules.

The Hon. K.J. MAHER: I might put the question this way: what directions does the minister think he would give the unit? Can the minister give an example of how he would intend to direct the unit? Just so it is on *Hansard*, would the minister envisage that he would ever be directing this unit?

The Hon. S.G. WADE: I do not expect that I will be directing this unit any more than I would other units within my portfolio.

The Hon. M.C. PARNELL: I have not weighed into this debate a great deal but given that this is a live one, as they say, where the government and the opposition have different views, I thought I would. First, I will pose a question to the mover of the motion. The amendment provides that this body is to be independent of direction or control. The body is to be comprised of public servants, who by their very nature are under direction and control. I am wondering: how does this amendment fit in with clause 14, which basically makes the entire membership of this unit public servants?

The Hon. K.J. MAHER: Essentially, the amendment is designed so that in the exercise of their functions, on a day-to-day basis, operations are not under the direction or control of the minister.

The Hon. M.C. PARNELL: The point that the minister made a little earlier, I think, is an important one, because the Greens have traditionally supported ensuring that bodies that have regulatory functions, prosecutorial functions and licensing functions have to be independent of the minister. You cannot have a situation, for example, where the minister can say, 'Make sure you give my mate a licence,' or, 'Don't prosecute my mate.' Those sorts of directions are entirely inappropriate, so for some organisations, absolutely, we need to write into the letter of the law that they must be at arm's length from the minister.

Where I am struggling with this particular one is that the functions of the adult safeguarding unit are set out in clause 15. They hear reports, they assess reports, they follow-up reports and they advise the minister. They do not issue licences and they are not responsible for determining prosecutions. It is possible to foresee in a worst-case scenario, and this I guess flows from the opposition leader's questioning, that a minister could direct these people not to assess a report or not to receive a report. It is hard to see that happening; it does not sit that comfortably with my understanding of how a body like this would work. So, again, a question of the mover of the amendment: which of the functions under clause 15 is the Leader of the Opposition most worried might be interfered with by a minister?

The Hon. K.J. MAHER: I thank the honourable member for his question. I think he has largely answered his own question in asking the question. I think we always need to be wary of any of the functions of an oversight body, which this is in effect, having any suggestion of ministerial interference. As it currently stands, as the minister has pointed out, it is directly responsible to the chief executive, and of course the chief executive is responsible to the minister. So it is not a specific concern about one of the functions; it is a concern about the minister being able to direct in the functions of what is an oversight body.

The Hon. S.G. WADE: The government fundamentally disagrees with the characterisation of the Leader of the Opposition and concurs with the characterisation of the Hon. Mark Parnell. This is not an investigatory body. This is not a watchdog body. It is not an oversight body. This is a body which is to receive reports of suspected abuse or neglect and to coordinate a multiagency response.

As I mentioned earlier, it has been suggested by stakeholders that the best way to coordinate a multiagency response is within government, because most of those responders will be government agencies, whether it is police, the Department for Health, or the like.

Of course, many of the bodies that the unit will refer to are watchdog bodies and they have their own independence. That is to be respected. But the blending of the multiagency response with awareness and information and connecting with other government agencies within the government framework is widely seen as being the optimal response. Of course, there is a need for investigators; there is a need for watchdogs. That is why both the commonwealth and the state government are taking action in other domains. This is, if you like, a hub to walk alongside people who may be experiencing abuse to help them keep safe.

The Hon. K.J. MAHER: If I can just ask one question very specifically on the comments made. I presume, then, from what the minister said, that it is not a function of this body to investigate reports relating to the suspected abuse of vulnerable adults. I think he said it is not an investigatory body at all; so that is not one of its functions?

The Hon. S.G. WADE: This body is not a regulatory body. The investigations it undertakes are about information gathering to form a view about what support the person needs to stay safe. The investigations are not those of an investigator to punish or those of a regulatory body that seeks to monitor and enforce standards.

