LEGISLATIVE COUNCIL

Thursday, 28 October 2021

The PRESIDENT (Hon. J.S.L. Dawkins) took the chair at 11:00 and read prayers.

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

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer) (11:01): I move:

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

Motion carried.

Bills

MOTOR VEHICLES (ELECTRIC VEHICLE LEVY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 October 2021.)

The Hon. K.J. MAHER (Leader of the Opposition) (11:02): I rise to speak on this bill and indicate I will have carriage of this for the opposition and that we very strongly oppose this bill. This bill has been introduced at a time when South Australia should be continuing to build momentum around its green credentials, not stifling it by disincentivising a higher uptake of electric vehicles. It is particularly disappointing to see the government take this policy direction after South Australia had proudly become a world leader in carbon reduction under successive Labor governments, particularly under the leadership of former premiers the Hon. Mike Rann and the Hon. Jay Weatherill.

Let's not forget that under the previous Labor government, South Australia's greenhouse emissions were reduced by 40 per cent in just 10 years, an enviable record around the nation. We also remember the leadership in particular former Premier Mike Rann provided as, I think, the inaugural chair of the subnational governments forum on emission reductions.

South Australia went from producing almost all of our energy from fossil fuels to having 60 per cent powered by renewables last year, and we have an uptake of rooftop solar which is unrivalled across the country. Because of this good and proud work on energy production, transport emissions are now the leading cause of carbon pollution in the state. South Australia ought to continue to be a world leader in this regard and promoting widespread uptake of electric vehicles is one of the next logical steps in reducing emissions. As policymakers, we ought to be doing all we can to make this happen, not putting up barriers.

Electric vehicle uptake in South Australia, and indeed Australia more broadly, is already low. In 2020, electric vehicle sales in Australia accounted for only 0.7 of 1 per cent of the overall market. For context, the UK market share for electric vehicles last year was 10 per cent, and in Norway, a world leader in electric vehicle sales, the market share was, I am told, almost 75 per cent.

As a country and as a state, we are lagging behind. We should and we must be doing better, because gone are the days when electric vehicles were viewed as a novelty. They are now inevitable as a mainstream technology, and the longer we delay the transition through poor policy and planning the harder it will be for us to catch up. In this context, it is utterly ridiculous at this point to disincentivise

South Australians from purchasing electric vehicles by slapping them with a brand-new tax. That is a brand-new tax from our Treasurer.

Electric vehicle owners already pay the same for registration as owners of four-cylinder cars. Adding another $305 levy means that electric vehicle owners will be paying more than three times that of petrol owners for registration. This, coupled with the current logistical challenges of accessing charging points and the high cost of purchase of electric vehicles, means there would be little incentive for consumers to make the shift.

Even if you are not inclined to take the opposition's word for it, just look at who opposes the measure. In the words of the Electric Vehicle Council chief executive, 'Introducing an electric vehicle tax at this time when carbon emissions are dropping is like responding to a drop in tobacco revenue by putting an excise on alternative treatments such as nicotine gum.'

On Monday 6 September, a group of car manufacturers, automotive groups and environmental organisations published an open letter to the Liberal government, calling out the bill for the poor policy that it is. This unlikely alliance included Mitsubishi, Volkswagen, the Electric Vehicle Council, Solar Citizens and Conservation SA, all recognising that now is simply not the time for a brand-new tax in this state that is a tax on electric vehicles.

The consensus is pretty clear on this one. Car manufacturers oppose this new tax. Industry professionals oppose this new tax. Environmental groups oppose this new tax. Prospective consumers oppose this new tax. Even if there were not very strong policy reasons to oppose this, let's remember what the government said before they came to government: they said they would not be imposing new taxes.

This is exactly what this is: it is a tax that did not exist before and it is a tax that is going to exist now, if the Hon. Rob Lucas as Treasurer gets his way. This is a brand-new tax. It is eerily similar to the Hon. Rob Lucas going to an election a few elections ago, when they were last in government, promising not to privatise ETSA: a clear, unambiguous promise not to privatise ETSA; a clear, unambiguous promise of no new taxes. That is exactly what we have here.

Even if there were not such strong meritorious policy reasons why you do not want to disincentive electric vehicles, just keeping to your word and not lying to the people of South Australia about what you are going to do ought to be enough for this government.

The Hon. F. PANGALLO (11:07): I rise to speak in support of the Motor Vehicle (Electric Vehicle Levy) Amendment Bill 2021. We did have some reservations about it, but I think we found some common ground in discussions that we have had with the government on this. Electric vehicles, or EVs as they are commonly known, are clearly the way of the future. They represent a major transformation of the world's transport sector.

Tax breaks and other incentives in countries like the UK and Norway have helped push up EV sales in those jurisdictions, but the lack of similar schemes and incentives in Australia is one big reason why EV sales here in 2020 made up a dismal 0.78 per cent of new car sales. Apparently, there has been a recent jump domestically to about 1.57 per cent of the total light vehicle market, but Australia sits significantly behind the rest of the world in EV adoption. As a proportion of the total fleet—

Members interjecting:

The PRESIDENT: Order! Members on my left should give respect to the member on his feet.

The Hon. F. PANGALLO: As a proportion of the total fleet of vehicles, EVs make up only 0.1 per cent nationally, or 0.07 per cent in South Australia.

According to the latest ABS data, there are only about 1,400 electric vehicles in South Australia, of 1.87 million vehicles registered. South Australia buys some 60,000 to 67,000 new vehicles each year. South Australia has struggled to make up this meagre market share. I understand the figures last year for sales were 128. There are probably several factors for that. It would be perhaps the impact of the pandemic worldwide. It has certainly had repercussions for the car manufacturing industry. They have had supply chain issues.

We know that many of the biggest car makers are now pumping up production of electric vehicles. In some cases some are still turning out plug-in hybrid vehicles; however, most of the major manufacturers have already indicated that their focus will now be on the production of electric vehicles.

Unfortunately, in Australia we do not have the great selection of models that they do perhaps in Europe and the Americas, but that is likely to change. I think currently there are probably only six models that consumers can choose from, but many more are on their way and with that I imagine the price of those vehicles will also come down. The federal government would also need to look at what it does with the luxury car tax to ensure there is a greater take-up of electric vehicles.

I have no doubt that this market will take off, and when it takes off it will probably be like a proverbial rocket. I was in Norway in 2019 and spoke to the electric vehicle association over there about the great inroads that electric vehicles have made in such a short period of time. I think from about 2011 through to about 2019 it has gone from what we have today, virtually, in Australia to something like more than 50 per cent of vehicle sales. That was in that short period of time.

I know that in this legislation we have set this figure of 2027—perhaps it should have been 2030—but I have no doubt that, once a number of new models come onto the market, the price will drop. This will be the option new car buyers will be looking at rather than the vehicles that are on the conventional fossil fuels.

Consumers, 56 per cent of them, are saying that they would consider purchasing an electric car as their next vehicle, so that in itself is a telling statistic that shows that people's minds are now attuned to these vehicles. If people are looking at replacement of these vehicles, one of the first things they will look at is what is out there for them to not only protect the environment and achieve zero emissions but also what will be convenient and save the family, save the consumer, money in the long term.

All that points to these new revolutionary electric vehicles that will be pumped out. News Limited's motoring journalist, Stephen Corby, wrote recently:

> EVs have already snuck up on us, all ninja-like, with their silent engines and zero emission tailpipes, to usher in a new age of motoring, where 'petrol' is just a dirty word (although not as dirty as 'diesel', which is also going the way of the horse-drawn carriage).

As that quote suggests, we are on the cusp of a new era in motoring. Not that electric vehicles should be considered new because, as I pointed out in a speech earlier this year or it may have been last year, electric vehicles, at the turn of the 20th century, outsold the petrol versions that were coming out at the time. They were in such demand that there were people queuing up and waiting for these vehicles to be delivered and the only thing that stopped the advancement of electric vehicles was the fact that initially petrol-driven engines had to be cranked by hand to start. But when electronic starting began, mostly because of the Ford Motor Company and others, that saw the demise of electric vehicles and the petrol versions quickly took over.

But it is quite clear that electric vehicles have been popular in the past. I have no doubt that they will again be popular coming up in the future and I look forward to the time when perhaps I can get behind the wheel of a fully electric vehicle. I have been in a couple of them while I was overseas and I found the ride quite comfortable, although it was a little bit disconcerting when you cannot hear any noise. The taxi driver who was driving me had to ask me to keep my tone down because I was sounding a bit too loud inside the cabin. The technology continues to improve and these vehicles are certainly going to be taken up by consumers.

Despite all the fanfare around new EV models and technology, it is unfortunate that South Australia has been caught napping. We are one of the last jurisdictions to introduce any legislation in regard to zero emission vehicles. It was also disconcerting to read a story in the weekend press last week that a company that wanted to set up EV manufacturing in South Australia was finding it difficult to get support from the Marshall government and are looking at probably taking their business elsewhere. I hope that does not happen. As we know, South Australia has a long, long history in car manufacturing and there is no reason why we cannot take that next step and also move into EV manufacturing.

South Australia is currently rated the equal lowest of any state or territory in the Electric Vehicle Council's 2021 'State of Electric Vehicles' report. To borrow another of Stephen Corby's analogies, the EV horse has well and truly bolted and South Australia has pulled up lame.

From the outset, I want to place on the record that I believe that this is a policy area crying out for a COAG approach or, at the very least, the focused attention of a South Australian parliamentary committee. Clearly, there should have been leadership from the commonwealth government in regard to EVs and an EV strategy and that has not happened. It has basically been left up to the states to do that and it is quite disappointing.

A federal parliament senate select committee reported in 2019 that there was a relative absence of overarching policy direction from Australian governments in regard to electric vehicles. The committee recommended a national EV strategy and an intergovernmental task force be established to lead its implementation. The federal government has been heavily criticised by car makers and advocacy groups for its refusal to set targets in the sector and previous public ridicule of the technology.

Last year, it ruled out subsidising new cars to incentivise widespread uptake. While the federal government's efforts have so far been lacking or non-existent, the states and territories have been left to pick up the slack with their own incentives.

The New South Wales government is arguably leading the charge with an electric vehicle strategy offering $500 million of investment to encourage EV uptake. It has set a goal of 52 per cent of all new car sales being electric vehicles by 2030-31. Victoria has set a similar goal of 50 per cent by 2030. By comparison, South Australia is hoping the two provisions in this bill will achieve a 30 per cent uptake by 2027.

I think there is a lot more that needs to be done, and I am sure that we will certainly agitate in this place that it is done. We do want to see further incentives and the types of incentives that are being offered in countries like the United States, where subsidies of up to $US12,500 are being offered along with other sweeteners for purchases of electric vehicles. I am sure that in the United States—as we know it is the car capital of the world—the Americans will certainly jump into them and we will see a greater uptake and a greater availability of models coming out of the US, as we will out of Japan and also Europe.

Through my extensive consultation with manufacturers, industry, consumers, peak motoring bodies and various think tanks, I found that there is a wealth of experience, knowledge, information, technology and research out there, all of which could be harvested and relied upon by COAG to develop medium to long-term policies that will assist us to a shift to clean zero emission vehicles.

As far as I can see, there are currently no national targets and no economic forecasting to model how South Australia, or any other state for that matter, is going to build and maintain roads and transport infrastructure in the absence of petrol and diesel fuel excises being paid to the commonwealth and then redirected as grants to the states.

I have not seen any discussion about a very fundamental and significant shift of responsibility and funding for roads and infrastructure from the commonwealth to the states, and the liabilities this will potentially create for the states. How would major works or upgrades such as, for example, the north-south interconnector be funded in future without the commonwealth collecting petrol and diesel fuel excise?

I do hope that the government of the day, should this bill pass, devotes significant funding to ensure our system of roads, especially in the regions, are upgraded and maintained, because many of them are in quite a poor state, and it is not because of the light vehicles that use those roads; it is because of the reliance on heavy freight that is causing damage to those roads, and that needs to be addressed.

The bill has only two provisions. The first is for a 2 to 2.25 per cent per kilometre levy to be placed on all zero emission vehicles (ZEVs) from 2027 or when we hit 30 per cent uptake. I know that the 2¢ charge on the hybrid vehicles has been a point of contention from some of those manufacturers, including Mitsubishi and also VW. We have had discussions with Mitsubishi about the impact that levy may well have on their revolutionary hybrid technology, which only they and

Nissan have so far been able to put on the market. It is quite impressive technology that these vehicles have: the ability to be able to charge a house at night, for instance, and meet all those energy needs. They also can be used out in the field if there are power blackouts or whatever.

Their concern is that there will be an extra impost on these plug-in hybrid vehicles because not only will they be paying the fuel excise but they will also be required to pay the levy that will be imposed by this tax. I am sure it is something that could be looked at and addressed. Mitsubishi had concerns that it might restrict or limit the take-up of these particular revolutionary vehicles. But, as I said, perhaps it is something that can be looked at by this parliament, should we be able to conduct reviews of this legislation.

I also see that there is a class action in Victoria that is challenging the constitutionality of the states charging the levy at all. Again, we look forward to watching how that pans out. I would also be interested to hear if the Treasurer has Crown advice on the constitutionality of this measure in South Australia.

I have three questions in relation to this levy that I shall pursue in committee stage. Firstly, what if the levy acts as an disincentive to EV ownership? Most of the peak bodies advocating for EVs believe it will, so what will we do if it proves to be a significant barrier to EV purchases? Secondly, will the small 2 to 2.5¢ levy per kilometre in this bill sufficiently replace lost petrol and diesel fuel excise taxes that would have been collected by the commonwealth and redirected to the states to build and maintain roads and transport infrastructure, or will there be a gap, and who will fill this? Thirdly, if this levy will not commence until 2027 or we have a 30 per cent uptake of EVs, whichever comes first, what is the haste in passing this legislation prior to more thorough scrutiny by a parliamentary committee or COAG pursuing a nationally consistent approach?

The second provision in this bill is for a subsidy of $3,000 for the first 6,000 vehicles, payable to purchasers of new EVs. The Electric Vehicle Council's submission on this bill notes that to 68 per cent of consumers, subsidies to reduce the cost of purchasing an EV were of equal importance as the availability of public and home charging. We have been in discussion with the Treasurer about this number—6,000—and I welcome his decision that they will look at increasing this number as well as providing a further incentive on registrations, and I will allow him to make that announcement. That will apply up until 2027.

As I have mentioned, we have had discussions with all stakeholders in relation to this. While many of them expressed concerns, I think a lot of them also have come to the conclusion that it is going to be inevitable, and we need to certainly start having discussions on it now. There remains a real risk that consumers will purchase their EVs interstate, if the incentives there are greater, and simply drive them back across the border to their home. As I have indicated, that is why we needed and still need a nationally consistent approach.

Completely lacking from this bill are equally popular and effective provisions like they have legislated in the ACT, Tasmania, Queensland, New South Wales and Victoria. For example, permanently or temporarily abolishing stamp duty, reducing or abolishing registration fees, better availability of charging stations and prioritising parking for EVs have all been identified as important influences on purchasers of EVs. There are no grant schemes for fleet vehicles or research and development. I believe should this bill pass the number of sales of these vehicles that are covered by and will attract a subsidy will be limited for companies to only two purchases.

There is a lack of promotion and clarity about who will provide charging stations or hydrogen fill-up points, particularly in regional and remote areas. Range anxiety is noted as a significant disincentive to EV purchases. I think the other issue that will also need to be addressed when it comes to charging stations is the compatibility with particular models, because I know the Tesla model has its own charging mechanism, and of course there needs to be compatibility in relation to that as well.

We have also spoken to the MTA in relation to their concerns about the direction of where the electric vehicle industry, the policies of government, are heading to ensure that their members could have confidence in their investment in infrastructure to prepare and then be able to cater for a surge in electric vehicle sales. So there are still a lot of questions that need to be addressed and, as I say, it is probably something that this parliament is going to need to look at.

One of the amendments that I will be moving is that there be a joint parliamentary committee established within the next 12 months that will then look at the electric vehicle industry, the broader approach for policies and how it impacts on other associated industries in the lead-up to electric vehicles becoming the major vehicles on our roads.

It needs to be an all-encompassing look at the sector and it needs to be done comprehensively. I do not believe that has been done by this government. I do not think they have come here with this bill, or with a clear EV strategy in place, to ensure that South Australians do not lag behind other states and the rest of the world. I think it is incumbent on the parliament to have a look at the sector and what can be done to ensure that it is going to be smooth sailing from the time that these vehicles start to gain traction in the marketplace.

We also do not know if there is a restructuring package for petrol and diesel retailers, farms and businesses that will have to completely replace expensive items of capital equipment, buses, and commercial vehicles, or transition plans for mechanical and parts businesses that will need to adapt to new and completely different technology.

We do not know if our grid or hydrogen-generating power stations will be up to providing the power necessary for the EVs. We are completely lacking a marketing, promotional or information plan for the motoring public. Consumers are basically out there doing their own research and their own maths. The amendment, as I have indicated, that I have filed will seek to address some of these glaring omissions as we come to them.

Firstly, consistent with other jurisdictions, I propose that the act be reviewed by the select committee within a year after assent, so basically next year. Secondly, my amendment proposes that the select committee also considers the longer term issues relating to the use of electric vehicles in the state and recommends strategies to address these issues in accordance with terms of reference determined by the Legislative Council.

The use of EVs, as we now know, is a fast-moving and complex policy area. I liken it to the scale and scope of the transition our grandparents and great-grandparents must have experienced from the advent of the motor car and the move away from horses as their primary form of transport. It will be important to review the act as to its operation, and even more important to address the longer term bigger ticket issues that I have highlighted. With those words, I commend the bill to the council and look forward to a lively debate.

The Hon. R.A. SIMMS (11:34): The lively debate has begun. I am bitterly disappointed to see that it appears the government have cobbled together the numbers to put this tax on electric vehicles. It is really disappointing that the climate denialism that seems to have infected the Liberal Party over in Canberra—and we have seen evidence of that over the last few weeks with the dud of a climate policy that the Prime Minister is going to be prosecuting in the lead-up to the next election—has now infected the Liberal Party in South Australia. It makes us one of the few jurisdictions in the world to be putting a tax on electric vehicles at a time of climate crisis. It is a disgrace.

Make no mistake, the battleground is clearly drawn, the battle lines are clearly drawn for the next election, and the choice of voters will be clear. The choice of voters will be very clear because the Liberal Party is the party that is putting a tax on electric vehicles and adding a disincentive to people who want to do the right thing by our planet during this period of climate crisis. Some of the crossbenchers, it appears, are going to be supporting them and they need to think very carefully about that.

It is not enough to say, 'Let's have an inquiry once we have put this tax in place.' You do not act now and inquire later; the time to have the inquiry is before you support the legislation. This really is the wrong track for South Australia and I think a very alarming development. I should say the Greens have been against this from the outset. We have been opposed to this legislation on the basis that it really undermines our efforts to reduce greenhouse gas emissions. It is a missed opportunity to bolster electric vehicles in South Australia by removing their roadblocks to car purchasers. That is why the Greens have always been on the public record opposing this tax.

In other parts of the world, this is not controversial. Electric vehicles are seen as part of the future and they receive public support to encourage consumer purchases. They are not sabotaged by the government of the day. Last time I spoke in this chamber about electric vehicles, I stated that

taxing electric vehicle drivers for not burning petrol is like taxing non-smokers for not smoking. It is laughable. It is an example of failed leadership from this Marshall Liberal government.

That remains true whether you are going to be a taxing electric vehicles in 2022 or in 2027. That remains true, even with a $3,000 one-off payment that would be made available to just 6,000 motorists. It is not enough to make what is a harmful bill only less harmful. It is not enough for some on the crossbench to just try to sugar-coat the government's bitter pill here; they need to spit it out and reject it entirely.

At a time when we face a gathering climate crisis, a time when transport emissions are our most rapidly growing emissions—in fact, they are almost 25 per cent of emissions—we should be using this opportunity to make it easy for people to do the right thing. We should be trying to make it as affordable as possible for people to purchase electric vehicles.