The Hon. J.A. DARLEY: I agree with the government on this point, and therefore I will not be supporting the amendment.

The Hon. M.C. PARNELL: I absolutely acknowledge the right of the Leader of the Opposition to put important things like this before us, because we do need to tease out the true nature of this body and the work it is going to do. But for the reasons the minister has explained, I do not think it is practical or appropriate for it to have the level of independence that would be granted by the opposition's amendment.

That is not to say that the Greens would accept, for one minute, political interference in the work of this body. My understanding would be that any attempt to behave in that way would probably come to light fairly quickly, especially those people who saw themselves as being leant on or being encouraged to perform their duties in a certain way. I do not think the government would get away with it for too long, but I do not think the amendment, as drafted by the opposition, warrants support at this stage.

The Hon. F. PANGALLO: We will not be supporting the opposition amendment, but I do have a question for the Minister for Health and Wellbeing. Regarding the unit, can the minister explain the composition of the unit, the type of people who are going to be on this unit, how many are going to be in this unit to carry out these investigations, and how much is it going to cost to set it up?

The Hon. S.G. WADE: In 2018-19, the following public sector employees will be recruited to establish the adult safeguarding unit: the principal project officer, the chief adult safeguarding practitioner, the senior social worker, an investigator and an administration officer. The early intervention and coordination approach will be less expensive than, for example, a formal police-style unit. It is intended that the unit will focus on prevention and early intervention and take a family therapeutic approach to resolving issues of abuse or neglect rather than a punitive one, such as a criminal response, which is much more costly to run in the long run.

If I could steal the preventative health analogy, it is important to stress the fact that if a person can report their concerns about abuse and engage with information and support at an early stage before it escalates, I think it would be welcomed by stakeholders. The police, on the other hand, often have to wait until a situation escalates before they are entitled to intervene. That is consistent with the approach.

The Hon. F. PANGALLO: I think I pointed out in my speech earlier that it is important that these events are actioned urgently, quickly. Is there a time frame for taking action and responding to them?

The Hon. S.G. WADE: I thank the honourable member for his question. The legislation itself does not include specific time frames. It is anticipated that in the development of the regulations and

the code of practice that will accompany the legislation, there will be time frames within that. It is highly likely that there will be different time frames for different elements of the responses.

Amendment negatived.

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

Amendment No 3 [Maher–1]—

Page 12, after line 27 [clause 6, inserted section 15(1)]—After inserted paragraph (k) insert:

(ka) to prepare and publish reports on matters relating to the abuse of vulnerable adults at a systemic level; and

(kb) to prepare and publish reports on issues relating to vulnerable adults that are of public importance; and

This amends clause 15(1), which are the functions of the adult safeguarding unit. I think this is quite a simple amendment that I hope the government sees fit to support. This amendment allows the unit to prepare and publish reports on systemic issues and on matters they deem to be of public importance. We note that clause 15(1)(k) allows the safeguarding unit to advise ministers on matters relating to the abuse of vulnerable adults at a systemic level, but there is nothing in there that allows the actual publication of reports.

We think, if it is good enough that ministers can be advised of it, that it ought to be allowed that reports be published. We believe it is incredibly important for the unit to be able to investigate, consider and report on such systemic issues. I know the minister has made much in his second reading contribution and in debate on this about matters such as Oakden. We think it would not make any sense to have a unit like this that prepares reports but had no ability to publish reports, particularly when it is to do with systemic issues.

The Hon. S.G. WADE: It is important to note that the intention of the unit is that it be a support agency for individuals, to investigate individual cases of suspected abuse of a vulnerable adult and to walk alongside that person to ensure that they receive the support they require. The resources of the adult safeguarding unit will be required, and most appropriately be used, to investigate and respond to individual cases of actual or suspected abuse of vulnerable adults.