It is not just me saying this, it is not just the Greens saying this. Let's look at what governments around the world are doing. Let's consider what governments around the world are doing. The UK government will be banning the sale of petrol cars by 2030. In the ACT, the Greens-Labor government is offering electric vehicle buyers free registrations and $15,000 loans. In Norway, the electric vehicle users are rewarded for their environmentally beneficial decisions through no registration charges, no parking fees, no road tolls and the use of free bus lanes. So they get rewards for doing the right thing.

In New Hampshire there is strong investment in highly accessible 24/7 charging stations that make it as affordable as possible and convenient as possible to drive an electric vehicle. The New South Wales government has committed $171 million for new electric vehicle charging infrastructure and $33 million to help transition the government's passenger fleet. That is the Liberals over in New South Wales.

We know from the Australia Institute that almost three in four SA residents believe that electric vehicles are good for the environment, and seven in 10 SA residents support reducing the cost of electric vehicles through subsidies and stamp duty waivers, and so do manufacturers. In late August, after the state government announced it was postponing, not scrapping, the electric vehicle tax, 12 manufacturers, industry associations and policy and research groups published an open letter on Monday calling on the state government to scrap its stamp duty for electric vehicles.

Among these signatories was Mitsubishi Motors Australia, whose director of marketing and operations, Rob Nazzari, said at the time that it was important to get things right from the start. 'We remain concerned about the impact of the proposed tax on our customers,' he said. Seven in 10 SA residents, according to that same Australia Institute poll, said they would be less likely to purchase an electric vehicle, because of an electric vehicle tax.

Seven out of 10 said they would be less likely to purchase an electric vehicle, because of this Liberal government's new tax. It is outrageous that the government are introducing such a disincentive into the market at this time of climate crisis. What on earth are they thinking? They are on the wrong track. Why is the Marshall government not listening?

This flawed Victorian approach—its reckless, highly unfair tax on electric vehicles, on people who are just trying to do the right thing—has been opposed by 25 organisations, including global auto manufacturers Volkswagen and Hyundai, and policy experts the Electric Vehicle Council have called it 'the worst electric vehicle policy in the world'. This is the policy that the Liberals are going to be taking to the next state election. This is the policy that the Liberal Party are taking to the next state election, and I urge the crossbench not to get in the car with them. Think very carefully about what you are doing, members of the crossbench.

The worst electric vehicle policy in the world does not deserve to be pushed back; it deserves to be scrapped, taken off the road for good. Mr Lucas said that we need an electric vehicle tax to help pay for road maintenance and upgrades. Well, that is a furphy, with respect to the honourable member. Richie Merzian from the Australia Institute has pointed out that fuel excise taxes do not directly pay for road construction or repair. He says:

> The fuel excise does not pay for roads. It stopped doing that in the fifties.

We pay for roads like how we pay for hospitals, defence and schools: it comes out of the consolidated funds. Consolidated revenue that comes from GST, income tax, a whole variety of sources, which electric vehicle drivers already contribute to.

If the Hon. Rob Lucas needs some suggestions for how he could fund roads rather than taxing electric vehicles, the Greens are happy to come up with some ideas. Instead of penalising those who are choosing to reduce their carbon footprint by investing in electric vehicles, perhaps the state government could take steps to make electric vehicles more accessible to more people.

Electric vehicles are no longer seen as expensive or out of reach of ordinary people. There is a growing awareness of the much lower running costs, but this trend, this growth in the industry, must continue, not just in the short term but indefinitely and well into the future. If we are going to see that trend continue, we need a government who are committed to playing their part in reducing emissions, and that means reducing emissions from road vehicles. That is why putting a tax on electric vehicles is such a disastrous thing.

Where is the consideration of things like interest-free loans? Where is the waiving of stamp duty? Imagine if instead of putting a tax on electric vehicles we were talking about how South Australia could play a role in manufacturing electric vehicles here in our state. This is a missed opportunity. It is a missed opportunity and it is a dark day for South Australia when, in the middle of a climate crisis, we have a government going to the next election putting a tax on electric vehicles. They are on the wrong track and they need to change course very, very quickly.

The Hon. R.I. LUCAS (Treasurer) (11:44): I thank honourable members for their contribution to the second reading debate. The pace of technological change, which the Hon. Mr Pangallo referred to, is extraordinary. If I reflect on my long career in this parliament, when we were first here we did not have access to fax machines or indeed mobile phones. The delivery of press releases was by me hopping into a Volkswagen and driving to *The Advertiser* and Channel 7 and Channel 9 and hand-delivering them.

The world has moved on. At that time, if I had contemplated telephone technology where you are connected to people and see them around the world, I would have laughed at it. If I had contemplated a future of 100 per cent electric vehicles, where we are inevitably heading, I would have laughed at the concept as well. They are talking about flying taxis, airplane taxis now. The whole world has changed. The Hon. Mr Pangallo is correct to say that the pace of change is getting even quicker. He has referred to some of the projections, and certainly stakeholders have indicated to us that the pace of change in this industry is overwhelming.

The Hon. Mr Simms, even though he comes from a different direction, refers to some of the policy imperatives that governments around the world are driving, which will mean that global manufacturers of vehicles will sooner rather than later be producing all electric vehicles. This is one of the reasons why the halfway house of the hybrid, sadly, as exciting as the technology might be, will disappear. The future is zero emissions, the future is 100 per cent electric vehicles. Whether it is in 10 years or 15 years that we are 100 per cent electric vehicles, who knows, but it is likely to be, I suspect, the shorter period rather than the longer period.

Equally, as the Hon. Mr Pangallo has highlighted, and as a number of the stakeholders like the RAA have highlighted, whilst there are varying projections at this stage as to when we will see cost-competitive up-front purchase prices for electric vehicles, those more optimistic projections say 2025, that is, cost-competitive with internal combustion engines. The more pessimistic are around about 2030, or the early 2030s. My view is that it will probably be somewhere in between. We may well see it in the late 2020s. That is just the range of advice that we are receiving.

With the big Chinese manufacturers, there are vehicles already on the market in the $30,000s internationally and globally, and they are looking to have electric vehicles in the market in the $20,000s sooner rather than later. Even the more expensive vehicles have had significant price reductions in the last 18 months, even though they are still expensive electric vehicles.

So the Hon. Mr Pangallo is 100 per cent correct. The pace of change is overwhelming, and if you actually have governments, like the UK government, banning the manufacture within their jurisdictions of internal combustion engines, then it is only going to hasten the fact that global

manufacturers are sooner rather than later very quickly going to go down this 100 per cent electric vehicle path.

I need to address some of the issues that stakeholders and others have raised. I want to say at the outset that since this bill has been introduced the government has consulted widely with stakeholders and many others, who have indicated that the original bill the government introduced missed a significant element, which was a recognition of the need, at least in the interim period, in the short term, for financial incentives. The government, a month or two months ago, I think it was, announced a range of incentives, and I will return to those in a moment. The government has recognised that the original bill needed to be improved, and the government has acknowledged that and is doing that.

I issued a press statement in September. To be fair, the RAA is the leading advocate of the punters out there, the consumers, the motorists. With great respect, the other academic organisations and the vehicle manufacturers all have, understandably and not unreasonably, a particular perspective on this, in relation to the companies, their own business interests, and they are entitled to prosecute a view that they are sympathetic to.

So I am unsurprised at the views that they might express. I note the Hon. Mr Simms has used their opposition in part as support for his opposition to this. But if you want to talk to the organisation that represents the punters, the motorists, the consumers, it is the RAA. The RAA has indicated support for the motion of a road user charge, for the reasons that I have outlined before, and I will not repeat again. They said:

> The RAA is committed to the increased uptake of zero and low emission vehicles in South Australia, but we also see the importance of reforming the tax system to reflect declining revenue from fuel excise and the need to ensure road transport is sustainably funded. The delay of the road user charge, along with an incentive package, should support EV uptake and ensure we have a sustainable transport funding model going forward.

That is the group that represents motorists, consumers, the punters out there, recognising the reality of what we are confronting. Whilst I acknowledge the view of the Australia Institute person who has been quoted, I 100 per cent disagree with that particular view. As the Treasurer of the state I suspect I know a little more than the Australian Institute does in relation to federal/state financial relations, and I can assure that particular individual that road excise goes into that bucket of money the federal government has got, and the federal government then allocates significant federal funding to the states and territories for jointly funded road transport projects in our state jurisdictions.

When excise disappears, something has to replace it. If you have 100 per cent electric vehicles, as we inevitably are going to have, governments around Australia are recognising what has to be done. It is not just a Liberal government. The trailblazer in the area was a Victorian Labor government, where the road user charge has been implemented since July of this year. New South Wales has now passed the legislation and South Australia is now considering it. I am aware of one other jurisdiction that is closely considering this particular option in their jurisdiction.

The two biggest jurisdictions in the nation, New South Wales and Victoria, which obviously are going to drive demand and supply issues for us as a nation, because they are the two biggest jurisdictions, have now locked and loaded a road user charge—Labor and Liberal governments. This is not a left versus right, conservative versus progressive, issue. It is the reality of where we are heading and governments, Liberal or Labor, are going to have to address it at some stage.

The other question that has been raised by a number of the groups arguing against this is that this government does not have an overall strategy in relation to electric vehicles, it is merely just the imposition of a road user charge. I strenuously deny that. The government has a comprehensive strategy, South Australia's Electric Vehicle Action Plan, which was released a long time ago and which drives the state government's electric vehicle strategy. This is just one element—an important element, but just one element—of a strategy that is required.

The government's EV action plan aims to make electric vehicles a common choice by 2030, and the default choice by 2035, consistent with net zero emissions by 2050. An amount of $13.4 million has already been allocated to the statewide fast-charging network. The successful tender will be announced soon, and will ensure that South Australians have confidence that an EV can work for them and their lifestyle. It will support interstate travel, tourism and regional travel in

South Australia. The statewide fast-charging network is a critical element of electric vehicle take-up in the future, an issue raised by both the Hon. Mr Pangallo and the Hon. Mr Simms in relation to their contributions. Charging is critical. You cannot just have a strategy in relation to road user charging; you have to address the broader issues that electric vehicles are going to present to our system.

In terms of the question the Hon. Mr Pangallo raised, there will be state government funding and there will be federal government funding, but there will also be significant private sector investment funding. When the results of the tender are announced, we will see that this has to be a partnership between federal, state—maybe even local, I am not sure—and business funding models as well.

The other thing I would say is that, given the recent announcement by the federal government in relation to zero emissions by 2050, there will inevitably have to be a response, in my view—I do not know this to be fact, but it is my judgement—from the federal government in this field of electric vehicles and charging infrastructure. It would be a critical issue for rural communities, in terms of how charging infrastructure is rolled out. It is a bit like mobile phone technology in regional areas, which is a critical issue for regional members in the federal coalition government. I would be stunned if it was not also an issue, as electric vehicle take-up becomes more apparent, for regional members.

The amount of $3.6 million has been allocated to electric vehicles smart charging trials. These will demonstrate how electric vehicles can support the grid and EV owners can benefit from supporting the grid and using up abundant renewable energy, including in home, work and public settings.

In relation to that, there has been a series of questions put to me in relation to whether or not anything within our rules or legislation prevents the notion that, at some time in the future—people are already talking about it—electric vehicles will be batteries on wheels. They will be part of a grid response, and how that is coordinated and how that is governed and managed will be critical as the cost of the currently very expensive technology comes down and retailers look at what their charging models will be as they adapt to the new environment. It is going to be important.

I place on the record the advice that I have received, which I have shared with others, that there is nothing in the electricity market rules which prohibits discharging from a vehicle to the grid; that is, this notion of electric vehicles being batteries on wheels and assisting the grid.

Customers can connect small generators, such as a battery, through a small embedded generator approval. Any vehicle that discharges to the grid through a bi-directional charger is considered a generator and the bi-directional charger must meet a number of standards to keep the grid safe.

In order to connect a small embedded generator, the infrastructure will need to be approved by the distribution network operator, which is South Australian Power Networks, as a meeting of standards is required to protect the grid. These are the same standards that apply to solar and battery installations; namely, AS/NZS 4777.2020 or equivalent standard. They would also need to adhere to export limits to protect the distribution network. In practice, this means that the bi-directional charging equipment has to meet the standard when it is installed, not the vehicle itself.

There are already pilot programs underway that are discharging power from car batteries to the grid. For example, the ACT government fleet is using a number of Nissan Leafs to discharge power to provide frequency control. Nissan are also undertaking a broader pilot of vehicle to grid with households. These occur within equivalent rules frameworks, as apply in South Australia, so what they are already doing in a pilot fashion in the ACT and the rules that allow that to occur are the same rules that we have in South Australia.

The main issues these pilots have had to face are the significant cost of the bi-directional charging infrastructure and the cost of building IT systems to manage power dispatch in line with market bids. Further work is underway on updating the relevant national standards to consider alternative forms of bi-directional charging. This is particularly relevant to individual companies, like ACE EV, which is an AC bi-directional charger, whilst the current standard is for DC to AC inverters.

There is a lot more information on that, which I have been able to share with people who are interested in this. I do not propose today to read all of that onto the public record, but that is a

summary of the essential answer to the question: is there anything in the current rules which prevents this notion of the future of electric vehicles being batteries on wheels being an important part of our grid response? The answer to that unequivocably is no and I have outlined the reasons and the challenges that will be required in that particular area.

One of the speakers in this debate has raised the issue of fleet vehicles—I think it might have been the Hon. Mr Pangallo and I think the Hon. Mr Simms also raised the issue of fleet vehicles. We accept the fact that there is going to have to be leadership from government in relation to it. In South Australia's Electric Vehicle Action Plan, under Action Theme 2, let me summarise as follows:

> We envisage that full electrification of the South Australian government's passenger vehicle fleet will occur by 2030 or earlier.

I will not go through all of the summary there. There is a detailed summary of what the government is proposing. In the executive summary, we are already requiring:

> …new government fleet vehicles to be plug-in electric models where they are fit-for-purpose, and cost effective on a total cost of ownership basis, or additional cost can be managed by improving utilisation of the vehicle fleet.

The second one is critical at this stage because what we are saying is if the whole of cost is still not cost competitive, and that will increasingly become more cost competitive as the initial cost comes down as we have been talking, what we have said to some departments and agencies is that if you actually reduce the number of vehicles in your fleet so your total cost even though your individual car cost might be slightly higher, then the government will allow and encourage that sort of response.

One of the issues that some agencies rightly are raising is this issue of charging infrastructure throughout the regions. There are significant issues, for example, for police, emergency services, and the like, in relation to charging infrastructure. I think in the initial period we have to accept that we are going to have to get charging infrastructure right throughout the state as a critical element to the maximum take-up of electric vehicles.

There are many other elements of the action plan for electric vehicles that the government has outlined. Again, it is publicly available. There are a number of attachments in relation to all of that area which indicate that the road user charge is merely one element of a coherent, overall government strategy which recognises that much, much more needs to be done both in relation to charging infrastructure, in relation to connection to the grid and through the homes, and in relation to all of those other issues, including fleet policy. All of those other issues are critical issues that are going to have to be addressed.

A couple of other issues: the government is pleased to support the amendment that the Hon. Mr Pangallo has raised, because there are many questions in relation to this, and they are not going to all be resolved by one committee in a 12-month sitting period. I would envisage this committee in future parliaments having a continuing role. As we see the initial stages, we will be able to look at what is occurring in Victoria because they have had the first mover advantage, but New South Wales and South Australia, and maybe one other jurisdiction, are likely to have start-up dates of 2027.

For the first three or four years, the work of this committee will be looking at global influences, will be looking at what we can learn from Victoria, and making recommendations. There will be many other issues raised in these discussions. The Hon. Mr Pangallo referred to the Mitsubishi view of maybe a lower charge for the hybrids. Again, that is not a position the government can support, but this committee will be fully able to consider those sorts of alternative models.

I think the government has two arguments: one is that everyone agrees that the greatest degree of national consistency we can have, the better it is likely to be; and 2¢ and 2½¢ is what the two biggest jurisdictions in the nation have implemented. I have to say two or three of the fiercest opponents of the road user charge in South Australia have said to me privately—and I will not indicate who they were—that, whilst they oppose it, if it is going to be imposed then it should be as consistent as possible with New South Wales and Victoria. Indeed, that is the government's view as well.

The second reason, also, in my view—although the committee can look at this particular issue—is that I think we are hellbent on getting to fully electric vehicles, and providing an encouragement for a halfway house or a three-quarter way house of hybrid vehicles is not where it

is going to head. If you have national governments, like the UK and others, potentially bringing in bans on what vehicles can be manufactured or not, then I suspect where we are going to head is 100 per cent electric vehicles or, indeed, potentially hydrogen vehicles in the future as well.

Another issue that has been raised, which, again, this committee can look at, is whether or not particular concessions for concession card holders or Centrelink beneficiaries might be accommodated in some innovative way. They are suggestions for this committee, together with the broader issues in relation to EV take-up and the charging infrastructure, which I think ought to be a critical role for this committee, in particular the rollout of charging infrastructure in regional areas. The main highways, clearly, will be the first port of call where it is going to be required. So this committee, to be established not more than12 months after the assent of the bill, should cover all of these areas.

The terms of reference that have been drafted by Mr Pangallo are so broad that any issue the committee decided that it wanted to do, for whatever period it wanted to do it, they would be able to address. I did indicate in my discussions with the Hon. Mr Pangallo that there was one particular committee of the Legislative Council which endured, I think, for up to eight years. It survived one or two election periods. So there is nothing that prevents this Legislative Council or this parliament from continuing with the ongoing operation of the committee, if it sees fit, in relation to the electric vehicle industry.

One other issue that was raised with me was the issue about industry and employment commitments in relation to encouraging job opportunities within the electric vehicle industry. What I place on the public record is that in this year's budget the government announced a $200 million funding allocation over four years into what we call the Jobs and Economic Growth Fund. This particular fund provides funding required to meet industry employment commitments in a whole variety of growth industry sectors.

For example, the government is going to commit a significant level of funding out of the $200 million—not the majority but a significant element—to support the establishment, potentially, of a hydrogen industry hydrogen hub at Port Bonython. We are out at an expression of interest at the moment, and we have a significant number of national and international players who expressed interest in that. The governments—both state and federal—together with the private sector, if this proceeds to reality, are all likely to put in significant elements of funding. The federal government has a hydrogen hub funding stream. Most of the companies that are interested in this have access to significant funding or funding partners, and the state government is prepared to make its contribution.

This fund is intended to help create jobs and grow state sectors, and renewable energy-related jobs are clearly a high priority. Emerging industry sectors which can deliver long-term sustainable job growth can be supported as well as sectors which might need support to adapt and transition to new technologies. While South Australia might not be able to compete with global players in car manufacturing—again, the committee could look at that—there will be many opportunities for growth prospects in the electric vehicle supply chain. The fund is available for these types of opportunities.

A significant component, when we had a car manufacturing industry in South Australia, was the component industry. As the manufacturers have moved on, there are still significant growth opportunities in the supply chain for global manufacture of car vehicles. There are industry sectors in that particular sector. If the electric vehicle industry moves down the same path, we will have the capacity because we do have the skill set base within our smaller and medium-size companies in South Australia to look at these particular areas as a potential growth sector.

There will have to be a sustainable case made but, as I said, that is what this Job and Economic Growth Fund is there for. If there is a sustainable case, if it makes sense to grow jobs within a particular industry sector, then it is able to do so. There are also other smaller pots of money, funds that are available, one of which is the regional development and infrastructure fund, which has $15 million per year, which really can only support a range of smaller projects. They are not all in this particular area—tourism projects and others are funded within regional communities—but there is nothing which prevents smaller projects, which might be consistent with that particular objective in mind, being considered as well.

Finally, let me come to a summary of what we have heard in terms of what the government requires. This comes from, for example, the RAA, which said to us, 'We are supportive of what you have announced. However, we believe, to encourage further take-up, you need to provide more generous incentives.' As I said, even those who were opposing it said the government should provide more generous incentives.

At this stage, our incentives were pitched at the level that the Victorian Labor government has implemented in Victoria. It is correct to say the New South Wales level of incentives is significantly greater than Victoria. What I place on the public record today on behalf of the government is that the government has heard the submissions from individual members but also stakeholders like the RAA and others in relation to the need for greater financial incentives for people to take up EVs in the short term, in the transition period.