It should be noted, however, that the unit will report on trends or issues of public importance in a general way as part of their annual report, which is required to be tabled in parliament each year. Where trends or systemic-level issues are observed, the adult safeguarding unit will have the power to refer these issues to agencies that already have a remit to prepare and publish reports relating to systemic issues or issues of importance, such as the Ombudsman.

I acknowledge the fact that the honourable member has recognised clause 15(1)(k), where the government acknowledges that, through the engagement with a series of individual reports, the agency may well glean valuable learnings in relation to systemic issues. That is why the government has in this provision 'to advise ministers, state authorities and other bodies, including non-government bodies, on matters relating to the abuse of vulnerable adults at a systemic level'.

On my reading of that, considering that I am not the only person in that clause, there are all the state government ministers and all the other state government authorities but also, very importantly, other bodies, including non-government bodies. It seems to me that they already have the power to publish systemic information, and basically to send it to who they need to send it to.

The government will not support the amendments, not because we do not think they have learnings for systemic issues and that they should not be shared—that is what we have recognised in 15(k). What we would be concerned about in the proposed additional amendments is that it skews the role of the adult safeguarding unit. It has echoes, to me, of the differentiated roles in the children's space. We have the Guardian for Children and Young People, the children's commissioner, etc., and some people have a role to investigate individual cases and support people in relation to their individual journeys, such as this body, and some bodies primarily have a focus on looking at systemic issues. I think the children's commissioner is more in that category.

We think that the clause as drafted reflects the appropriate balance. The focus is on individuals, and we have some systemic learnings. Clause 15(1)(k) is quite permissive. These learnings will be able to be shared by the unit as they come to them.

The Hon. K.J. MAHER: I will not take long on this clause, but I respectfully disagree with the minister and his interpretation of clause 15(1)(k). One principle of statutory interpretation that can be applied, when something like 15(1)(k) talks about advising ministerial statutory authorities and other bodies, is that someone looking at this later might consider that the legislature turned their mind to whether they would be able to publish and the legislature decided you could not publish because it is read down to just those authorities that are there. If the minister thinks that they ought to be able to publish then there is absolutely no harm in including these amendments, as an abundance of caution, to make sure that they can publish. Let the sun shine in and let there be complete transparency.

The Hon. S.G. WADE: The government's view is that this is risking outsiders, the parliament or an individual within the unit to not see the appropriate balance for their role. We are being unashamedly tentative in establishing this unit because the worst thing that could happen is for this unit to fall over because it has been overwhelmed by mandatory reporting or because somebody—let's say the parliament—has referred a matter for a systemic report, and we have done that in the past. We are very concerned to make sure that we get it right. We are the first jurisdiction in Australia to try this.

I might stop there because we do not have enough background probably to be able to assert this. Like bodies overseas have been support agencies for individuals; they are not law reform commissions. There are law reform commissions and the like that report on systemic issues as their primary focus. We think that clause 15(1)(k) is an appropriate statement of the incidental role, but it should not be seen as a function for this unit to be making systemic reports.

The Hon. M.C. PARNELL: We do run the risk of sweating the small stuff in relation to this a little bit. The minister and the Leader of the Opposition both make good points. It could be that, if these paragraphs are included, they may have very little work to do because the safeguarding unit might decide that everything it wants to say to the public it says to the minister in its annual report and that is then effectively published. Having said that, that is a once a year project. There may be an issue that arises—and we can think maybe of a sophisticated internet scam that all of a sudden targets old people—and it is in the public interest to draw attention to it. It may well have some work to do, but I do not think it is worth fussing over too much.

The Greens' position is that we are going to support the inclusion of these two paragraphs. I do not think they detract from the core business of the organisation of the adult safeguarding unit. Paragraphs (a) through to (k) effectively is their core business, and that is what they will do. As the minister has already pointed out, the issue of advising ministers, state authorities or other bodies on matters relating to the abuse of vulnerable adults at a systemic level is already there.