The government is announcing today, should the bill be successful, a three-year motor registration fee exemption for all purchases of electric vehicles. The government will provide a three-year registration fee exemption for new battery electric vehicles. The exemption will be available for new battery electric vehicles purchased after the passage of the bill and up to 30 June 2025. Because it is a rolling three-year registration fee exemption, the benefits of that will be felt from now through to 2027 because if someone purchases a vehicle in June of 2025, they would still get a three-year motor reg fee exemption, which would therefore take you beyond that particular period.

The government is not capping that, so whatever the number of vehicles purchased between now and June 2025, that is an uncapped number of vehicles that will attract that, to use the parlance of the Hon. Mr Simms, 'free motor reg for electric vehicles', which he was calling for. I am sure he will be delighted that the government listened very closely to his submissions and the submissions, indeed, of one or two others in relation to this area.

As I said, the exemption will apply for three years from the date of purchase of the vehicle. For example, a new battery electric vehicle purchased on 1 July 2024 would receive the registration exception over the period 2024-25 to 2026-27. The exemption will be for new battery electric vehicles. It is not available for plug-in hybrid electric vehicles. Other charges—this is the motor reg charge—such as CTP, etc., are obviously still payable. This is on the motor reg component.

The administrative arrangements for the delivery of the registration exemption: we are working with Victoria in terms of their particular model. In the initial stages, as Victoria has done, we will implement this policy soon after the passage of this legislation as a rebate on the registration charges that may be provided initially while longer term administration arrangements are finalised. We are still working through how that will be done. We will need to work with the Department for Infrastructure and Transport offices.

The second, further incentive that the government announces today is that we had previously announced that the number of $3,000 subsidies available for the purchase of electric vehicles would be capped at the number of 6,000. That is actually higher than the pro rata, when one looks at what is available in New South Wales and Victoria, given the number of vehicles that are purchased in our state.

Given the submissions to which I have referred, the government is now going to increase that number of capped subsidies up to 7,000 back to electric vehicles purchased in South Australia following the passage of the bill. The price cap of $68,750 inclusive of GST will still apply to provide an incentive to bring lower price electric vehicles to the market and avoid subsidising expensive electric vehicles.

The subsidy gain will not be available for plug-in hybrid vehicles, consistent with the arrangements in all the other jurisdictions. Subsidies will be limited initially to one per individual person residing in South Australia and two per business located in South Australia. The vehicles will be required to be registered in South Australia.

Subsidies will be initially provided as a rebate after a vehicle is purchased. Options to deliver subsidies through a different mechanism at the point of sale or similar will be explored. Again, in that area we are looking to work with the Victorian government as to what particular model they might

utilise, with the exact type of subsidy that they are already providing. They are doing it, we are told, at this stage as a rebate after the vehicle is purchased.

With that, we indicate that we have listened to the submissions from the RAA and, indeed, even those who have opposed the bill by saying we need to provide further incentives. I thank colleagues in this particular chamber for their willingness to engage in discussions over the last weeks and months in relation to this particular issue. Their willingness to sit down and discuss solutions is warmly accepted and acknowledged by the government. With that, I urge support for the bill.

The council divided on the second reading:

Ayes 11
Noes..... 10
Majority..... 1

AYES

Bonaros, C.	Centofanti, N.J.	Darley, J.A.
Girolamo, H.M.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Pangallo, F.
Stephens, T.J.	Wade, S.G.	

NOES

Bourke, E.S.	Franks, T.A.	Hanson, J.E.
Hunter, I.K.	Maher, K.J.	Ngo, T.T.
Pnevmatikos, I.	Scriven, C.M.	Simms, R.A. (teller)
Wortley, R.P.		

Second reading thus carried; bill read a second time.

Committee Stage

In committee.

Clause 1 passed.

Clause 2.

The Hon. F. PANGALLO: I move:

Amendment No 1 [Pangallo–2]—

Page 2, after line 6—Insert:

(a1) Subject to this section, this Act comes into operation on the day on which it is assented to by the Governor.

This is an amendment that essentially allows for a change to allow the setting up of the select committee to operate within a year after assent of this act is granted.

The ACTING CHAIR (Hon. D.G.E. Hood): If I can clarify, the Hon. Mr Pangallo, we are referring to amendment No. 1 [Pangallo-2] and that refers to the commencement of the bill. It is part of the package.

The Hon. R.I. LUCAS: If I can just speak in support of this, our advice from parliamentary counsel is the Hon. Mr Pangallo's three amendments are consequential upon each other. They are part and parcel of what was discussed at length in the second reading—that is, the joint committee—so I would propose that we speak to the package of amendments. This is the first amendment, and we are either for or against the establishment of the joint committee with the broad terms of reference that are there. Certainly, from my viewpoint, I propose to speak generally.

I will not repeat what I have said about this particular issue in the second reading, other than to say it certainly makes sense to continue to monitor the developments within electric vehicle take-

up not only nationally but internationally. A number of members from different perspectives have highlighted bits and pieces from around the world in terms of government policy. Inevitably, it is going to move and move quickly in relation to it, and having a committee of the parliament with the responsibility of considering these particular issues would make great sense, in my view. For those reasons, the government is supporting the amendment.

The Hon. T.A. FRANKS: I have a very serious question about this. How does this parliament intend to ensure that it can bind another parliament to an action of the Legislative Council? I thought that was not possible and not constitutional.

The Hon. R.I. LUCAS: The parliament is sovereign. The parliament can pass legislation which is the law of the land. We establish parliamentary committees which survive beyond a particular parliament. Some survive many decades. If the parliament passes amendments to legislation, such as the Parliamentary Committees Act or the various other acts that have established ongoing committees, the parliament can pass the legislation.

Certainly, from the government's viewpoint, there is no issue in relation to seeking the support of the parliament. Ultimately, if the parliament does not want to support an ongoing committee looking at this particular issue then the parliament is entitled to express that view, but certainly from the government's viewpoint we are supportive of having an ongoing committee that looks at these particular issues.

The Hon. T.A. FRANKS: Can the Treasurer or the mover of the amendment please outline where this changes the Parliamentary Committees Act or where it has any provision that would require a future parliament to take this action of the Legislative Council being required to appoint a select committee? This Legislative Council of this parliament can appoint a select committee. We can do it here and now. We can do it without a dodgy deal. We can do it into something that would actually look at the impact of this legislation.

This particular select committee does not anticipate looking at the impact of this legislation; it simply looks at the issues of electric vehicles. But my understanding and my advice previously from previous clerks is that this parliament cannot bind a future parliament to set up a select committee of that parliament or of that Legislative Council.

The Hon. R.I. LUCAS: This does not seek to amend the Parliamentary Committees Act. It is amending this particular act that is here before us, in relation to the decisions. Ultimately, this parliament can choose to pass this legislation. If a future house decided to take an issue in relation to the establishment of—I cannot imagine why they would—a committee, then I assume that would be an issue for the house of parliament in the future to adopt. There is nothing that prevents, in the advice that we have received, this parliament being able to pass legislation in this particular form.

The honourable member is raising the issue that if a house refuses to establish the committee, then what is the issue? Ultimately, that would be an issue for either or both houses of parliament in the future in relation to what particular position they might establish. I cannot imagine why they would, but if either house, or both houses of parliament, wanted to take that particular point of view that would be an issue ultimately, as the member says, for the houses of parliament.

The Hon. T.A. FRANKS: My question is to the mover. Does he understand that by moving this he is actually getting a commitment to do something that cannot be guaranteed and that a future parliament could decide to do of their own volition, regardless of what happens with this vote on the electric vehicle levy? Does he trust this government, given we are still waiting for the online gambling joint house committee to commence? That was part of the pokies legislation deal over two years ago—and in the same parliament, not a different parliament.

The Hon. F. PANGALLO: First, I object to the inference that it is a dodgy deal. It is not a dodgy deal at all. The concern that we had—myself and the Hon. John Darley—was that there needed to be a mechanism whereby the parliament could then look at the evolving electric car industry and the other implications that could eventuate, any unforeseen circumstances and perhaps look at other matters that are related to that industry.

We wanted to have a parliamentary committee able do that before the tax comes into effect in 2027, and look at ways of improving and adding to any electric vehicle policies that emerge over

a period of time. It may be that the select committee could even look at the tax again and make recommendations to the parliament, so it is not a dodgy deal at all. We also did not get any adverse advice from the drafters when this was put together.

In terms of trust, it is not so much trusting this government. I hope they trust the will of the chamber that next year, should this pass, the select committee will be able to be established, and I am sure it will be. It is not a call about a matter of trust. We decide that this goes into the legislation, this is what will happen next year.

The Hon. T.A. FRANKS: I will just place on the record my concerns that this select committee deal that the crossbenchers, the Hon. John Darley and the Hon. Frank Pangallo in particular, seem to have arranged with the Marshall government, members of this parliament and this council in this session does not transfer to bind any future Legislative Council to vote any particular way. I am saying it is a dodgy deal not because you have been dodgy but because it cannot hold, and personally I would not trust them to hold it.

You have not been offered a standing committee referral. You have not been given something that can absolutely transcend from this parliament beyond the election to the next. We may have a new government, we may have the same government faces, we certainly will have a new member of the Liberal Party in the place of the current leader of the Liberal Party in this place, because he is retiring, so the person you have done this deal with will not be here. The parliament will be configured differently, and it will have to go to a vote anyway. We will have to have this debate again, so getting this deal is not even worth the paper that it is printed on here today, is all I am pointing out to you. That is why this is a dodgy deal. A dopey deal, is what it is.

Amendment carried.

The Hon. F. PANGALLO: I move:

Amendment No 2 [Pangallo–2]—

Page 2, line 7 [clause 2(1)]—Delete 'This Act comes' and substitute 'Part 2 and Schedule 1 come'

As indicated, this amendment is consequential.

The Hon. T.A. FRANKS: The Greens will not be binding another parliament to do something because we know we do not have the power to do that, so I just put that on the record at this point.

Amendment carried; clause as amended passed.

Remaining clauses (3 to 11) and schedule passed.

New schedule 2.

The Hon. F. PANGALLO: I move:

Amendment No 3 [Pangallo–2]—

Page 7, after line 6—Insert:

Schedule 2—Review of Act

1—Review of Act by Select Committee

As soon as practicable after the day that is 1 year after the commencement of this Schedule, the Legislative Council is to appoint a Select Committee to consider longer term issues relating to the use of electric vehicles in the State (including infrastructure, training and the disposal of batteries and other electric vehicle components) and to recommend strategies to address these issues, in accordance with terms of reference determined by the Legislative Council.

This is the relevant section that calls for the Legislative Council to appoint the select committee within a year of the commencement of this schedule and to consider the long-term issues relating to the use of electric vehicles. I will not restate what I have already said about the role that this committee will take, except that it will certainly provide oversight over electric vehicle policy and also look at the evolving industry as such and address any issues that may well arise that have not been taken into account at the moment.

I take note of what the Treasurer said about the government's own Electric Vehicle Action Plan. Going through that, most of it is padding of press releases and some motherhood statements and whatever. It is not as comprehensive as perhaps it should have been or perhaps the report that was tabled by the Senate in 2019.

The intention of having this select committee next year is to look at the electric vehicle industry and associated industries and any impacts that could arise as a result of issues that may be unforeseen and also whether we need to look at other incentives to try to stimulate sales and take-up and other problems that may arise in other industries—for instance, the heavy freight industry and how they make the transition as the country moves towards zero emissions in 2050. So there are many issues that this committee can look at, take up and also make recommendations for. As I said, there is no reason why that committee may not be able to even review this tax.

The Hon. K.J. MAHER: The opposition voted against the bill at the second reading and I suspect there will be a vote at third reading and that the opposition will maintain its opposition to this new tax, but in terms of the amendments that have been moved I have a question that may be directed at you, sir, as the Chair and the Presiding Officer of the chamber at the moment. It was raised by the Hon. Tammy Franks before. Is legislation capable of binding what a parliament does in appointing a select committee? Does the effect of this necessarily mean that the next Legislative Council has to appoint a select committee and they do not have any say in it or is it the case that it will have to be a vote on the floor of the Legislative Council for that to be established?

My question is: does this, in fact, have any practical effect? Will it have to be a motion for the next Legislative Council to appoint it, regardless of what this says? Is this capable of actually appointing a committee? My follow-on question is: if legislation is capable of, effectively, directing the Legislative Council to appoint a committee, could legislation direct who is on that committee? Could you do that by legislation as well?

The CHAIR: My advice is that, while the Leader of the Opposition raises questions about how this would impact a future Legislative Council, the reality is that if this passes it is still in the hands of the Legislative Council to determine to have a motion to establish such a select committee. The establishment is pursuant to the act, but the actual way in which that committee is formed is pursuant to the standing orders of the Legislative Council.

The Hon. K.J. MAHER: Thank you, sir. I appreciate the guidance. So, in effect, it would still need to be a resolution of the council in the next—is it a joint committee?

The CHAIR: No, the committee is a select committee of the Legislative Council. Just to clarify that, it is suggested as a select committee of the Legislative Council, so it does not need the other house.

The Hon. K.J. MAHER: Thank you very much. That helps to clarify. So, in effect, this has no practical effect. Regardless of what this purports to say, it cannot establish a select committee in the next parliament. This is a suggestion or guidance at most.

The CHAIR: Except that, as I said, the establishment would be pursuant to this act but the actual way in which the committee was established would be pursuant to the standing orders of the Legislative Council.

The Hon. R.I. Lucas: You would need a motion

The CHAIR: You would still need to have a motion.

The Hon. R.I. LUCAS: The points that the Hon. Ms Franks and the Hon. Mr Maher have made are entirely accurate, that is, that ultimately this is saying there ought to be a committee which looks at all these things, and let's not go into that sort of thing. The process in the end would be, it being the Legislative Council, the opposition of the day (we in the government hope that it is you) and the crossbenchers would abide by that and so too would the government of the day. So if there was any concern about not proceeding with the commitment, the power in terms of the process of appointing the committee ultimately rests with a vote of the Legislative Council.

I cannot see in this particular issue why anybody, frankly, irrespective of which particular view you come from, would oppose a committee looking at a critical issue like this, but it is for others

to make those particular judgements. I cannot contemplate, either now or at any time in the future, why anyone would be arguing against a committee which looks at what will be the ever-evolving challenges and issues of the establishment of an electric vehicle industry and all that is required to support it in the future.

If it were something that was hugely controversial in relation to a particular issue, one could imagine strongly differing views between members in this particular chamber, but on an issue like this where whatever your view is in relation to the establishment of the road user charge which, if the bill passes, is established, it is all the other issues together with this. The Hon. Mr Pangallo and the committee can look at the road user charge and make recommendations to the then government of the day in relation to the future, but it seems to be a no-brainer that there ought to be ongoing oversight of this particular industry, and that is all that is being suggested by the amendment from the honourable members. The government supports it.

The CHAIR: The Hon. Ms Franks has the call.

The Hon. T.A. FRANKS: Thank you, Chair. It is a question to you in the same vein as that just posed by the Hon. Kyam Maher. Is there any enforceability of this provision by a future Legislative Council member?

The CHAIR: As I said earlier, there are two aspects to it. One, is that it would be part of the act but, secondly, the way in which it would be done, I think, is a little bit like the description that the Treasurer gave. It would be a member or members in the Legislative Council in the future who would act upon that by moving to establish such a select committee.

The Hon. T.A. FRANKS: So there is no enforceability?

The CHAIR: I think I made it clear: it would be in the act. However, it is still up to this house to effect such a thing. To clarify, being in the act does not mean that automatically there is a select committee of the Legislative Council. It would have to be a normal motion that we go through many times in every session.

The Hon. T.A. FRANKS: Thank you, Chair. That clarifies it, and that is what I was seeking—that clarity.

New schedule inserted.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (12:46): I move:

That this bill be now read a third time.

The council divided on the third reading:

Ayes 11
Noes..... 10
Majority..... 1

AYES

Bonaros, C.	Centofanti, N.J.	Darley, J.A.
Girolamo, H.M.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Pangallo, F.
Stephens, T.J.	Wade, S.G.	

NOES

Bourke, E.S.	Franks, T.A.	Hanson, J.E.
Hunter, I.K.	Maher, K.J.	Ngo, T.T.
Pnevmatikos, I.	Scriven, C.M.	Simms, R.A. (teller)

NOES

Wortley, R.P.

Third reading thus carried; bill passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO AND OTHER JUSTICE MEASURES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2021.)

The Hon. K.J. MAHER (Leader of the Opposition) (12:50): I rise to speak on this bill and indicate that I will be the lead speaker for the opposition. This bill proposes amendments to 22 separate pieces of legislation and primarily consists of essentially housekeeping amendments that delete obscure sections, update references to acts where the names of those acts have been changed, and ensure consistency with recent legislative changes and update language with contemporary terms.

Two large exceptions to the largely housekeeping amendments referred to are updates to the Criminal Law (High Risk Offenders) Act and the Mental Health Act. With regard to the Criminal Law (High Risk Offenders) Act 2015, the bill proposes a range of changes to:

- add commonwealth offences to those that may be considered for high-risk offender declarations;
- clarifies, consistent with the recent Court of Appeal ruling, that extended supervision orders may not be made against minors but they may be made against adults who were minors at the time of their offending or sentencing;
- clarifies that extended supervision order applications may be made in the 12 months prior to release, not within 12 months, which could, but has never included, as we were advised, post-release;
- clarifies matters that may be taken into account in making a supervision order; clarifies that supervision order requirements are suspended while in custody; and
- adds a condition to extended supervision orders that interstate travel may only be authorised by the Parole Board or Supreme Court and allows the Supreme Court to transfer certain matters to the Parole Board regarding the variation or removal of extended supervision orders—for example, not making extended supervision orders or reviewing breaches—all the while noting that all parties may make submissions on changes to extended supervision orders.

In relation to these changes, the opposition's primary technical concern is the detail of transferring matters between the Supreme Court and the Parole Board that will require subsequent changes to court rules. One thing we have raised as a concern is it could lead to the possibility of forum shopping; that is, someone who is potentially subject to such orders choosing the Supreme Court or the Parole Board, depending on which they think might be more favourable.

With regard to the Mental Health Act 2009, the opposition has considerably more concerns. We note these are addressed by a suggested amendment by the Hon. Robert Simms that does not proceed with that part of the bill that amends the Mental Health Act 2009. Part 11 of the Mental Health Act, specifically sections 79 to 84, deals with reviews and appeals of orders and directions. Section 84, as it currently stands, allows a person to be legally represented and to have their costs covered by the government for any reviews or appeals under part 11.

This bill proposes to exclude this right to legal support from reviews of treatment orders under section 79, but retain them for other appeals or reviews under part 11. The opposition has significant concerns with the revocation of this basic right of legal justice. The government has advised that this

proposal, in their view, will have little or no practical impact because SACAT undertakes section 79 reviews on the papers, without parties or representatives present.

The government has also advised that the exclusion will not prevent a person from being represented if the need ever arose, but they would have to be self-funded in such situations. We have not been given sufficient reassurance by the government that this revocation of a right to support will not potentially lead to a substantial impact on a vulnerable South Australian. We share the same concerns as consulted stakeholders such as the Law Society in this respect.

I note that this proposed change was the bulk of the Law Society's submission on this bill. Consequently, the opposition will be supporting the bill, but will not be supporting clause 45 in relation to the amendment to the Mental Health Act, which I would have flagged here but it is the effect of an amendment filed by the Hon. Robert Simms.

The Hon. C. BONAROS (12:54): I rise to speak in support of a variety of measures in the Statutes Amendment (Attorney-General's Portfolio and Other Justice Measures) Bill 2021. The bill, as we know, makes amendments to no less than 22 different acts, three of these being justice-related. It is somewhat problematic to deal with a bill amending 22 very different acts in these final two weeks of the year, so I will begin by focusing on the amendments that I strongly support. Obviously, in saying that, I also note that there are a number of technical amendments, if you like—

The PRESIDENT: Order! Too much noise in the chamber.

The Hon. C. BONAROS: Amendments to the Correctional Services Act to extend the prohibition on people who can receive automatic parole to include people who have committed a serious drug offence is an initiative we support wholeheartedly. Whilst the Law Society believes these offenders are already likely to be covered if they receive a sentence over five years, it is my view that this amendment gives us certainty, and the courts clarity, that serious drug offenders will not receive automatic parole, irrespective of the sentence that they are handed.