The minister has already pointed out that non-government bodies can be included in the people who are reported to on the basis of systemic issues. It is already in there, so I guess we are just taking one small step further and saying, 'We are going to put it on the website and the general public can read it as well if they want.' I do not think it causes the amount of harm that the minister might be thinking but, in the interests of coming to a settled position, we think that it does not do a great deal of harm. It may do some good and it is worth including these two extra powers.

The Hon. C. BONAROS: Our position would be along the same lines as has just been outlined by the Hon. Mark Parnell. Certainly, I accept some of the concerns that have been raised by the minister, but I do not know that they are concerns that will actually come to pass. Given that those provisions already include reference to systemic levels of disclosure, then I think this just broadens that scope and makes it clear what can and cannot be published.

I accept that they are at the systemic level, but can we confirm that that would not matter, that it is obviously a matter that is private and certainly would not be provided in any such report if we were to go down that path? If it assists, I ask the mover that question in relation to the actual material that is intended to be published. I expect that there would be measures there to not include material that is private or relating to private individuals.

The Hon. K.J. MAHER: Indeed. This would not necessarily go any further than what would be published in an annual report. Obviously, the things that are required, in terms of other interactions with privacy legislation, that would not or would be published in annual reports would I presume be applied to this as well.

The Hon. S.G. WADE: Following on from the Leader of the Opposition's comments, I draw the honourable members' attention to new section 49 of the act. This section creates an offence for a person engaged or formerly engaged in the administration of the act to divulge or communicate personal information in the course of official duties except in circumstances specified. That would include any report under the act, even though I do not like the amendment.

The Hon. J.A. DARLEY: We agree with the government in this particular situation and oppose the amendment.

Amendment carried; clause as amended passed.

Remaining clause (7), schedule and title passed.

Bill reported with amendment.

Third Reading

The Hon. S.G. WADE (Minister for Health and Wellbeing) (18:14): I move:

That this bill be now read a third time.

Bill read a third time and passed.

TOBACCO PRODUCTS REGULATION (E-CIGARETTES AND REVIEW) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2018.)

The Hon. C. BONAROS (18:15): I rise to speak on SA-Best's behalf in support of the Tobacco Products Regulation (E-Cigarettes and Review) Amendment Bill 2018. The bill, as we know, seeks to amend the Tobacco Products Regulation Act 1997 to enhance the operation of the act and address the lack of regulation of electronic cigarettes, known more commonly as e-cigarettes. The bill resembles the Labor government bill, introduced in the House of Assembly last year. I note that Labor, in opposition, reintroduced the bill in this parliamentary session as a private member's bill, which currently sits before the house.

The bill also clarifies that shisha falls under the definition of a tobacco product, regardless of whether the product contains tobacco. Whilst we were briefed that shisha is already covered in this act, it has in fact been difficult to enforce. There is a growing concern that shisha is not safe, and, according to some experts, smoking shisha for one hour is equivalent to inhaling the volume of smoke from 100 to 200 cigarettes.

I note that it was reported last week that, in a grassroots campaign in New South Wales, the Lebanese Muslim Association and the South Eastern Sydney Local Health District have joined forces to lead a public awareness campaign, backed by a New South Wales government grant of $386,000, to warn people of the water pipes also known as a hubbly bubbly or a hookah. I would be interested to learn from the Minister for Health whether the South Australian government is looking to follow suit with a similar campaign.

Returning to e-cigarettes, it is a technology that involves a user inhaling a heated vapour—which may contain propylene glycol, vegetal glycerine, food flavouring and sometimes nicotine (called e-liquid or e-juice)—through a battery-operated device. The practice is more commonly referred to as vaping. We know that e-cigarettes represent an opportunity to assist some smokers in kicking their smoking habits. As we have been aware of for decades, smoking is a known carcinogen and a leading cause of death. Fifty per cent of smokers will die from smoking-related illness. Key smoking statistics published by SAHMRI for 2017 reported that there are some 1,350 tobacco-attributable deaths annually in South Australia.

As a result, retail outlets where you can buy such products—these are known as vape shops—have popped up everywhere as the popularity of e-cigarettes and vaping has increased. South Australia is now only one of two remaining jurisdictions that are yet to regulate these products. Given that e-cigarettes are not currently part of any regulatory framework, it is really a Wild West industry where e-cigarettes are being sold to children through vape shops and the internet. They are promoted through ads and attractive packaging and can be used in places where conventional smoking is illegal.

Despite claims to the contrary from pro-vaping lobby groups, there remains a dire lack of evidence about the short and long-term health effects of e-cigarette use and consequent second-hand exposure to the vapour they emit. I would like to pause there to comment also on some work that we did on this issue federally. On the face of it, I think we all accept that e-cigarettes provide a good alternative to those who are trying to give up the smoking habit, but the fact remains that the TGA has not gone down the path of approving these products and that we remain as one of two jurisdictions not regulating this product. So it is something that we really need to address.

What I would say to those businesses who have set up their business models around vapes, which are an unregulated product, is that despite evidence that we hear—and there are claims from both sides in relation to this—until the TGA makes such a ruling, then this product ought to be regulated. Whilst we acknowledge that there is support for e-cigarettes internationally, particularly in the UK, there is also opposition to it from many sources both here and internationally, including the Cancer Council, the Heart Foundation and the Australian Medical Association.

Indeed, a World Health Organization report in 2014 recommended that e-cigarettes should be regulated to protect public health and ensure that the public has reliable information about risks and benefits. It should concern all of us that a study recently published in the *Australian and New Zealand Journal of Public Health* found that vaping may have a gateway effect and lead young people to taking up smoking cigarettes.

It should also concern all of us, and the Minister for Health, that the SAHMRI key smoking statistics for 2017 revealed that 16.5 per cent of people aged 15 years and over and 14.3 per cent of young people aged 15 to 29 smoked, which is higher than the previous years at 12.3 per cent for this same age group. Aside from nicotine, the potential effects on children of the other chemicals in e-liquid are yet to be established. It is absolutely reasonable to adopt a cautionary approach to protect young people's health. Young people are vulnerable to the marketing and advertising of e-cigarettes. Even those who have never smoked traditional cigarettes are increasingly interested in trying the devices.

Last month, it was reported that the US Food and Drug Administration is considering a ban on flavoured e-cigarettes as it grapples with the epidemic of youth e-cigarette use that threatens to create a new generation of nicotine addicts. Manufacturers offer and market e-cigarette flavours that clearly appeal to minors, including chocolate and bubblegum flavours, and use animated figures to appeal specifically to children. I recall the debate that took place in this place some years ago in relation to fruit flavoured, I think it was, cigarettes and the fact that the previous government was very swift in taking action to ensure that those products were banned from sale in this jurisdiction.

The Hon. I.K. Hunter: Thanks to Gail Gago.

The Hon. C. BONAROS: Absolutely. This should concern every parent because young people are more likely to develop stronger nicotine dependency than those who start later in life due to the addictive properties of nicotine affecting their growing brain. Consequently, I will be asking the minister questions in relation to the issue during the committee stage of the bill. We need much more information on the growing trend, and that information must be independent. I think that is one of the keys here: it has to be independent, it has to be free from interference from vested interest groups and it has to be evidence based.

It is concerning that the *Sydney Morning Herald* earlier this week reported a charity spearheading efforts to legalise nicotine vaping in Australia has accepted funding from an overseas group with clear links to tobacco multinationals. The Australian Tobacco Harm Reduction Association, the doctor-led charity that has driven much of the debate in the past year, says it does not accept donations from tobacco companies or their subsidiaries. However, it has been reported

that ATHRA accepted a one-off, unconditional donation of $8,000 from UK harm reduction organisation Knowledge-Action-Change, which supports vaping and has accepted money that originated from tobacco companies.