Similarly, the amendments to the Criminal Law (High Risk Offenders) Act expand the scope of people covered and also extend the scope of continuing detention orders for this category of offenders. There are many high-risk offenders we do not want freely running around our community, wreaking havoc on our community, on release from detention. We need to ensure that the courts have the ability to deal with them appropriately, so that is something that we support.

Of course, the government needs to make sure that supervision orders and support services are in place when these offenders are ultimately released so that they have the opportunity to get their lives back on track and not to reoffend. That is probably one of the areas where I would say we need to have a much stronger focal point in terms of reintegrating people back into the community. I suspect when the OPCAT bill comes up and we deal with that, I will have a lot more to say on that particular topic.

I reserve my strongest support in this bill for the amendment to the Children and Young People (Safety) Act 2019 which allows for the Chief Executive of the Department for Child Protection to give a direction to prevent a person from communicating with a child who is in the custody or under the guardianship of the chief executive.

That may have been slipped, in some ways, into this bill, but I think it is a very important provision and I am glad that the Attorney has incorporated it into this, given that the Minister for Child Protection's bill sits languishing on our *Notice Paper* and does not look to be debated anytime soon. I note that there are a couple of other amendments in that bill which I thought certainly would have been worthily incorporated into this bill. That was not to be. I think there is one further amendment by the Hon. John Darley; we will see the fate of that amendment when it arises.

There are certainly some good measures in that other bill that I referred to, and frankly I think the Attorney could have gone a little further and picked out the uncontentious matters of that bill, including the best interests of the child principle and the placement principle for Indigenous children, and placed them in this bill. We had discussions around that. There were issues around their contentious nature or otherwise, so we have not got them here. I am glad to see that this one is.

Apparently, the department has had difficulty in past prosecutions meeting the standard of proof that communication occurred, and this amendment seeks to address that. With skyrocketing

numbers of children under the care of the minister, we need to ensure that the department has all the powers that it needs to protect children, because the department has a very poor history of protecting children under their care from being preyed upon by sexual predators. I do not need to tell you that. You do not need to take my word for it. You can open the paper and see the stories for yourselves.

Yesterday, we became aware of yet another child under the guardianship of the minister being preyed upon, groomed and sexually assaulted by a Richard Squires, a 39-year-old predator. Squires was able to order a rideshare vehicle to bring the child to his home to abuse, after meeting via the Grindr app.

This is another major failure by Minister Sanderson, who an earlier independent review found oversaw a significant failure regarding the handling of sexual abuse cases involving two 13-year-old children under her care who were sexually abused by paedophiles. This is not an isolated incident. It is something that we know is occurring. What really disturbs me is that these are just the tip of an iceberg, as these are the tiny proportion of cases that actually make it to the courts and into the press or come to our attention in some other way.

I agree with my colleague in the House of Assembly, Ms Hildyard, that children under the guardianship of the minister are entitled to be safe, to be cared for and to be protected. I will repeat what I have said in this place and publicly before, and that is that if you are going to remove a child from their family, albeit for very good reason, then you better make bloody sure you place them somewhere safe, and you better make sure you continue to protect them. To date, you have not. To date, there continue to be systemic failures that go unaddressed, to the detriment of those very kids you have removed.

I want to take a moment to reflect on a recent InDaily interview with Jay Weatherill on this very issue. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

Sitting suspended from 13:01 to 14:15.

Parliamentary Committees

JOINT COMMITTEE ON RECOMMENDATIONS ARISING FROM THE EQUAL OPPORTUNITY COMMISSIONER'S REPORT INTO HARASSMENT IN THE PARLIAMENT WORKPLACE

The Hon. R.I. LUCAS (Treasurer) (14:16): I bring up the report of the joint committee, together with minutes of proceedings and evidence.

Report received.

NATURAL RESOURCES COMMITTEE

The Hon. N.J. CENTOFANTI (14:17): I bring up the interim report of the committee on its review of the Native Vegetation Act 1991.

Report received.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2020-21—

- Adelaide Cemeteries Authority
- Administration of the State Records Act 1997
- Architectural Practice Board of South Australia
- Dairy Authority of South Australia
- Electoral Commission of South Australia
- Office of the Director of Public Prosecutions
- Office of the Public Advocate

Privacy Committee of South Australia
Small Business Commissioner
State Planning Commission
Coronial Inquest into the death of Gayle Elizabeth Woodford—Government Response
Ombudsman SA—Audit of compliance with the Criminal Law (Forensic Procedures) Act 2007—dated September 2021
Report of a review of the operations of the Independent Commissioner Against Corruption and the Office for Public Integrity—for the period 1 July 2020 to 30 June 2021
Report of a review of the operations of the Judicial Conduct Commissioner—for the period 1 July 2020 to 30 June 2021
Determination of the Remuneration Tribunal No. 11 of 2021—Members of the Parole Board of South Australia
Report of the Remuneration Tribunal No. 11 of 2021—Inaugural review of allowances and expenses for members of the Parole Board of South Australia

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

Reports, 2020-21—
Child and Young Person's Visitor
Training Centre Visitor

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

Reports, 2020-21—
Health and Community Services Complaints Commissioner
Principal Community Visitor
SA Health's Response to the Gayle's Law Review
SA Health's response to the Deputy Coroner's Finding of 28 June 2021 into the death of Joshua Marek Stachor—dated August 2021

ANSWERS TABLED

The PRESIDENT: I direct that the written answer to a question be distributed and printed in *Hansard*.

Question Time

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:20): My question is to the Minister for Human Services regarding disability services. Minister, prior to the recent departure of its chief executive, chief operating officer and various managers and support workers, did anyone from Minda approach you as minister, your office or your department seeking assistance for the organisation and, if so, what assistance was provided?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:21): I thank the honourable member for his question. I am assuming that he is speaking in relation to the matters that have been ventilated most recently in the media. We are in regular contact with supported independent living providers on a regular basis and that includes Minda and a range of others. Throughout COVID, they have certainly contacted us and we have contacted them and in fact had regular fora on a whole range of matters to assist them during the pandemic process.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:21): Supplementary arising from the answer where the minister referred to the Minda organisation and recent publicity: in terms of the problems that Minda are experiencing that have come to light in recent days, was the minister, her office or her department contacted for any assistance in relation to those problems?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:22): I don't think Minda had actually contacted the government for assistance, but I am aware that the federal regulator, which is the NDIS commission, has been in regular contact with Minda for some time about a range of matters.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:22): Final supplementary, for the sake of clarity: minister, are you telling the chamber that you are not aware of any contact from Minda seeking assistance in relation to matters that have recently come to light to you, your office or your department?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:22): I have already answered that question.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (14:22): My question is to the Minister for Human Services regarding disability. What does the minister have to say in response to reports that a person with Down syndrome at Minda was locked in a room for upwards of five hours? How does the minister respond to comments from a medical practitioner who previously worked at Minda and who spoke on ABC radio this morning saying:

> There was screaming that I could hear and being part of the rich community that is disability, different noises are just part of our universe and that's okay, but these were screams of distress. When I tried to investigate, I was told by a support worker that was meant to be responsible for this person that it was alright to accept these screams of distress.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:23): I thank the honourable member for her question. Of course, we find any abuse or neglect or alleged abuse or neglect completely unacceptable. Locking someone in their room for five hours, as has been alleged, would clearly be in breach of restrictive practice matters; however, a really important point needs to be made in relation to these allegations. I note that Minda themselves have said that they find it unacceptable that images that were allegedly taken in April have been brought to light some six months later.

As I have regularly advised the Labor Party and particularly their shadow minister, if there are any matters that are of alleged abuse or neglect, whether they are proven or not, they need to be referred immediately to the appropriate authorities. In this case, that is the NDIS commission. I would be very concerned if there was anybody who was in receipt of any information who had not taken those steps. I think that would be very unprofessional of anybody to have not taken steps to refer these matters to the commission immediately for action.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (14:25): Supplementary: has the minister or her department done anything whatsoever to investigate these claims?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:25): The first that I was aware of the allegations that have been made today has been through the media. They have not been directed to me. If they had been directed to me, we would have referred them immediately to the NDIS commission. These things need to be referred to the NDIS commission, which is the regulator.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (14:25): Further supplementary: given that the minister clearly is now aware of these, has she taken any action to either refer these to the regulator or to investigate in any other way?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:25): We are in regular contact with the commission. We have been—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order! The Leader of the Opposition is out of order.

The Hon. J.M.A. LENSINK: As I have said—

The Hon. K.J. Maher interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: As I have said publicly, we have sought reassurances from Minda in relation to the wellbeing of their staff and their clients, but I think it is worth also reiterating what the NDIS commission has said publicly, that it is:

> …engaged with Minda on the recent changes to its leadership to satisfy us that there are no consequential impacts on the ability of Minda to comply with its conditions.
>
> At this point we do not have any information that suggests that these changes will have any direct impact on people with disability receiving supports from Minda.
>
> On specific issues in the media regarding quality of supports at Minda the NDIS Commission is aware of these allegations and is managing this matter in accordance with the NDIS rules.
>
> Any allegations of violence, abuse, neglect or exploitation of an NDIS participant should be raised with the NDIS Commission.

As I have already said.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (14:27): Further supplementary.

The PRESIDENT: Arising from the original answer?

The Hon. C.M. SCRIVEN: Yes, indeed. Is the minister saying that she has not done anything to ensure that the regulator is aware of the allegations that have been raised today?

The PRESIDENT: You can answer that, if you wish.

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:27): The regulator is clearly already aware that they are and we have had conversations with them in relation to Minda on these matters prior to—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: I know the game the Labor Party is trying to play. They don't want to refer things to the regulator.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: They would rather hold on to information about allegations of neglect so that they can use these matters to—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order, the Hon. Mr Hunter!

The Hon. J.M.A. LENSINK: It is utterly disgraceful! It is utterly disgraceful—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —that the Labor Party will throw vulnerable clients, staff and organisations—

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order, the Hon. Mr Hunter!

The Hon. J.M.A. LENSINK: —under the bus for a headline.

MINDA INCORPORATED

The Hon. K.J. MAHER (Leader of the Opposition) (14:28): One further supplementary: minister, what steps have you taken to ascertain what your statutory responsibilities are to report the information you said you heard this morning, and what moral obligation do you think you have?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:28): The honourable leader allegedly has a law degree. He knows that the regulator—

The Hon. K.J. Maher: So you have no obligation.

The PRESIDENT: Order! Listen to the answer.

The Hon. J.M.A. LENSINK: —whose name is NDIS, and I might remind the Labor Party what the 'N' in NDIS stands for: 'National' Disability Insurance Scheme. We have been in regular contact with the NDIS commission. We have been in regular contact with Minda. The regulator has made a statement.

Members interjecting:

The PRESIDENT: The Hon. Ms Bourke is on her feet. Other members of her front bench will remain silent.

MINDA INCORPORATED

The Hon. E.S. BOURKE (14:29): Thank you, Mr President. My question is to the Minister for Human Services regarding disability. How many visits has the community visitor or other state authorities made to people living at Minda who are under the guardianship of the Public Advocate and are there for the specific responsibility of the state government; and can the minister explain exactly where her legal responsibilities end and her moral responsibilities begin regarding people with disability in South Australia?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:29): In terms of the Community Visitor Scheme, I would need to seek detailed advice from the Principal Community Visitor in relation to how many clients are located at Minda.

The Hon. K.J. Maher: You haven't even asked yet.

The Hon. J.M.A. LENSINK: I would assume that there would be some there—

The Hon. K.J. Maher: Have you not even asked after all this?

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: The Leader of the Opposition is out of order.

The Hon. J.M.A. LENSINK: In terms of the boundaries of where my responsibilities lie, the legal ones are very, very clear. I have no jurisdiction—

The Hon. K.J. Maher: You have no responsibility.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —no jurisdiction as a regulator of Minda. That has changed as of 1 July 2019. In terms of being part of the collegiate group of SIL providers, we, too, in the South Australian government are SIL providers, and we provide ongoing support to a range of SIL providers, as I have already said—that we have done so, particularly during COVID times, in terms of assisting with PPE, business continuity plans, vaccinations and a range of other areas.

We have been very much with our colleagues in the SIL sector to work with them and to raise matters through the disability reform meeting. So as a fellow SIL provider and where we are in this space, when we are aware of issues with other providers we are in contact with those organisations as well as with the NDIS commission.

FESTIVAL PLAZA PRECINCT

The Hon. D.G.E. HOOD (14:31): My question is to the Treasurer. Would the Treasurer provide an update to the council on the progress of the works in the Festival Plaza Precinct?

The Hon. R.I. LUCAS (Treasurer) (14:31): There's been some media interest on this issue in the last 24 hours, evidently. My attention has been drawn to an article in the press written by Ben Wilmot about Walker Group Holdings nationally, and in that it says:

> Walker is also ready to begin construction of its…office tower at Festival Plaza in Adelaide after close to a decade of planning, debate and delays.

I am pleased to be able to inform the house that in relation to the Festival Plaza itself, now that the car park is operational—there have been ongoing works at the Festival Centre but on the plaza precinct itself—the latest advice I have had is that it should be at the stage that it can be advanced to by around about February of next year.

There are three sections of the Festival Plaza. There is one which is an apron section around the Festival Centre. Work has already commenced in relation to that. The Walker Corporation in consultation with the arm of government, which is Renewal SA and also the Festival Centre, is also commencing work on what I call the middle part of the Festival Plaza Precinct. That is intended to include highlights like arbours to provide shade for individuals during the hot summer periods that Adelaide experiences together with a water feature as part of that particular central part of the Festival Centre Precinct.

The third part, which is the bit which we are tied up against, where the office complex is going to be built, obviously cannot be done until the office complex is actually completed. Our understanding or our target we understand the Walker Corporation is aiming towards is the end of 2023, the start of 2024. For that to occur the press report would, indeed, have to be pretty accurate—that they were likely to want to be able to commence construction work on that in the very near future.

As I said, that third part of the Festival Plaza Precinct itself, which will have retail frontages at the base of those commercial buildings, as previously approved by the former government, won't be able to be completed until in and around about that time, which is 2023-24, but the main central part and the apron which surrounds the Festival Centre is highly likely to be concluded by around about February of next year, so I am advised.

The government is looking at a range of issues in relation to governance and management of the precinct—issues such as security, lighting, collection of rubbish—because obviously it's the government's vision for this particular precinct that it become one inhabited and used by thousands of South Australians, both workers coming out of the corporation building and others attracted from the CBD down to this particular precinct during their lunch breaks or after work or even on weekends where various activations will occur.

The government will have more to say on that over the coming weeks in terms of activating the precinct down there, but it is an exciting prospect. I conclude by saying I had the good fortune 25-odd years ago to chair the cabinet committee that looked at the first master plan for the Riverbank Precinct, which was the Festival Centre, the Casino and ASER development. That was the first master plan.

Twenty-five years later, we are now getting much closer to seeing what was envisaged there and that is, instead of turning our back on the River Torrens, embracing the River Torrens, encouraging it as a usable space, an attractive and friendly space for people to come down and visit, have activities and enjoy that particular precinct. The government will have more to say on that over the coming weeks.

HYDROGEN PRODUCTION

The Hon. J.A. DARLEY (14:36): My questions are to the Treasurer, representing the Minister for Energy and Mining, on hydrogen production.

1. How and when will the ambition announced recently of a 10 per cent blend of renewable hydrogen gas into the natural gas network be achieved from the present step of a 5 per cent blend achieved for only 700 customers from Hydrogen Park?

2. How does the technology of renewable hydrogen gas, created from using renewable electricity to split water into hydrogen and oxygen through the 1.25 megawatt electrolyser, fit with South Australia's Hydrogen Action Plan of some 20 actions to scale up renewable hydrogen production for export and domestic consumption?

3. How does the provision of state-owned land at Port Bonython in the Upper Spencer Gulf, with deepwater access and capacity, previously announced, lead to a hydrogen export hub?

4. How will the development of South Australia's Hydrogen Export Modelling Tool be used by companies to model the cost of producing and exporting hydrogen from South Australia, or is there a fair amount of pie-in-the-sky hope and hot air that with land provided, they, the international companies, will come and invest?

The Hon. R.I. LUCAS (Treasurer) (14:37): I am happy to refer the bulk of those questions to my colleague and bring back a reply. What I can provide some detail on, and we referred to it briefly this morning in the earlier debate today, is that the government is likely to be in a position in the next few weeks to provide a public update in terms of the expression of interest process at Port Bonython about updating the public in relation to the level of interest that the government has received in that particular process.

As I have said publicly, we have had a considerable degree of interest from national and international companies in relation to this particular proposal. The proposal is very much about the option of developing a hydrogen hub there. The proposal currently is looking at a range of opportunities which might be involved in that particular precinct. It has the attraction of being very close and connectable to large quantities of renewable energy, which is a critical element of any development of a hydrogen hub. It also has the advantage of being close to a wharf and a deep sea port—again, all critical issues in relation to the development of a hydrogen hub.

It has a lot of natural advantages, which is one of the reasons why the government has gone to market to look at expressions of interest. The fact that we have been overwhelmed by the significant degree of interest I think indicates that the market, more importantly than the government, is actually recognising (a) the importance of what we are talking about, and (b) the opportunities that present in terms of the development of a hydrogen industry in the Port Bonython precinct.

HOMELESSNESS

The Hon. J.E. HANSON (14:39): My question is to the Minister for Human Services regarding housing. Minister, in relation to correspondence sent to your office two weeks ago, why is a mother and her 12 year old living in a car, again, after the Housing Trust authority withdrew emergency housing support and, second to that, how exactly will making this mother and child homeless help them?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:39): I thank the honourable member for his question. In relation to our services, I always advise our clients that the best way for them to get services is to remain engaged with those services. The services are usually quite assertive, particularly the homelessness services. The exact details of this particular case—I can't recall what the resolution has been, but I have every confidence that the service providers are always providing appropriate support.

VOLUNTEERING SA&NT

The Hon. J.S. LEE (14:40): My question is to the Minister for Human Services regarding volunteering. Can the minister please provide an update to the council about the Marshall Liberal government's support for the important sector that is the volunteering sector?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:40): I thank the honourable member for her question, and indeed it was a great initiative of Volunteering SA&NT to urge all prospective incoming governments following the 2018 election to provide free screening for volunteers, which I am pleased that this government has been able to do, and also, through the legislation which passed a year or two ago, will exist in perpetuity. That, I understand, I think is in the order of some $8 million in fees that volunteering organisations are no longer having to pay. The flow-on effect for them is that it assists them, obviously, to recruit and to retain volunteers and also

has the impact for some organisations that people who have obtained those free screenings are also able to multitask in terms of their volunteering and assist with other organisations.

Volunteering SA&NT particularly had their AGM quite recently and I would note there has been a changing of the guard: their chair is Ms Ann-Marie Chamberlain and we thank her and other members of the board for their ongoing service to this organisation. I would like to acknowledge the long service of Ms Evelyn O'Loughlin who stood down in July after some, I think, 11 or 12 years at the helm of the organisation. I acknowledge Ms Tracey Fox as the interim CE and congratulate and welcome Hamilton Calder, who many people would know through the organisation CEDA as their new CEO.

Volunteering SA&NT has played a pivotal role, particularly during COVID, and we have been pleased to work in partnership with them. They continue to work on ways to try to recruit new volunteers, support volunteers in those roles, ensure that corporate volunteering is part of our political landscape, and find new platforms on which to work together and to alert volunteers to those opportunities.

There was a showcase at their AGM of some of the ways in which they are working or trying to recruit new volunteers. We think they are a fabulous organisation. We are very grateful that we have such a strong organisation to work with. We also pay tribute to the leadership of their founders, Ms Mavis Reynolds and the late Joy Noble, who in 1982 opened the Volunteer Centre of South Australia which has become Volunteering SA&NT and which has really ensured that we have a very vibrant and well-managed sector in South Australia.

COVID-19 RAPID ANTIGEN TESTING

The Hon. F. PANGALLO (14:44): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about rapid antigen testing.

Leave granted.

The Hon. F. PANGALLO: Rapid antigen tests are a method for detecting COVID-19 quickly. Do-it-yourself rapid antigen testing at home has become common practice in some parts of the world, but not yet in Australia. That is about to change on Monday 1 November, when 33 test kits approved for personal use by the Therapeutic Goods Administration (TGA) will be available for purchasers, except in South Australia and Western Australia.