There exists a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests. It is well documented that tobacco giant Philip Morris—and I met with stakeholders from Philip Morris during my term in federal parliament when they told us that they were announcing that they were getting out of the conventional cigarette business, because they should—is increasingly looking at new business opportunities like e-cigarettes. In fact, I think the feedback to me at the time was that they were moving completely out of cigarettes and completely into e-vaping, which I thought was quite remarkable given their position in the tobacco industry.

Given that research into these new products is not conclusive when comparing smoke-free products to traditional cigarettes, which took decades to be proved as a known carcinogen and public health hazard, we must tread very carefully. We just do not know at this stage if the so-called benefits of e-cigarettes are real or all smoke and mirrors—pardon the pun. To that end, SA-Best welcomes the announcement last month from the federal health minister, Greg Hunt, of an independent inquiry into the health impacts of nicotine e-cigarettes. This comes after a federal parliamentary inquiry into the use and marketing of e-cigarettes earlier this year opposed legalising nicotine e-cigarettes.

Returning to the bill, it aligns with the recommendations of the Select Committee on E-Cigarettes that was established in 2015 and delivered its final report to the House of Assembly on 24 February 2016. The select committee concluded in its final report that e-cigarettes should be regulated in the interest of public health as there is a lack of scientific consensus as to the safety of e-cigarettes. The final report recommended amending the Tobacco Products Regulation Act to regulate e-cigarettes in broadly the same way that tobacco products are regulated.

The bill includes bans on the following: selling e-cigarette products to children; using e-cigarettes in smoke-free areas under the act; retail sale of e-cigarette products without a licence; indirect sales of e-cigarette products; e-cigarette advertising, promotions, specials and price promotions; retail point-of-sale displays of e-cigarette products; and selling e-cigarettes from temporary outlets such as sales trays and vending machines.

In addition to the regulation of e-cigarettes, the bill has a number of enhancements that have arisen from an independent review on South Australian tobacco legislation commissioned by SA Health in 2017. These include improvements to the definitions, the repeal of unnecessary provisions, adding expiations to offences where they currently do not occur and improving the functions of certain provisions. The government's bill also incorporates some adjustments to maximum penalties and expiation levels in line with CPI indexation as the levels have not been adjusted since 1997 and are out of date.

On behalf of SA-Best, I filed an amendment to increase the penalty under section 38A(1) of the act in relation to the sale and supply of tobacco products to children. It provides for an increase in the expiation fee and doubles the maximum penalty proposed in the current bill, which we believe is currently inadequate to capture the gravity of the offence, particularly in light of increased smoking rates amongst young people previously referred to.

The Hon. K.J. Maher interjecting:

The Hon. C. BONAROS: Am I boring you?

The PRESIDENT: Leader of the Opposition, that was unparliamentary. Show some respect for the member.

The Hon. C. BONAROS: Subsequently, the opposition filed its own amendment—I believe that is the Hon. Kyam Maher's amendment—in relation to the same section, which provides for an even steeper penalty regime for the sale and supply of tobacco products to children in line with the penalty provisions for selling alcohol to minors under the Liquor Licensing Act as amended. We have considered that amendment and determined that we prefer it to our own amendment, so we will not move ours, but we will support the opposition's amendment. It is clear that provision cannot proceed unamended—on that, I think, we agree.

In closing, I think that there is a great need here for the government to work with the industry that has established a business model around e-cigarettes. I do not think that you can just go in overnight and say to them, 'Sorry, your business model is no longer going to be allowed,' and therefore they effectively have no business overnight. I think that it is going to be very important to work with that industry to ensure that they are able to transition to the regulatory regime being proposed. I will pose some questions to the minister during the committee stage of the debate in relation to that aspect of this bill.

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

At 18:30 the council adjourned until Wednesday 24 October 2018 at 14:15.