The Pharmaceutical Society of Australia yesterday called on the Marshall government to amend current legislation to clear the way for do-it-yourself testing in South Australia. The PSA fears South Australia will fall behind the rest of the country if the legislation isn't amended, particularly in view of the 23 November deadline to open borders and ease some restrictions. PSA SA Branch President, Robyn Johns, said:

> As rapid antigen testing becomes more prevalent across the nation, South Australia risks being left behind in our COVID-19 response if these legislative changes are not made…The benefits of antigen testing are clear, hence, why supermarket giants have recently announced they will be stocking tests for personal use as of next week.

My question to the minister is: when does the government intend to amend legislation to allow rapid antigen testing kits to be made available to South Australians?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:46): I may need to be corrected, but I don't think the fact that rapid antigen tests can't be done in South Australia is in relation to any statute. My understanding is that it can't be done in South Australia because it is contrary to a direction under the Emergency Management Act. When and if it is relevant to use rapid antigen testing in South Australia, my understanding is that SA Health would give advice to the State Coordinator and he would amend the direction.

I make the point that rapid antigen testing is already being used in South Australia. It is being used in particular to test truck drivers coming into the state. It is also being trialled, I understand, by SA Health and SA Pathology, first of all to be familiar with the technology and also to consider its application.

The problem with rapid antigen testing is that it is not anywhere near as accurate as PCR testing. It has most relevance when a community has significant community transmission, and it

could be used in a range of contexts. For example, it might be used in the context of a health facility in terms of staff coming in.

Certainly, my understanding is that SA Health is not intending to recommend to the State Coordinator that that direction be changed anytime soon. In particular, it is concerned that if rapid antigen testing was available on a retail basis people may choose to purchase a rapid antigen test and not present at a testing clinic, whether it is an SA Health or a non-SA Health facility, and that as a result we would have less reliable indications. The rapid antigen testing is significantly more likely to have a false positive result.

The PRESIDENT: The Hon. Mr Pangallo has a supplementary.

COVID-19 RAPID ANTIGEN TESTING

The Hon. F. PANGALLO (14:48): So the government doesn't intend to allow these do-it-yourself kits to be made available in South Australia, whereas they are available everywhere else and also in many parts of the world, and it will be left to Professor Spurrier—

The PRESIDENT: You have asked your question. It's a supplementary.

The Hon. F. PANGALLO: It is.

The PRESIDENT: You have asked the question. The minister can respond.

The Hon. F. PANGALLO: I haven't finished it, Mr President. And it will be left—

The PRESIDENT: Supplementary questions are not to be accompanied by something approaching a second reading speech or an explanation. You have asked the question. I will ask the minister to respond.

The Hon. F. PANGALLO: Mr President, it was in relation to the response I received. What I was asking is: so these kits will not be made available and the decision will be left to Professor Spurrier and police commissioner Grant Stevens to decide whether or not these kits are made available to South Australians—

The PRESIDENT: The minister will answer the question now.

The Hon. F. PANGALLO: —like they are everywhere else?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:49): Basically, what the honourable member just asked me is: is the Marshall Liberal government intending to continue to rely on public health advice? The answer is yes.

COVID-19 RAPID ANTIGEN TESTING

The Hon. C. BONAROS (14:49): I have a supplementary: the minister says that these tests are significantly less—

The PRESIDENT: A question, please.

The Hon. C. BONAROS: I am getting there.

The PRESIDENT: You need to ask a question or I will sit you down.

The Hon. C. BONAROS: Can you quantify ‘significantly less’?

The PRESIDENT: Thank you.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:50): I will certainly take that on notice, but let's say it was 10 per cent. I think it might be in that sort of order. We are not talking about tests that have no clinical value. But in a situation where every single case counts—and that's the situation we are in at the moment—when we are in a situation where every single case counts then we need to absolutely minimise unreliable tests.

We've got the capacity to do significantly more PCR tests, so why would we increase the risk at the very cusp of reopening our borders and easing restrictions? Let's think about that. I couldn't quantify this for you but my impression is that, about four weeks ago, we had two weeks where we

had a positive truck driver every second day. Around that time, we were introducing mandatory vaccinations for truck drivers and we also added rapid antigen testing to the PCR testing.

So we weren't saying we were going to rely on rapid antigen testing for this risky cohort, but what we did say is we are going to take the benefit of rapid antigen testing to give us early advice as to whether or not this person might be positive. They would continue to be subject to all of the public health requirements while we were waiting for the PCR to come back.

My recollection is that about two weeks ago we had about two weeks where every second day we had a positive truck driver. In the two weeks since, my recollection is we haven't had a positive truck driver. Again, as I confessed to the house yesterday, I am not a scientist, but at least circumstantially that might suggest that our testing regime for truck drivers, the imposition of mandatory vaccination, might well be having an impact.

Those initiatives are so crucial at this stage. We are just two days short of the one month before we reopen the borders and ease restrictions. This is a high-risk period. If we were to have an outbreak now, we would not have the level of vaccination that the public health teams believe is appropriate for borders reopening and easing restrictions, and we may well be faced with an outbreak, as three jurisdictions have to our east.

I do want to stress both to the Hon. Frank Pangallo and to the Hon. Connie Bonaros that SA Health is not ruling out rapid antigen testing. We are already using it in the context of truck drivers. There are other contexts in which it may well be used within the South Australian context, but it's SA Health's view that it is best deployed by SA Health for targeted relevant situations, and retail purchasing and use of rapid antigen testing is not one of those targeted situations.

COVID-19 RAPID ANTIGEN TESTING

The Hon. C. BONAROS (14:53): Further supplementary: how many false positive tests or false negative tests were identified during that period that the minister referred to when those tests were used?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:53): I certainly will need to take it on notice but I might actually, with your indulgence, Mr President, just clarify the question so I am coming back with the right answer. Is the honourable member's question: since we have introduced rapid antigen testing for truck drivers, how many of those rapid antigen tests turned out to be wrong once we got the PCR result back?

The Hon. C. Bonaros: Yes.

The Hon. S.G. WADE: That wasn't bad, was it? I will certainly bring an answer back to the honourable member because I think it's a very interesting point. Let's put it this way, every time you have a false negative, that would have been the risk of an outbreak.

COVID-19 RAPID ANTIGEN TESTING

The Hon. F. PANGALLO (14:54): Has SA Health indicated to you that they do not want these test kits made available to the general public?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:54): The comments I heard from the Deputy Chief Public Health Officer earlier today was that—this is Emily Kirkpatrick, as there are four deputy chief public health officers—she did expect that the prohibition would be lifted in the future, but she did not indicate at what point.

Certainly, if we had an outbreak and, God forbid, we suffered a significant community outbreak before 23 November and in a better situation to deal with it, then it may well be sooner rather than later. But, God forbid, we would hope that we can continue with the current strategy and that the broader use of rapid antigen testing is some way off.

ELECTIVE SURGERY

The Hon. I. PNEVMATIKOS (14:55): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding health.

Leave granted.

The Hon. I. PNEVMATIKOS: Tony Hodgetts was marked urgent for cataract surgery at the Royal Adelaide Hospital over 12 months ago. Tony is rapidly going blind and requires glaucoma treatment. This cannot happen until the cataracts are removed. For 12 months now Tony's case has been cancelled, deferred and buck-passed. Tony has reached out to the minister's office on several occasions, but advises that he has received ill-informed, standard responses and more buck-passing. My questions to the minister are:

1. Does the minister think it is acceptable for South Australians to be going blind from preventable causes under his watch?

2. Will the minister commit to properly investigating Tony's terrifyingly long wait for a simple procedure?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:56): It is self-evident that this government does not believe it is acceptable that people experience long elective surgery waits, and that is exactly why in the most recent budget the government invested $20 million in elective surgery.

I will certainly check the records in terms of the case the honourable member refers to, but my general advice to people who are waiting is to make sure they stay in contact with their GP, that their GP is aware of their current circumstances and, if an update in terms of their clinical state or their personal circumstances is appropriate, then the GP can get in touch with the clinic.

Certainly, eye services is an area where there are waits, and it is an area of concern to the government, which is why we are investing significant amounts of money to help ease the list. That involves partnerships with the private sector. All of the metropolitan hospitals, as I understand it, have partnerships with private hospitals to help bring down those lists.

COVID-READY ROAD MAP

The Hon. H.M. GIROLAMO (14:58): My question is to the Minister for Health and Wellbeing. Minister, can you update the council on how the government is preparing our health system as part of South Australia's COVID-Ready Plan?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:58): I thank the honourable member for her question. As members of the council are aware, South Australia's COVID-Ready Plan road map was released this week, which outlines the stages for the safe reopening of borders and easing of restrictions in South Australia. The government has made a series of announcements in recent weeks in relation to strengthening our health system to manage COVID cases in the future.

Today, another announcement was made. As part of the Marshall Liberal government's COVID-ready response, we are investing $5.5 million in the development of a COVID care centre, a rapid assessment and treatment centre at the Royal Adelaide Hospital. The COVID care centre at the RAH will be the first of several hubs that will play a key role in the treatment and care of COVID-positive patients. COVID care centres will help keep South Australians safe by ensuring that they get the care they need when we open up our borders and learn to live with COVID in our community.

The centres will be rolled out across regional and metropolitan areas as needed. Importantly, the care centres will reduce the need for COVID-positive people to present in our emergency departments. It is anticipated that about 50 people a day would seek to access COVID care centres. A person would need to be referred by a rapid assessment team or by a GP. It would not be, in that sense, a walk-in facility. The government will also establish a number of supervised COVID-19 care facilities for South Australians who are unable to safely isolate and require care.

I am pleased to inform the council that, in addition to the rollout of the COVID care centres, the Marshall Liberal government continues to boost our health response with almost 400 more beds across the system.

I would like to take this opportunity to thank our health workers in South Australia for the vital role they have played throughout the pandemic, in particular the GPs who are working with the SA Health team, particularly those working in the GP Assessment Team, who will continue to play a central role in the management of COVID-positive people in the context of the COVID care centres.

Our community care response will be coordinated by SA Health and delivered in partnership with a range of primary care providers. I want to stress again the importance of getting vaccinated. We know that those who remain unvaccinated are at greater risk of experiencing more serious illness and, potentially, hospitalisation. With walk-in appointments now available across our state, I encourage all South Australians to step up and be vaccinated.

CITIZENSHIP CEREMONIES

The Hon. T.A. FRANKS (15:01): I seek leave to address a question to the Leader of the Government, the Treasurer, representing the Premier and the Attorney-General, on the subject of—

The PRESIDENT: So you are seeking leave to make an explanation?

The Hon. T.A. FRANKS: I seek leave to make a brief explanation.

The PRESIDENT: Leave is granted.

The Hon. T.A. FRANKS: I haven't actually given you the topic yet, Mr President.

The PRESIDENT: The topic is?

The Hon. T.A. FRANKS: The topic would be the Marshall opposition promise to preserve the 26 January date for council citizenship ceremonies.

Leave granted.

The Hon. T.A. FRANKS: It's now four years—24 October 2017, to be exact—since the Marshall opposition promised that in government they would amend the Local Government Act to uphold the 26 January date for Australia Day citizenship ceremonies, ensuring that councils would be banned in this state from observing other days for those ceremonies. At the time, explaining their move, the Marshall opposition stated that they loved Australia Day and wanted to make sure it remained the same. They noted that they had not consulted Aboriginal communities and, while it wasn't reported, it seemed that they also hadn't consulted local government.

I asked this question just over 400 days into this government and I ask it again four years on: has the Marshall Liberal government had any consultation on this pledge of theirs at the 2018 election to ensure that Australia Day on 26 January was observed by local councils with local government, Indigenous groups or anybody in the community? Did they ever draft instructions or prepare any materials requesting this legislation be effected? And will they be rolling out this dog whistle politics in the upcoming election yet again?

The Hon. R.I. LUCAS (Treasurer) (15:03): In listening to the honourable member's question, I just sort of recoiled at how grating the sound of 'Marshall opposition' is compared to 'Marshall Liberal government'. It has a terrible ring to it. It reminded me of terrible, terrible distant days of the past. Let's hope that they don't return.

In relation to the honourable member's question, I am happy to refer the member's question to both the Premier and/or the Minister for Local Government. I suspect probably the Minister for Local Government, if it was a pledge to amend the Local Government Act. What I would do in willingly referring the question is certainly reject the notion that a love and a passion for Australia Day in any way—

Members interjecting:

The PRESIDENT: Order! The Treasurer will resume his seat. I think the Hon. Ms Franks deserves the opportunity to hear the response because members of the opposition just seem to think it is a little humorous afternoon here. I think the Hon. Ms Franks should have the opportunity to hear the Treasurer. The Treasurer has the call.

The Hon. R.I. LUCAS: Mr President, there is certainly nothing humorous about the Treasurer of the state, I can assure you. That is something upon we can all agree. What I was about to say in conclusion, whilst agreeing to refer the member's question I suspect to the Minister for Local Government, is that I would certainly reject completely the inference or notion that a love and a passion for celebrating Australia Day is any way construed as being dog whistle politics.

MINDA INCORPORATED

The Hon. T.T. NGO (15:05): I have a question to the Minister for Human Services about disability. Given reports that Minda receives around 20 per cent of its funding from the Marshall state government, can the minister explain why she only thinks the commonwealth NDIS is responsible for any issues with the organisation, and not South Australia?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:06): I thank the honourable member for his question. I did read that in the paper with some interest. I am not quite sure which financial year it would have been. There you go, it is the 2019-20 annual report, so that is not even the most recent annual report.

The NDIS transition was completed on 1 July 2019. Certainly, in terms of the programs within DHS that are funded to Minda, there is only a very small program, that is, for an occasional number of what we call voluntary out-of-home care clients which is generally speaking adolescents whose behavioural challenges have meant that they need to particularly have some respite care otherwise they may be at risk of being diverted into the child protection system. There are generally only very small numbers of those, so I am not quite sure where that 20 per cent figure comes from.

But certainly in terms of jurisdiction for NDIS clients, it is very clear through the legislation—I am not going to repeat it again; well, maybe I should because the Labor Party seem to not have the capacity to comprehend that the 'N' in NDIS stands for national, and the regulator is the NDIS commission.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (15:07): Supplementary: in regard to the funding that the minister mentioned, is she also aware of other funding, for example, disability inclusion grants and other grants provided by the state government to Minda?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:07): I thank the honourable member for her supplementary question. What she would be referring to would be one-off grants more than likely through the Grants SA program. They are provided to a very large number of organisations across the state. If she is talking about a particular disability inclusion round, I am not quite sure how that would make up anywhere near the quantity of funding. I was surprised to read that 20 per cent figure and I do point out that it is not even the last financial year—well, certainly not the current one because that wouldn't be reported yet. It is not the most recent financial report: it is the 2019-20 financial year.

MINDA INCORPORATED

The Hon. C.M. SCRIVEN (15:08): Further supplementary: can the minister therefore clarify exactly how much funding is provided to Minda by the state government?

The PRESIDENT: I point out that you are responding to the last answer and the supplementary should be around the original answer, but if the minister wishes to respond I will let her.

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:08): I referred to the programs which are within my portfolio. The honourable member, if she wishes to explore that option with every other portfolio—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —then she can raise those issues with other relevant ministers.

WOMEN'S SAFETY

The Hon. N.J. CENTOFANTI (15:09): My question is to the Minister for Human Services regarding women. Can the minister please update the council on how the Marshall Liberal government is supporting South Australian women to make informed choices about their safety?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:09): I thank the honourable member for her important question. Indeed, there are a range of services that the Marshall Liberal government has initiated since we came to office. Indeed, through our partnership with the commonwealth government—through funding which is being provided through the Women's Safety Ministers ministerial partnership money—we have been able to expand on a number of services.

One of the important ones which we took to the last election and which has been funded is the Domestic Violence Disclosure Scheme. What that scheme enables people to do, if it is either someone that they know or someone who is in a relationship themselves, is to contact police to inquire into somebody's history to see if there is a record of use of violence in their past.

I think we have all had the experience, whether it is a sister or a friend or anyone that we know who has formed a new relationship and we have that sense that there is something that is not quite right about that person—the person in the relationship often cannot see that because they are just so over the moon that they have fallen in love with someone, so sometimes that needs to be done on behalf of someone else.

The way that the process works is that an application will be made to SAPOL. SAPOL will examine the record, and they will get in contact with the person who is in the relationship. That has reached a very important milestone. We have now had over 1,000 applications to the scheme, with 360 meetings called between police and a specialist DV support worker to discuss safety issues with that person. So that is a very important way for people to be able, in those earlier stages, to check whether somebody has a history that they may need to consider and receive that counselling.

In this particular program, 98 per cent of the applications were from women; 66 per cent were women with children in their care; 39 per cent were received from regional areas; and nearly 63 per cent of the people who accessed the scheme hadn't been connected with a domestic violence service before. So it is a very important part of some of our earlier services that people can access so that we prevent people from falling in the crisis end.

Anybody who is experiencing domestic violence, that is of course something that we want to be able to prevent in any way, and this is just one of the many ways in which we are working towards keeping women and children safe.

HEALTH WORKFORCE

The Hon. C. BONAROS (15:12): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing and/or the Treasurer a question about our public health medical workforce.

Leave granted.

The Hon. C. BONAROS: Our public health doctors are already grappling with excessive workloads and high levels of fatigue in an already under-resourced system that is struggling to meet patient demand, and that is even before any impacts of COVID after the borders open. The impacts will happen; it's just a matter of how severe.

There is now increasing concern from our medicos about the ramifications of those impacts and fears the government will move to legally force them to work 24/7 when full impacts hit. For one, these dedicated professionals don't need to be told—need to be forced—to work round the clock, seven days a week. They do it and will do it regardless—that whatever-it-takes attitude, as they have already shown. Two, any forced direction to make doctors work will cause chaos between SA Health and doctors. My questions to the minister are:

1. Is the government preparing, planning or considering any changes to the directions made under the Emergency Management Act regarding the working hours or conditions of the medical workforce?

2. Will the minister give a commitment that the government will not use those powers to direct the state's medical workforce to undertake work contrary to the laws of the state, which includes work contrary to the enterprise agreement under which they are employed?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:13): On a technicality, I suppose, the Emergency Management Act isn't committed to me, but I can certainly indicate that I'm

not aware of any suggestion that Emergency Management Act powers would be used to override state industrial law, and my view is that they wouldn't be able to.

The PRESIDENT: Supplementary, the Hon. Ms Bonaros.

HEALTH WORKFORCE

The Hon. C. BONAROS (15:14): Has the minister sat down with the workforce and discussed what the government anticipates the coming workload requirements will be and how best to manage them?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:14): Let me assure you, there are discussions at various levels with the SA Health team, and I mean that in the broadest sense—DHW, local health networks, SAAS—both with our workforce and with the organisations that represent them. The government is continuing to develop plans and our employees are an important part of developing those plans.

ROYAL ADELAIDE HOSPITAL

The Hon. R.P. WORTLEY (15:15): My question is to the Minister for Health and Wellbeing regarding health:

1. Why is an intensive care unit room at the RAH being used as a studio for a film crew?

2. Can the minister guarantee that no filming has happened by crews working on behalf of the Liberal Party or as part of the government's upcoming pre-election advertising blitz?

3. Who exactly authorised the filming in the intensive care unit room?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:15): I am advised that the filming that the honourable member refers to was an education video for the blood management unit at the Royal Adelaide Hospital. It does defy my imagination as to why the Liberal Party would find any value in that footage, but I am happy to be enlightened by the member.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. T.J. STEPHENS (15:16): My question is to the Minister for Health and Wellbeing. Minister, can you please update the council on the new designs for the car park and outdoor space for the new Women's and Children's Hospital?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:16): I would like to thank the honourable member for his question. The new Women's and Children's Hospital will be a hospital that all South Australians can be proud of. The Marshall Liberal government has committed $1.95 billion—

The Hon. J.M.A. Lensink: How much?

The Hon. S.G. WADE: I'm sorry: $1.95 billion to the new hospital, which will be, importantly, co-located with the Royal Adelaide Hospital and will include more treatment spaces, more beds, bigger emergency departments and more car parks—

The Hon. J.E. Hanson interjecting:

The PRESIDENT: The Hon. Mr Hanson!

The Hon. S.G. WADE: —than the current site. We want to give the children and women of this state the best possible facilities and the best possible care, but we also want to build a hospital in a way that sits well with its environment, and that includes the hospital car park plan for the western side of the railway from the new hospital site on Port Road.

The Hon. J.E. Hanson: 'We're going to. We're going to do this. We're going to do that.' Four years of it.

The PRESIDENT: The Hon. Mr Hanson is out of order.

The Hon. S.G. WADE: After receiving feedback from the Adelaide City Council, the Adelaide Park Lands Authority and the public, SA Health has revised its proposal and almost halved the

footprint of the proposed car park in a bid to reduce the impact on the western Adelaide Parklands. The footprint has been reduced from 15,400 square metres to 8,350 square metres by using a more vertical structure.

Originally, the car park design protruded into Kate Cocks Park. Now it doesn't—it sits up against the railway. The design is more sensitive to the heritage and environment of the Parklands, which is important to the government and to the council, as well as to the Women's and Children's Hospital patients, staff and visitors and the broader South Australian community.

The new design of the car park will in fact enhance opportunities to enjoy what is a relatively disused part of the Parklands near the Adelaide Gaol and the Thebarton Police Barracks. It includes the rejuvenation of existing unused land into a new landscaped outdoor space and amenities for hospital families and the wider community. The design will give this unused area an opportunity to come alive.

The additional outdoor areas will provide connections to nature and outdoor spaces for patients and families, which we know offer much-needed respite for women and children during their hospital journey. There will be better pedestrian and cycling links to Port Road, North Terrace, the new Women's and Children's Hospital, the Royal Adelaide Hospital and the Adelaide biomedical precinct. There will also be connections to Bonython Park and the River Torrens Linear Park trail.

Despite the smaller footprint, there will still be 1,215 car parks at the site, almost double what is available at the current site. So many times, South Australian families have said to me, 'It's so hard to get a park at the Women's and Children's Hospital.' That will be fixed when this new hospital is delivered. We recognise that parking can be difficult at the current site and we want to make sure the new site is better.

In terms of the proposal for the part of the new Women's and Children's Hospital that will be west of the railway line, the government has listened to the Adelaide City Council and the Adelaide Park Lands Authority and the general public. Although the council has yet to approve a wider rezoning of the Riverbank area, I am advised that the revised car park option has been well received by council. A motion, I am advised, has been passed, enabling council officers to continue to work with the new Women's and Children's Hospital project team on the revised car park design.

On behalf of the government—and for that matter on behalf of the Department for Health and Wellbeing, on behalf of the Women's and Children's Hospital network and the project teams that are working with them—we certainly assure the council and stakeholders that we are determined to continue to work with them to make sure this important project is the best that it can be and that it sits well within the Adelaide Parklands.

Auditor General's Report

AUDITOR-GENERAL'S REPORT

The Hon. R.I. LUCAS (Treasurer) (15:21): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General 2020-21 to be referred to a committee of the whole and for ministers to be examined on matters contained in the report for a period of one hour.

Motion carried.

In committee.

The CHAIR: I note the absolute majority.

The Hon. K.J. MAHER: I refer to Part C, pages 448 and 449, under the heading 'Audit findings'. Page 448 of the report states:

The SAHT has engaged five multi-trade contractors (MTCs) to maintain its properties at a cost of about $115 million a year.

The report goes on to say:

We noted that the SAHT is automatically approving MTC contract variation requests for maintenance orders in excess of $1000, contrary to the Treasurer's approved variation to TI 8.

That is, Treasurer's Instruction 8. The report goes on to say:

> The Treasurer has approved a variation to TI 8 that enables MTCs to perform additional work on existing orders up to a value of $1000 per maintenance order without obtaining the SAHT's pre-approval, provided certain conditions are met. Under the TI 8 variation, the SAHT must continue to pre-approve any order variations above $1000.

The report goes on to say:

> We noted, however, that the automatic approval limit set in Connect was $5000 and not $1000. This has resulted in the automatic approval of order variations in excess of the Treasurer's approved variation limit.

It continues on page 449 by saying:

> The SAHT responded that to comply with the TI 8 variation it would have to review and pre-approve an additional 79,000 to 89,000 transactions annually.
>
> In the short term, and as an interim control, the SAHT has advised us that it will introduce testing of a sample of variations between $1000 and $5000…These proposed changes do not result in compliance with the Treasurer's approved variation to TI 8.

My questions to the minister are, firstly, is compliance with Treasurer's Instruction 8 and other Treasurer's Instructions voluntary or mandatory?

The Hon. J.M.A. LENSINK: The advice I have received is that, yes, it is indeed mandatory. The reason for the change in the limit is a computer setting. The agency is in discussions with Treasury and Finance, and Treasury and Finance are aware of the complications for the organisation, because clearly, with the large number of transactions that occur through maintenance, having a lower setting certainly slows down work and will have an impact on individual orders.

The Hon. K.J. MAHER: In relation to the same issue, is the minister aware of what authority Treasurer's Instructions are issued under? Is there a legislative mandate and are there consequences for not complying with Treasurer's Instructions? Are there any sanctions for noncompliance?

The Hon. J.M.A. LENSINK: I think that goes outside the actual findings that are in the Auditor-General's Report. He is asking me a policy question, which he is more than welcome to ask me in question time.

The Hon. K.J. MAHER: The Auditor-General's Report said:

> These proposed changes do not result in compliance with the Treasurer's approved variation to TI 8.

The minister is obviously not aware, but they are issued under section 41 of the Public Finance and Audit Act, and each breach is a criminal offence with a penalty of up to $1,000. My question is: given these proposed changes do not result in compliance, who is it who is responsible for compliance if a law is broken in relation to this? Is it the minister, the chief executive or the individual officer?

The Hon. J.M.A. LENSINK: I refer the honourable member to my previous answer.

The Hon. K.J. MAHER: Just to clarify, the minister has outlined that there is difficulty meeting the changes and they informed the Auditor-General that they would do it differently; that is, go up to $5,000. The Auditor-General says these proposed changes do not result in compliance with the Treasurer's Instruction that has force under the Public Finance and Audit Act and there is up to a $1,000 criminal offence for each breach.

My very simple question is: is the minister honestly saying, after this was issued—this is not a new thing that the minister has just heard of today; this was in the Auditor-General's Report—that neither she nor anyone giving her advice has any idea who is responsible for what can be criminal offences, up to $1,000 a time, when, as the report says, there could be somewhere between 79,000 and 89,000 individual breaches?

The CHAIR: Before the minister responds, could you just give me the proper referral for the bit you are referring to?

The Hon. K.J. MAHER: As I said earlier as I started the question, I am referring to Part C, pages 448 and 449, under the heading 'Audit findings'.

The CHAIR: Thank you.

The Hon. J.M.A. LENSINK: What was the question?

The Hon. K.J. MAHER: I just asked a question.

The Hon. J.M.A. LENSINK: Yes, what was it?

The CHAIR: The leader has the opportunity to repeat it.

The Hon. K.J. MAHER: I went through and asked the minister a question. Obviously, the minister was otherwise distracted from answering a question. It is a little disappointing. These are exceptionally serious questions. As we have just outlined, on the SAHT's own admission, between 79,000 and 89,000 of these transactions the audit says do not result in compliance with the Treasurer's variation to a Treasurer's Instruction. The Treasurer's Instruction has legislative force under section 41 of the Public Finance and Audit Act, with the consequence of not complying being a criminal offence.

Minister, given that this was reported in the Auditor-General's Report, this will not be news to you or your advisers or your department. Who is responsible for these breaches? If a prosecution of 80,000 breaches of the Public Finance and Audit Act were to take place, are you as minister going to be the defendant or is it your chief executive or is it an officer from your department?

The Hon. J.M.A. LENSINK: I thank the honourable member for his clarification. I think it is a bit of an absurd proposition that someone is about to be arrested for paying maintenance bills. As I said in my original response, the agencies are aware that these particular payments do not comply and they are working towards a resolution. But the corollary is perhaps that the Labor Party thinks that we should slow down all the work, which would slow down maintenance and people's Housing Trust properties should be left with their maintenance—

The Hon. I.K. Hunter interjecting:

The CHAIR: The Hon. Mr Hunter is out of order.

The Hon. I.K. Hunter: For goodness sake!

The CHAIR: The Hon. Mr Hunter is out of order. The minister has the call and will be heard in silence.

The Hon. J.M.A. LENSINK: I always know when I hit a nerve when the—

Members interjecting:

The CHAIR: Next question.

Members interjecting:

The CHAIR: Order!

The Hon. I.K. Hunter interjecting:

The CHAIR: Order, the Hon. Mr Hunter!

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

The CHAIR: The minister is out of order too.

The Hon. J.M.A. LENSINK: Sorry, Mr Chair.

The Hon. K.J. MAHER: My next question is: given the minister's admission that slowing down work is an excuse for breaching the law, what authority has the minister sought to be able to be in breach of the law in this way?

The Hon. J.M.A. LENSINK: I do not think the budget papers refer to anyone about to be arrested or in breach of the law. I have provided an explanation of the work that is going on by agencies to address this particular matter.

The Hon. K.J. MAHER: Minister, are you aware of what the penalty is for failing to refer misconduct, maladministration or corruption to our public integrity agencies?

The Hon. J.M.A. LENSINK: Mr Chair, I would like to perhaps point out—and this is no reflection on yourself, of course, good sir—but these particular questions are not like estimates, where members have the opportunity to start going to other matters that are external to them. They are findings—

The Hon. K.J. Maher interjecting:

The CHAIR: Order, leader! Listen to the minister.

The Hon. J.M.A. LENSINK: The Auditor-General has not referred to going and arresting anybody for payment of maintenance contracts.

Members interjecting:

The CHAIR: Order! I think we are got getting anywhere here. The reality is that these are questions relating to a page in Part C of the report. They have been canvassed at some length, and I will give the leader a little bit more, but I think it will be time to move on to other issues because your time is ticking down. You can probably pursue that once more and then we will move on to something else.

The Hon. K.J. MAHER: Minister, are you concerned that Treasurer's Instructions are not being complied with, and have you or any members of your executive team previously been found to have committed misconduct or maladministration by an integrity body?

The Hon. J.M.A. LENSINK: That is just an offensive question. I have responded to this line of questioning and if the honourable member wants to introduce matters that are not direct findings within the audit report, then he can address those in question time.

The CHAIR: We will move on to the next issue, I think.

The Hon. K.J. MAHER: In relation to maintenance expenditure generally, I think the Auditor-General refers to an expenditure total of around $115 million per annum.

The CHAIR: Once again, where is that in the report?

The Hon. K.J. MAHER: Part C, page 448 and 449.

The CHAIR: Thank you.

The Hon. K.J. MAHER: How much of the amount that was spent was above $1,000?

The Hon. J.M.A. LENSINK: I do not have that detail about how many of those transactions were above or below a thousand dollars.

The Hon. K.J. Maher: That's just not true.

The CHAIR: Order! Listen to the answer.

The Hon. K.J. Maher: It says 79,000 to 89,000—you are just not telling the truth now. It is in the Auditor-General's Report.

The CHAIR: Well, if you knew the answer, why did you ask the question?

The Hon. K.J. Maher interjecting:

The CHAIR: Listen to the minister's answer.

The Hon. J.M.A. LENSINK: I do not have the exact number.

The Hon. K.J. Maher: You have no idea.

The CHAIR: Order! The Leader of the Opposition, this is not the normal question time. You do get a fair bit of latitude, but let's listen to the minister's answer and then you can have another question, if you wish.

The Hon. J.M.A. LENSINK: I have answered.

The CHAIR: Next question, the Hon. Ms Bourke.

The Hon. E.S. BOURKE: I refer to Part C, pages 449 and 450. The heading at the bottom of page 448 refers to the 10-year housing strategy, and the top of page 449 says:

> The strategy contains 33 actions, which are a mix of short, medium, long-term and ongoing actions. The SAHT is the lead on 26 of the actions, which include:
>
> - improving the sustainability of the social housing system by introducing a system-wide strategic asset management approach, including strategic asset disposal and investment.
> - building up to 1,000 affordable houses.
>
> In August 2021, the SAHT Board report received a report advising that 12 of the 33 actions were complete and 21 were on track.

My question is: can the minister provide a copy of the report to the South Australian Housing Trust Board that details progress of the actions in the strategy?

The Hon. J.M.A. LENSINK: I thank the honourable member for her question. I think we can take that one on notice and provide some responses in relation to some of those details.

The Hon. E.S. BOURKE: If the minister is unable to provide the copy, which she has not been able to today, can the minister at least provide the action numbers that are considered complete and those that are considered on track?

The Hon. J.M.A. LENSINK: Yes, we can certainly do that.

The Hon. E.S. BOURKE: How many of the strategy actions specifically use the term 'older people'?

The Hon. J.M.A. LENSINK: I do not have a copy of the strategy on me, but there are several. I think we have some that refer to 'ageing in place' in particular and others that may refer to older people, who clearly are one of the cohorts. We certainly have programs that are specifically directed towards older people. I recently made an announcement in relation to a brand-new set of units that we have built at South Plympton. There are several cohorts and they are particularly one of our priorities.

The Hon. E.S. BOURKE: Can the minister confirm that there is actually one action in the strategy that specifically refers to older people about share housing?

The Hon. J.M.A. LENSINK: The Labor Party do love to play book club. 'Let's pull out a report and compare notes about whether this word is or this word isn't in.' Older people are one of the cohorts that we do particularly consider as an area of responsibility. It is not just through this particular strategy, but through our homelessness strategy, so I am not quite sure what the honourable member is trying to get at, but we do try to address all needs. Obviously, we do have a number of people who are already in our social housing system who are older, particularly a number of aged pensioners who may well have been in the system for some time and who are some of our greatest tenants.

The Hon. E.S. BOURKE: I am guessing the minister will not know the answer for this one either, but how many actions in the strategy include the word 'disability'?

The Hon. J.M.A. LENSINK: Indeed, I think the strategy by the Labor Party to employ word bingo ignores the fact that we do service all of our clients. There are a great number of them. A number of our clients have disabilities. We are particularly building at least 75 per cent of new housing to silver standard. Indeed, there are some 28 of the properties, which is a joint venture with Unity Housing at Henley Beach, which are to silver standard, so that address is not just for people who might wish to age in place but for people with disabilities. People can unexpectedly have disabilities, whether that is through trauma or illness or a range of things. These are things that we all hope will not happen to us but could happen to anyone.

The Hon. E.S. BOURKE: Can the minister explain how action 3.7 achieves 'bridging the gap between social housing and private rental and home ownership' when it simply jacks up rent in public housing?

The Hon. J.M.A. LENSINK: Can I just point out that the Auditor-General's hearings are not like estimates hearings, where members have the opportunity to have a very broad range of questioning. They are specifically to the findings of the Auditor, which relate to public—

The Hon. K.J. Maher interjecting:

The CHAIR: The Leader of the Opposition is not helping.

The Hon. J.M.A. LENSINK: —finances. I have indulged them with their little, petty games, but I would draw their attention—

Members interjecting:

The CHAIR: Order!

The Hon. J.M.A. LENSINK: —back to the findings of the audit report—

Members interjecting:

The CHAIR: Order!

The Hon. J.M.A. LENSINK: —which are contained in here, rather than strategies, which are separate documents.

The Hon. C. BONAROS: I have a question in relation to child protection and the KPIs that are set out in the Auditor's report, firstly, for foster carer reviews. The report states that there was a list of KPIs that set the minimum service level expected by DCP. One of those was to measure the percentage of foster carer reviews completed and submitted.

In 2019-20, there was no available mechanism for monitoring that and the Auditor was subsequently told that a new mechanism would be available in 2021. However, it now appears that that is in place but performance management with service providers had not begun when the report was completed. Can the minister confirm whether that reporting has actually commenced since that time?

The CHAIR: It would be helpful to the Chair if there was a reference.

The Hon. C. BONAROS: Pages 66 and 67 of the Auditor's report.

The Hon. J.M.A. LENSINK: I will need to take that on notice because the formal hearings for that session, I think, were yesterday in the House of Assembly, but I am more than happy to take that on notice and get a response for the honourable member.

The Hon. C. BONAROS: Can you also take on notice whether the KPI data documented under the heading of 'No documented key performance indicator data for temporary staffing services contracts' has also now commenced or been made available? On page 68, the Auditor states that 33 per cent of performance development plans remain overdue at the time of the report, as at 1 December 33 per cent of the PDPs were overdue. The Auditor states:

> DCP advised us that it recently procured a system to improve and streamline the performance development process [for that process]

Can we confirm that that process has indeed been implemented and commenced as well?

The Hon. J.M.A. LENSINK: I am certainly happy to take those on notice and bring back a response for the honourable member.

The Hon. E.S. BOURKE: Going back to the previous reference, Part C, pages 449 and 450. When the strategy refers to, and I quote, '20,000 affordable housing solutions', can the minister explain what the difference is between a home and a housing solution?

The Hon. J.M.A. LENSINK: The definitions that we are referring to are: when we are talking about a home, we are talking about bricks and mortar; when we are referring to housing solutions or housing outcomes, it is broader than that and includes a lot of the financing issues such as whether it is HomeStart or shared equity or a range of those other solutions.

The Hon. E.S. BOURKE: How long does a person need to be housed before the minister counts it as a housing solution?

The CHAIR: I am going to ask the member to repeat the question because I did not hear it really.

The Hon. E.S. BOURKE: How long does a person need to be housed before the minister counts it as a housing solution?

The Hon. J.M.A. LENSINK: I do not even understand what that question means, I am sorry.

The Hon. E.S. BOURKE: We will move back to Part C, pages 448 and 449, under the heading 'Audit findings'. How many of the 1,880 empty public housing properties, as revealed in the recent FOI, would be repaired and tenanted now if the agency had complied with the Treasurer's Instructions that exist to make sure that public money is spent properly?

The Hon. J.M.A. LENSINK: I am sorry, can the honourable member refer to the page which talks about vacancies?

The Hon. E.S. BOURKE: I have it under pages 448 and 449 of Part C.

The Hon. J.M.A. LENSINK: I cannot find a reference to it. I think the honourable member is seeking to use a bit of poetic licence, and I just draw the council's attention to the fact that this is examination of the findings in the Auditor-General's Report.

The CHAIR: I have not been able to find what the honourable member is referring to on those pages either, so perhaps we will move on. Further questions?

The Hon. K.J. MAHER: I might indicate that given the inability of the minister to answer some of the most basic of questions, we are happy to move on to the Minister for Health and Wellbeing.

The CHAIR: When the minister has his adviser, we will commence. First question, Leader of the Opposition.

The Hon. K.J. MAHER: I refer to Part C, page 152, where the Auditor-General notes that the locum medical services contract had no contract management plans, no contract manager responsible and no meeting held with suppliers since February 2020. The Auditor-General at that place also notes the cost of services at $19.5 million. My first question in relation to this area is, and I will have a few: noting the cost of providing locum doctors was $19.5 million, what was the cost of the same (providing locum doctors) in the previous year, and what is the projected expenditure for the current financial year?

The Hon. S.G. WADE: In terms of the issue the honourable member raises, on page 153 it indicates that the department advised that it would establish a contract management plan for the locum contracts by 31 December 2021. In relation to the information the honourable member seeks, that is in the custody of the local health networks rather than—sorry, I will correct that. It may be that the department holds that information, and we will take that on notice.

The Hon. K.J. MAHER: I thank the minister for that. I appreciate that the minister will not have all the answers to questions about things the audit report touches on, and I do appreciate that he is taking that on notice and that if he can provide the information—if it is able to be brought together—he will. Can the minister confirm that the comments I read out at the start on page 152 are correct in that the Auditor-General refers to the fact that the government had zero meetings with locum medical service providers over almost the last two years?

The Hon. S.G. WADE: Could the honourable member highlight where he is referencing that statement?

The Hon. K.J. MAHER: The statement of the Auditor-General notes that locum medical services had no contract manager and no contract plans. I think the minister himself in the answer to the last question went on to talk about how it was attempting to be remedied. It also says that there were no meetings held with suppliers since February 2020.

The Hon. S.G. WADE: Sorry, with all due respect, I am still unable to find that reference.

The Hon. K.J. MAHER: Perhaps if the minister could take it on notice to see if there were meetings held with contract suppliers?

The CHAIR: To assist the minister, can you describe a line—

The Hon. K.J. MAHER: I have summarised it, taking from it earlier, sir, so I appreciate—

The CHAIR: Alright, next question.

The Hon. K.J. MAHER: The minister referred in his answer before about what remedies were being taken to take into account the concerns that have been raised by the audit in relation to locum contract management. Can I just check—and it may have been touched upon in what the minister read out before—is there now a contract manager overseeing the locum contract? If so, what level position is that person at?

The Hon. S.G. WADE: My recollection is that the locum service providers have been procured, at least substantially, through a locum services panel—in other words, whole-of-health contracts—which then local health networks engage in. My expectation therefore is that there would be both contract management responsibilities maintained at the DHW level and there would be contract management maintained at the LHN level, particularly the regional LHN level. It may well be that staff who are responsible for the management of these contracts are responsible for other contracts as well.

The Hon. K.J. MAHER: I appreciate that and it may well not be the case that there is an individual appointed for the management of these contracts. I am wondering if the minister—and I appreciate he will not have this level of specificity today—could take on notice, both at the LHN level and the broader level, and not the name of an individual, it may be the name of the position that at least in part looks after those contracts?

The Hon. S.G. WADE: I am happy to give the council advice on how those contracts are managed between the department and the LHNs and the nature of the staffing.

The Hon. C.M. SCRIVEN: I refer to Part C, page 176, where the Auditor-General flags country doctors' contracts as a matter of concern. My questions to the minister are: what is the status of the rural doctors agreement which will secure new contracts for country doctors, and does the minister agree that there is an urgency for him as minister to ensure that there is an outcome to this dispute?

The Hon. S.G. WADE: My understanding is that the fee-for-service agreement, mentioned on page 176, expired some time ago. Certainly, I have been concerned about the delay in finalising an agreement and in that context, in consultation with the Australian Medical Association and the Rural Doctors Association of South Australia, I have appointed a facilitator to try to progress a resolution.

The Hon. C.M. SCRIVEN: The Auditor-General refers to the fact that he has been reporting on this since 2018. Can you advise how many contracts with country doctors have now expired and at what locations?

The Hon. S.G. WADE: My understanding is that, somewhat like an EB, the out-of-date fee-for-service agreement would continue to operate until it is replaced by a new agreement.

The Hon. C.M. SCRIVEN: The Auditor-General says that many GPs and clinics were operating without updated agreements, so how many of these non-updated agreements are there and in what locations?

The Hon. S.G. WADE: I do not have that information.

The Hon. C.M. SCRIVEN: Will the minister take that on notice and bring that to the chamber?

The Hon. S.G. WADE: If it would not be administratively unreasonable, in the sense there are a lot of doctors, but I will certainly seek that information from LHNs and if it can be reasonably obtained we will do so.

The Hon. C.M. SCRIVEN: I refer to Part C, page 244. Paramedic workers compensation claims effectively doubled since the last financial year, according to the report, increasing by $17.1 million to a total of $35.5 million. The report states that this was largely attributable to several new claims related to seriously injured workers. My questions to the minister are: how many workers compensation claims have been made in the past year in the South Australian Ambulance Service and how many were there in the previous year?

The Hon. S.G. WADE: I would underscore the fact that this is based on actuarial assessments. In terms of the number of claims, I will take that on notice.

The Hon. C.M. SCRIVEN: Does the minister know how many of the SAAS workplace compensation claims in the past year and the previous year were in relation to fatigue, exhaustion, mental health or stress?

The Hon. S.G. WADE: No, I do not have that information.

The Hon. C.M. SCRIVEN: Would you take it on notice and bring it back to the chamber?

The Hon. S.G. WADE: Yes, I can certainly take that on notice.

The Hon. C.M. SCRIVEN: Thank you. How many claims in total are SAAS now managing in terms of workers compensation and how does that number compare to the previous year?

The Hon. S.G. WADE: With all due respect, Mr Chair, I think we are wandering very much towards estimates and a long way away from A-G's. I have addressed the issue in terms of the actuarial assessments and I have gone to the level of indicating that I will seek further information on seriously injured workers.

The Hon. C.M. SCRIVEN: I would just like to place on the record that I do not accept the assertion that it is seriously deviating. It is in reference to specific things that are mentioned in the Auditor-General's Report. However, I will move to Part C, page 158, where the Auditor-General notes that $144 million was spent on COVID stocks with no guidelines on tracking the frequency of stock counts. He notes discrepancies between records and actual stock that could not be explained and zero procurement records or written contract for $47 million worth of PPE stock sitting in a freight supplier's warehouse. What was the $47 million of PPE in a freight warehouse that was without a contract, what type of stock was it and who was the supplier?

The Hon. S.G. WADE: In terms of the context of this reference, I would underscore that May 2021 was very soon after 1 February. The audit was in May 2021, but the PPE stock we are referring to is since March 2020. That was a month after the start of the pandemic, so I make the point that there were significant challenges in SA Health managing the pandemic. In that context, there were holdings of PPE from time to time at the freight company, and that was significantly related to the fact that we had significant needs to get PPE in and we had limited warehousing. As we show on, let's call it the fourth paragraph from the bottom, the one that starts 'DHW responded':

> DHW responded that the arrangements were organised to minimise risk to the timely delivery of critical clinical goods and commenced in the same month as South Australia declared a public health emergency.
>
> DHW also advised us that:
>
> > a contract variation had now been approved and a letter of variation would be issued to the supplier…
> >
> > the stock was counted once a year in line with its inventory policy, and it would review and document the methodology supporting stock counts at the freight company's warehouse.

The Hon. C.M. SCRIVEN: The Auditor-General's Report says—and I am specifically stating in the top paragraph on page 158—'At the time of our audit in May 2021, the freight company held approximately $47 million of DHW's PPE', etc. It is saying that at the time of the audit it held that, so I ask the question again: what type of stock was it and who was the supplier?

The Hon. S.G. WADE: Since March 2020, the PPE stock has been held in the freight company. The audit in May 2021 showed that it was approximately $47 million. In other words, throughout the pandemic it has gone up and down. The nature of the PPE I am happy to take on notice. I would hazard a guess that it is masks and gowns.

The Hon. C.M. SCRIVEN: So is the minister saying that at May 2021 there was not $47 million worth of PPE in the warehouse, contrary to the Auditor-General's statement?

The Hon. S.G. WADE: The advice I have received is that the level of PPE stock would have gone up and down in that period. At times it might have been more than $47 million, at times it might have been less than $47 million, but at that time of the audit, May 2021, it was approximately $47 million.

The Hon. C.M. SCRIVEN: For what period of time was there no contract for the stock, and is there now a contract in place?

The Hon. S.G. WADE: The financial authority to vary the contract was not obtained until July 2021.

The Hon. C.M. SCRIVEN: Have all of the supplies worth $47 million that were in the warehouse in May 2021 now been used?

The Hon. S.G. WADE: I do not have the answer to that.

The Hon. C.M. SCRIVEN: Are there any other large stockpiles of stock for which there is no contract?

The Hon. S.G. WADE: Not that I am aware of.

The Hon. C.M. SCRIVEN: Have guidelines on tracking COVID supplies now been implemented?

The Hon. S.G. WADE: I refer the honourable member to page 158, where it indicates in relation to this matter that the department said it would develop a contract management plan.

The Hon. C.M. SCRIVEN: My question is: has that been developed as yet?

The Hon. S.G. WADE: We will take that question on notice.

The Hon. C.M. SCRIVEN: If it has been put in place, can that be provided to the chamber?

The Hon. S.G. WADE: I will certainly see if that is possible.

The Hon. C. BONAROS: The Auditor has reported that as at 30 June 2021 approximately—

The Hon. S.G. WADE: Sorry, can I have the page reference?

The Hon. C. BONAROS: It is 32. I am reading directly from the page. It says, 'At 30 June 2021 approximately 1.5 million COVID-19 tests had been conducted in South Australia by SA Health and external laboratories.' Does the minister know what the overall cost of that testing regime has been?

The Hon. S.G. WADE: This is page 30 of Part A.

The Hon. C. BONAROS: Page 32.

The Hon. S.G. WADE: Yes, testing, down the bottom. 'At 30 June 2021 approximately 1.5 million COVID-19 tests had been conducted in South Australia by SA Health and external laboratories.' You would like to know the cost of them?

The Hon. C. Bonaros: The cost of that testing regime.

The Hon. S.G. WADE: In terms of SA Health, I think we do have that information. I will just see if it might not be in here. We are just quickly seeing if we can identify that in relation to SA Pathology costs, but I would make the point that my understanding is that the private pathology providers are accessing commonwealth funding through the MBS program, so those costs would not be covered by us.

For the sake of curiosity, my understanding is SA Pathology alone is approaching two million tests now so, if you like, the battle goes on. If we can readily identify the costs of the tests that SA Health have delivered through SA Pathology, we will certainly pass those on, but the question as it relates to private pathology providers would be a matter for the commonwealth, not the state.

The Hon. C. BONAROS: On page 253 of the Auditor-General's Report, there is a section that relates to the use of Sunrise EMR. There were issues raised around the review processes for that and some responses from SALHN that it would review Sunrise EMR user access in September 2021, following activation, and then annually, and then develop a work instruction to support that user access review process and so on. Can the minister confirm whether that process has actually commenced?

The Hon. S.G. WADE: As the honourable member indicated, SALHN did respond to say that they would review Sunrise EMR user access. They are going to develop a work instruction, and as part of user access control Sunrise accounts are being disabled if they have not been used for six months. I will certainly seek an update from the network and provide that to the honourable member.

The Hon. C.M. SCRIVEN: I refer to Part C, page 261, the report says:

> Staff from both WBSA and DHW's Procurement and Supply Chain Management team (PSCM) were responsible for elements of the procurement of My Home Hospital services.

The Auditor-General cites numerous issues with the government's My Home services procurement on page 151, including changes to the evaluation team's membership and voting rights with no explanation, failure to properly approve conflict of interest management plans and deviations from the acquisition plan with no assessment or documentation. What conflicts of interest have been recorded as part of this procurement?

The Hon. S.G. WADE: I would make the point to the honourable member that on page 148 the Auditor-General lists a series of procurements, six in particular: the My Home Hospital procurement; the GE Health Care; the Urgent Mental Health Care Centre; the SDAATS program, which is drug and alcohol; pathology collection consumables; and mammography equipment.

The department then goes through a number of themes, a number of issues across those contracts, and the department indicates its response. In terms of the specific question that the honourable member asked in relation to any conflicts of interest in relation to My Home Hospital, I am happy to take that question on notice.

The Hon. C.M. SCRIVEN: What specific conflict of interest management plans failed to receive the appropriate approval, and are they now appropriately authorised?

The Hon. S.G. WADE: I do not have that information available; I will certainly take it on notice.

The Hon. C.M. SCRIVEN: Is the minister saying that he does not know whether it is still undertaking procurements without appropriate conflicts of interest plans in place, even though I think this was raised by the ICAC back in 2019?

The Hon. S.G. WADE: With all due respect, the issues that were raised by the ICAC commissioner are not about conflict of interest management plans in relation to these procurements.

The Hon. C.M. Scriven interjecting:

The CHAIR: Order! The Hon. Ms Bonaros has the call.

The Hon. C. BONAROS: I have a couple of questions in relation to the Women's and Children's Hospital. I refer to page 268 of the report, where under the heading 'Limited workforce planning for medical officers' the Auditor highlights that the Women's and Children's Hospital has not to date implemented a specific workforce strategy, and without such the Auditor goes on to say that the ability of the hospital to effectively manage this employment group may be impaired, impacting its overall ability to meet strategic and operational objectives. What measures have been put in place to ensure that that plan is now being implemented?

The Hon. S.G. WADE: On page 268, two paragraphs after where the honourable member's quote started, it indicates that WCHN responded that SA Health is committed to developing a whole-of-health workforce strategy. My understanding is that WCHN is seeking to dovetail their local framework into that whole-of-health workforce strategy.

The Hon. C. BONAROS: Has that work commenced?

The Hon. S.G. WADE: The development of a whole-of-health workforce strategy has commenced, but it has not been completed.

The Hon. C. BONAROS: When is it expected to be completed?

The Hon. S.G. WADE: I am happy to take that on notice.

The Hon. C. BONAROS: In relation to consultancy engagements involving the Women's and Children's Hospital, there was one case identified—and this is at the bottom of page 268—where an example of a consultancy engagement for $240,000 was approved by the chief executive officer, rather than the chief executive of DHW. The Women's and Children's Hospital Network responds that this is an isolated incident. Does the minister have any details about the consultancy engagement that cost $240,000 that is referred to there?

The Hon. S.G. WADE: No, I do not, and if I could anticipate the honourable member's next question, I am happy to take that on notice.

The Hon. C. BONAROS: I am mindful of time, so I might quickly go to one question on correctional services for the minister.

The Hon. S.G. WADE: I am not the Minister for Correctional Services.

The CHAIR: No, but your colleague took one previously on a referral.

The Hon. C. BONAROS: I just have to find it now, sorry.

The Hon. C.M. SCRIVEN: I am referring to Part C, page 151, on the same topic as previously. Why was the membership of the evaluation team altered and why were some evaluation team members' rights altered? Can you say who left and who was added?

The Hon. S.G. WADE: I am happy to take that question on notice.

The Hon. C.M. SCRIVEN: In what way was the acquisition planned for this procurement deviated from?

The Hon. S.G. WADE: Could I remind honourable members that the Auditor-General did this audit and has not qualified the accounts for the department. The Auditor-General has audited the accounts of the department and has not qualified them. What I take from that is that certainly the Auditor-General has raised issues that he believes need to be addressed. The department has provided their response to the issues raised and their proposed actions and, as I said, the Auditor has not qualified the accounts. In relation to the specific issue the honourable member raised, I will take that on notice.

The Hon. C. BONAROS: In relation to correctional services on page 76, 'Employee benefit expenses', there is a decrease by $9.5 million, due mainly to salaries and wages costs of $5.3 million and TVSPs. Can the minister advise how many of those were directly related to staff from the Adelaide Remand Centre prior to the outsourcing?

The Hon. S.G. WADE: On behalf of my honourable colleague, could I clarify that you mean prior to the outsourcing and not including—

The Hon. C. BONAROS: Including the outsourcing, sorry.

The Hon. S.G. WADE: I am certainly happy to take that on notice for my colleague in the other place.

The Hon. C.M. SCRIVEN: I want to place on the record our appreciation to the ministers for their cooperation and expansive answers today.

The CHAIR: Even that of the Treasurer, who was not required. I conclude the examination of the Auditor-General's Report.

Bills

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO AND OTHER JUSTICE MEASURES) BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. C. BONAROS (16:26): Prior to the break, I was talking about the amendments that relate to the Children and Young People (Safety Act) 2017 which allow the Chief Executive of the Department for Child Protection to give a direction to prevent a person from communicating with a child who is in custody or under guardianship of the chief executive and the importance of that.

I said that I would repeat what I have said in this place before, that is, if you are going to remove a child from their family, albeit it for very good reason, then you better have a very good reason for doing so and you had better ensure that they are placed somewhere safer than they were previously and that they are protected. To date, you have not. To date, there continues to be systemic failures that go unaddressed to the detriment of those very kids who have been removed from their families.

I want to take a moment to reflect on a recent InDaily article, which included an interview with Jay Weatherill on this very issue. It is not often we hear from a former minister, in this case a former Premier, acknowledging their government got something monumentally wrong, but a few days ago that is precisely what Mr Weatherill did when he said, 'We got child protection wrong. But it's still not right.' It was his single biggest regret.

As highlighted by Mr Weatherill, this Marshall Liberal government has found to its discomfort that what happens inside families continues to occur under its watch. He acknowledged 'there isn't a child protection system anywhere in the world that's going to stop bad things happening' and we acknowledge that too. He said that with the best interests in the world 'sometimes bad things will happen' and that is unfortunately also correct.

He said, 'The whole investigation/removal paradigm is what's wrong with our system,' and yet our removal numbers are through the roof. That is also correct. He acknowledged 'the idea of removing children should be a last resort' and never in my view has a truer word been uttered than that by Mr Weatherill in this article in that respect. He said 'the aim of child protection is not to stay out of trouble but to learn to live in trouble'.

That is probably the most telling comment I took from this interview. It is the crux of the issue that we are dealing with, and it is at the heart of where we have gone so wrong with our child protection system. I do not accept that the political criticism of the former government or indeed the current government is unfair, and perhaps that is where I part company with the views expressed by the former Premier because from where I sit, and I have been outspoken on this issue as have others, nothing I say or do is done for political mileage.

We speak out and do so loudly because these issues are systemic because they continue to occur and they continue to let our kids down, and they result in extraordinarily tragic outcomes for our most vulnerable community members. That is the tragedy of our child protection system and that is why I think that more absolutely needs to be done in an apolitical sense to address those failures, but also in a political sense. It is also the reason we are fully supporting this amendment.

In terms of the remainder of the bill there are a number of amendments that we either do not support or are concerned about. We have asked questions and expressed concern about the amendment of section 84 of the Mental Health Act, as it has the practical effect of denying legal representation to those most likely to be able to least afford it and those who most need legal representation.

I agree with the Law Society that access to justice and legal representation are fundamental tenets of our justice system and especially for our vulnerable and marginalised people. I note the government's claim that most of these reviews are conducted on the papers, but this is a complex process, and those with mental health issues deserve and often need all the help they can get to navigate these so that they are not further disadvantaged.

This provision has, as I understand it, been in place for some nine years, and while I acknowledge the government's rationale for the change they are proposing, I am indicating now to the minister that this is something I would like to clarify on the record during the debate.

I note that the Hon. John Darley and the Hon. Robert Simms and, indeed, the Treasurer have all filed amendments to this bill. I indicate our support for the Treasurer's amendments, and I understand that the Hon. Rob Simms has amendments that accord with the concerns around the changes to the Mental Health Act that I have outlined, although I am not sure that we are actually proceeding with those amendments, but I would like the government to place on the record the assurances that they have provided to members or the rationale or explanations that they have provided to members in order to overcome the need for that amendment.

I have some questions about the amendment filed by the Hon. John Darley seeking an independent inquiry into foster care and kinship care, but as members in this place well know, we support a complete root-and-branch review and reform of the entire child protection system, and I think that is something that should be placed in that basket.

As I have highlighted, this is a large grab of amendments in one bill and in the very last days of this sitting year, many of which are minor fixes, fixing I think obsolete references or definitions, but there are some changes in there which I think are worthy of fleshing out a little further during the committee stage debate. With those words, I indicate our support for the second reading.

The Hon. R.I. LUCAS (Treasurer) (16:32): I thank honourable members for their contributions to the second reading and look forward to the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. K.J. MAHER: I rise to briefly indicate that, as I have said, we will be supporting this bill. I think I indicated in my second reading speech there were concerns about the Mental Health Act, amendments to that act that are part of this bill. There has been discussion that has happened this morning that I think has put many members' minds at ease over that, so I can indicate we do not have amendments to move. I understand from discussions the Hon. Robert Simms will not be moving his amendment and will be supporting the government amendment, so that will be the sum total of my contribution in the committee stage of this bill.

The Hon. R.A. SIMMS: Further to the comments made by the Hon. Kyam Maher, I confirm that I will not be pursuing my amendment, the reason being that I have received advice from the government that a number of the agencies involved, including the Legal Services Commission, are supportive of the changes that the government has proposed.

In particular, the Legal Services Commission had expressed some concerns. I understand that if the changes were not implemented it could impact on their fee structures and obviously I do not want to see that outcome. On that basis, I will not be proceeding with the amendments. I think it would certainly be helpful if the government put on the public record the advice that he has given me and the Hon. Kyam Maher to satisfy the other members of this place.

The Hon. C. BONAROS: I thank the Hon. Mr Simms for those comments. I did receive information at the briefing. My understanding was that this issue had arisen post that. If we clarify this now, we can do away with any concerns and ensure that this is a fix that everybody is supportive of. I understand it applies to the automatic review of short-term treatment orders. I think it would be most helpful if the government placed some clarification on the record.

The Hon. R.I. LUCAS: Firstly, to both of you: can you just clarify what you are asking me to put on the record on behalf of the Attorney, because I have not been involved in discussions.

The Hon. C. BONAROS: The information that I received at our briefing was that this related specifically to the automatic review of short-term treatment orders. It is a timing issue, as I understood it. It relates to legal representation on reviews or appeals. The government's advice to me was that

most of these reviews are conducted on the papers and we just want to make sure that everybody is comfortable with the change that is being made in relation to basically removing the legal representation entitlement in those situations.

The ACTING CHAIR (Hon. I.K. Hunter): The Hon. Mr Simms on the Treasurer's informal question.

The Hon. R.A. SIMMS: Yes, just to reiterate what the Hon. Connie Bonaros has said. I also want to apologise to members of this place. I should have sent an email around this morning explaining that I was not going to be pursuing the amendment, so I apologise for not doing so. The morning got away from me, so I do apologise for that.

The ACTING CHAIR (Hon. I.K. Hunter): I am sure honourable members will understand. I call the Treasurer in response.

The Hon. R.I. LUCAS: I am sure honourable members will be very forgiving, not having been involved in any of the discussions to which they have referred. I have been provided with some information. I will read that onto the record. I hasten to say that if that is not exactly what it was you were seeking, I am sure you will advise me and I will seek further advice.

What I have been provided with in response to the questions both from the Hon. Mr Simms and the Hon. Ms Bonaros is as follows. The Chief Psychiatrist is supportive of the amendment and SACAT have confirmed that it is an appropriate amendment that reflects the nature of the reviews that are undertaken under section 79. The Legal Services Commission, which facilitates the vast majority of legal representation for reviews under the Mental Health Act, has advised that it has no issues with the amendment proposed as there is no need for a legal representation for SACAT's pro forma review of the papers.

I am sure the Hon. Mr Simms will be gracious in accepting this explanation has been drafted on the basis he was moving the amendment, so it might seem a little like it is highlighting the inadequacies of the amendment. That is not intended by me. Let me give the substance of the government's position and see whether that responds to your questions.

This amendment would remove the amendment to section 84(1) of the Mental Health Act in the bill and is opposed. The effect of the amendment to section 84(1) is to exclude reviews under section 79 from the scheme for government-funded legal representation. Section 79 of the Mental Health Act requires SACAT to undertake reviews on specified grounds on its own accord, i.e. when a level 2 community treatment order is being made in relation to a child three months after the order was made; a level 1 inpatient treatment order was made after a person had previously been on an order which had been revoked or expired; an extension of a level 2 inpatient treatment order was made; a level 3 inpatient treatment order has been made in relation to a child three months after the order was made.

Amending the bill is consistent with and clarifies the manner in which the review scheme in the Mental Health Act currently operates. In practice, initial reviews of treatment orders under section 79 are conducted by SACAT on the basis of written reports and treatment plans; in other words, on the papers. That seems to be a phrase the Hon. Ms Bonaros has used.

These initial reviews are not the same as a review instigated by an agreed party. Rather, they are an automatic review by SACAT that was included as an initial safety measure. Legal representation would be counter-productive at this stage as it would delay reviews and potentially result in people being detained on short-term treatment orders for longer. SACAT has confirmed that there are no instances of legal representation being provided for reviews under section 79. This amendment does not affect reviews; it effectively appeals against earlier decisions such as those under sections 81 and 83.

The Chief Psychiatrist is supportive of the amendment and SACAT have confirmed that it is an appropriate amendment that reflects the nature of the reviews that are undertaken under section 79. The Legal Services Commission, which provides or facilitates the vast majority of legal representation for reviews under the Mental Health Act, has advised that it has no issues with the amendment proposed, as there is no need for legal representation for SACAT's proforma review of the papers. It does not see any issues with the amendment proposed by the government.

The ACTING CHAIR (Hon. I.K. Hunter): Clause 1: any further contributions?

The Hon. C. BONAROS: No, other than to indicate that we are satisfied that is in line with our understanding and with the response provided.

Clause passed.

Clauses 2 to 19 passed.

Clause 20.

The Hon. R.I. LUCAS: I move:

Amendment No 1 [Treasurer–1]—

Page 10, after line 25—Insert:

(1a) Section 10(1)(e)—after 'order' insert:

(including any condition the Parole Board is able to impose under section 11(1)).

Section 11 of the HRO act sets out the conditions the parole board can impose on extended supervision orders. Subsection (1) allows conditions to be imposed requiring the person subject to the order to reside at a specified address, undertake particular activities and programs, and be monitored by an electronic device.

Amendment No. 2, as moved, inserts an additional subparagraph (ia) to clarify the Parole Board's powers to place conditions limiting the movements outside the home of high-risk offenders under extended supervision orders. In practice, this may be a curfew or close supervision at home.

Amendment No. 1 is consequential on amendment No. 2. It makes a change to section 10 to clarify that the Supreme Court can impose the same conditions under section 10 as the Parole Board under section 11(1). There are a number of high-risk offenders. The people working with the HRO provisions regularly notice ways in which the act could be clarified or improved. These amendments have been included as part of the suite of amendments to the HRO provisions, in order to provide greater clarity for the courts, legal practitioners and those who may be the subject of such orders.

Amendment carried; clause as amended passed.

New clause 20A.

The Hon. R.I. LUCAS: I move:

Amendment No 2 [Treasurer–1]—

Page 10, after line 31—Insert:

20A—Amendment of section 11—Conditions of extended supervision orders imposed by Parole Board

Section 11(1)(a)—after subparagraph (i) insert:

(ia) remain at the person's residence during a specified period and not leave the residence at any time during that period except for a specified purpose, or in specified circumstances; or

The Hon. R.I. LUCAS: I am advised this is consequential, so I have already given an explanation for it.

New clause inserted.

Clauses 21 to 29 passed.

The ACTING CHAIR (Hon. I.K. Hunter): The Hon. Mr Darley, new clause 29A?

The Hon. J.A. DARLEY: I will be withdrawing this amendment for an independent inquiry into foster care and kinship care, to assist the government with its legislative agenda. I also filed this amendment under the Children and Young People (Safety) (Miscellaneous) Amendment Bill. I place on the record that foster and kinship carers are very anxious for this independent inquiry to proceed,

but the government seems reluctant to bring their own legislation to a vote with this amendment and those of other parties.

Clauses 30 to 46 passed.

Clause 47.

The Hon. R.I. LUCAS: I move:

Amendment No 3 [Treasurer–1]—

Page 18, lines 6 to 16—This clause will be opposed

The amendment in clause 47 is no longer necessary, as the timing of the Ombudsman's annual report is dealt with in clause 40 of the Independent Commissioner Against Corruption Amendment Bill 2021. That bill recently passed both houses and is awaiting assent. Clause 40 of the ICAC bill inserts new section 29B into the Ombudsman Act. Subsection (1) provides that:

(1) The Ombudsman must, before 30 September in each year, prepare a report on the work of the Ombudsman's office during the preceding financial year.

I am therefore moving that clause 47 of this bill, which dealt with the same issue, be deleted.

Clause negatived.

Remaining clauses (48 to 55) and title passed.

Bill reported with amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (16:47): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CONSTITUTION (INDEPENDENT SPEAKER) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 27 October 2021.)

The Hon. R.A. SIMMS (16:48): I rise in support of this bill. This is an opportunity to reform our parliamentary democracy. These opportunities do not come along very often. The Greens have long advocated for the benefits of having an independent Speaker, that is, somebody who removes themselves from their political party and therefore is able to act as an independent umpire. This is a model that is not without precedent in democracies around the world. Indeed, it is a model that has been used very effectively in the United Kingdom.

There has been a lot written about this by academics who are much more expert in these matters than myself, but there is one article I want to quote from. Ryan Goss from the Australian National University wrote in *The Conversation* in an article dated 21 July back in 2015 that 'A truly independent Speaker could renew Australia's parliamentary democracy.' One of the observations he made, and I think it is a very fair point, is that by making the Speakership a political gift of the party in power, Australia is missing a major opportunity for democratic renewal of its parliament. I think that is a fair point.

We have seen over the years what can happen when you have a politicisation of the role of Speaker. Obviously, we have seen some quite dramatic examples of this over in Canberra. Bronwyn Bishop, when she was not helicoptering around, seemed to show a fairly partisan approach to the role of Speaker. We do not want to see that here in our parliament. From the Greens' perspective, though, in order for us to support this bill we want to get an assurance from other political parties that they will support the idea of an independent Speaker of this house.

The PRESIDENT: You are downgrading the role.

The Hon. R.A. SIMMS: President. Apologies, Mr President. Of course, we do have that model at the moment under your leadership, and I think that has been very successful, but we want to ensure that, in the future, when a President is appointed, they recuse themselves from political party meetings. I would certainly welcome an undertaking from the political parties that that is something they will commit to doing if they are in government, because of course, if we put this scheme in place in the House of Assembly, we should then do so here in this place.

The other point I want to make is the Greens recognise that there are lots of things that need to be done to modernise the way that this chamber works in practice. Enshrining the principle of an independent President is important, but also we would like to look at standing orders more broadly, looking at questions like Dorothy Dixers and the way in which they work in practice. These are things that I think many in the community would regard as a waste of time.

We also want to look at the times in which this chamber operates, the start times, and align them more closely with the House of Assembly, ensuring that we do not have sittings that go into the early hours of the morning but rather we work more sensible hours that are more inclusive of those with families and more in keeping with community standards. We look forward to having the opportunity to talk to other parties here in this place about those elements and would certainly welcome a commitment from the political parties to consider those things.

To sum up, this is an exciting opportunity to reform our political system, to get in place this idea of an independent umpire, to enshrine that principle in the House of Assembly and to also get a commitment that we are going to look at it here in this place too, and to look more broadly at how we can improve the way in which this house of parliament works to ensure it is more in line with community expectations.

The Hon. K.J. MAHER (Leader of the Opposition) (16:53): I rise to speak to and in support of the bill that we have before us. I think the independence of the Speaker is an important issue. The Hon. Robert Simms has indicated some areas where in Australian parliamentary history the independence might not have been as independent as many would like it to be.

There are constitutional barriers to replicating it for the Legislative Council. Something I have only learnt in this term of parliament is the Constitution Act imposes different requirements on changing these sorts of things in the House of Assembly and Legislative Council. It needs a referendum for the Legislative Council, whereas it needs more simply a change in the Constitution Act for the House of Assembly.

I think in my experience, however, the potential problems this seeks to address do not tend to afflict us in the Legislative Council as some people feel they do in the House of Assembly. Certainly, from my experience, firstly as a Chief of Staff to a Labor minister in the Legislative Council in 2002 up until now, nearly 20 years later, as a member of the Legislative Council, I think, by and large, the Presiding Officer, including yourself, sir, has acted independently and quite fairly.

Our former colleague the Hon. David Ridgway might have been a bit annoyed at just how independently former President McLachlan might have often taken his duties, but it is a reflection that, in my experience, the presiding officers in this chamber have acted fearlessly and impartially on the whole.

The worst thing, in my time observing presidents of this chamber, is I can remember very early on in my time as a Chief of Staff former President, the Hon. Ron Roberts, repeating a comment he heard on the floor when he was challenged, 'What did I say wrong', and he swore from the chair, but that is about as extreme as I think I have seen a Presiding Officer in this chamber.

Having said that, I take the point the Hon. Robert Simms has made, and I can say that it would be the intention of a Labor government, if a Labor member became the presiding officer of this chamber in the future, to not just act independently but to show that independence by not participating in the general day-to-day party room activities of the party. From memory, I think former Speaker Michael Atkinson in the lower house chose to do that when he was Speaker, not just to show acting independently but to be seen to be acting independently, which I think is important.

I can also place on the record that on some of the issues the Hon. Robert Simms has raised in relation to Dorothy Dixers and starting times we are absolutely prepared, in very good faith, to

have discussions about any possible changes to those in the future. Having said that, I indicate and place on the record that we will support this bill today and we will not support the government amendments.

The Hon. R.I. LUCAS (Treasurer) (16:56): I rise to contribute a government view to the bill that has been moved, and to indicate our very strong opposition and explain the reasons for our very strong opposition. A range of other issues have been addressed by other speakers and I would say, for example, in relation to the issue of Dorothy Dixers that in my long experience, and certainly in the last 25 years, this government at least was prepared to address the issue of Dorothy Dixers.

With great respect, I would ask the Hon. Mr Simms to go and have a look at the performance of the last government and the length of some replies from the backbench that the Hon. Mr Hunter delivered on behalf of the government and the Hon. Ms Gago, where they went for some 15 to 19 minutes in prepared answers to Dorothy Dixer questions.

We, with our changes to standing orders, indicated publicly that, in relation to questions from our own backbench, we would seek to limit our responses as ministers to four minutes. You will see the President and the past President sometimes remind ministers who might forget that issue.

Occasionally, presidents have interpreted the commitment I gave on behalf of the government to be four-minute answers to every question—that was not the case; it was in relation to Dorothy Dixers that came from our own backbench. The frustration from opposition was to listen to ministers reading out page after page of prepared material.

It is entirely reasonable for members of parliament to be able to, particularly if one in this bill is espousing the independence of at least one member—and I am sure the crossbenches espouse their own independence—allow members of a government backbench to be something more than statues sitting on a backbench, unable to even ask a question of a minister.

How you would come to that provision I am interested, but certainly do not support. I think a self-imposed restriction, which we have certainly for the first time done, is a very useful step in terms of allowing government backbenchers to raise questions, and ministers to put on the public record sometimes public information, which the opposition might not want to put on the public record.

That is all part of the public service, I believe, but not doing it in such a way as to dominate or take away too much of question time. The overwhelming percentage of the time in question time is certainly given to the opposition and the crossbench, with almost unlimited supplementary questions and the like and almost unlimited, on occasions, screaming and yelling and interjecting and being called to order by the President at the time.

There are issues that can be addressed and we believe for the first time that we have been prepared to seek to address them. We have sought to address getting as many questions in as we can. Indeed, I think it was only yesterday or Tuesday when I was asked to whether or not we should do more Dorothy Dixer questions or questions from the backbench and we said, 'No, let's leave it to the crossbench' and the crossbench got a very significant number of questions on that particular day. So I can only say that, as Leader of the Government for the last four years, I have striven to reverse the experience that we endured for 16 years in relation to those particular issues.

For the first time, we have seen some movement in relation to standing orders, having been moribund for a long period of time under the former government. At least during this four-year period, there have been a very significant set of standing order changes, in particular one that was so arcane as to be ridiculous, which was thou shalt not refer to any proceedings, even though they were public, of a committee of the parliament before it had reported, and those sorts of things. We are about to next week. We will have a very significant debate in relation to a code of conduct to be incorporated into the standing orders. Whilst those issues were addressed by other members, they are related of course, but they are not the subject of these particular provisions.

The two broad issues that I want to address in relation to this are in the nature of the amendments that we are going to be moving, but I make the initial comment in relation to people quoting the workings of the House of Commons and comparing it with South Australia's House of Assembly. The House of Commons has 650-odd members. The notion that very often you are going

to have a hung parliament or a very close parliament the maths dictates is highly unlikely. Of course, it can happen, but it is highly unlikely.

However, when you are in such a small house, like a House of Assembly with 47 members, there have been any number of examples over the last 30 or 40 years when there has been either a hung parliament or indeed we have had independent Speakers. There was Speaker Peterson going back a long time and Speaker Lewis going back. Speaker Stott, going back to the period from 1968 to 1970 under the Hall government, held the balance of power and was the Speaker, so you go back over the decades in South Australia.

Because we have such a small number and it is so much easier than it is for the House of Commons to have a balance of power position in the House of Assembly, the whole notion that you can easily cobble onto our system the same system of the House of Commons has hairs on it, if I can use a colloquial expression. It is certainly not something that I can see is appropriate or logical in relation to the operations of our parliamentary democracy in South Australia. As I said, it is easy to quote that this happens in the House of Commons, but in doing so people have to recognise the difference between the House of Commons and the House of Assembly.

One of the issues that my amendments seek to address is self-evident in its logic and that is if there are members in this chamber and indeed members in the House of Assembly who believe that there should be an independent Speaker, this whole notion that you shall have an independent Speaker for 3½ years and then at the most controversial, the most frenetic, period of the election cycle, nine months before the election—and we are going through this at the moment before the election—all of a sudden you say, 'Alright, all bets are off. Thou shalt not have an independent Speaker. We will now have a partisan Speaker.'

So you have somebody who is supposedly independent for 3½ years but when it really gets controversial, when it gets frenetic, when you are leading into an election campaign, you say, 'The independent Speaker is no longer independent. For this nine-month period, they go back into their political party.'

Heaven forbid if there was to be a Labor government and they appointed the Hon. Mr Koutsantonis as the Speaker of the House of Assembly, what we are being asked to contemplate is that for 3½ years he would excuse himself from the party room and he would not be a partisan Speaker—I pause and take a deep breath at that particular contemplation—but then, when it really gets controversial, when it really gets tough and we are leading into an election, the Hon. Mr Koutsantonis hops back into the Labor Party, puts his Labor Party hat on and, as you lead into an election, you no longer have an independent Speaker.

When we get to the committee stage my question to those in these chamber, including the Leader of the Opposition, is that if you are serious about this, if you are serious about having an independent Speaker, then you should be supporting the amendment that we are moving, because if this bill is going to go through, then you will have an independent Speaker for the four years. You do not have an independent Speaker for 3½ years and then just when it is convenient, six months before the election, they hop back into their Labor togs or their Liberal togs and join up with the party and become a non-independent or a partisan Speaker for that particular period.

As I said, when we get to the committee stage, I will be asking those who claim that they are going to support this as to how they can explain in simple and rational terms how you have an independent Speaker for 3½ years but at the most controversial time of the election cycle, you have a situation where the Speaker is no longer independent and becomes everything evidently that the majority in this chamber potentially believe to be abhorrent, that is, a member of a political party with all the sins that travel with that particular role within the political party.

That is the major amendment of two. We are moving two amendments in relation to this but we will be testing the views of this council in relation to how genuine the views are that you really want an independent Speaker for the period of time that is there.

The second one is this issue of prorogation of the parliament. This bill, together with other changes that were made in the House of Assembly, have left us in a position where an individual

person, the Speaker of the parliament, at his or her whim, in this case his whim, can reconvene parliament whenever they wish in the period leading up to the election.

Again, from the government's viewpoint, our system is the government is able to prorogue the parliament so that everyone with certainty knows that that is the end of the four years of parliamentary debate and people can then get into that election mode. Now that we have fixed terms, we know exactly when that is going to be and so the parliament is prorogued, and staff, members and everyone is aware that the parliament has been prorogued rather than the situation of an individual Speaker being the one who makes this particular decision at his or her whim. As I said, this system is unremarkable. It has existed for decades and for most of those decades the Labor government has been in power.

As I said, it has been largely unremarkable in relation to the period that leads into an election, so the notion that this ought to be a part of a broader scheme of changes where one individual makes the decision makes no sense at all. With great respect, going back over the number of speakers—and I will not name them—that we have had in the past, it does not fill me with great confidence that those particular people and similar in the future may well be the ones making these particular decisions for whatever reasons they might choose.

Whether you like it or not, the people of the state actually elect the government, and generally they are there not only to govern—the executive arm of government—but also to manage the business of the house, subject of course, to final votes of the individual houses in terms of what goes on. The government for 40 years has not controlled the Legislative Council and is unlikely ever in the foreseeable future to control the Legislative Council.

Generally, in terms of the proceedings of the House of Assembly in particular and the prorogation of the parliament, the preparation of the wind-down for an election period, as I said, unremarkably has been a prerogative of governments, mainly Labor governments for the bulk of the last 40 or 50 years.

It just seems to be, because we now have a Liberal government for the first time in 16 years, that in some way there is some evil which now needs to be immediately corrected, because this aberration cannot be countenanced and, should it continue for another four years, it is too horrid a thought for the Labor opposition to even contemplate. The rules are, obviously, different when the Labor Party are in opposition from when they are in government; I have highlighted that in other debates.

As I said, the most significant issue for us in relation to the amendment is to hear from those who believe that they want an independent Speaker as to how they justify—if they are going to. Hopefully someone will see the good sense of, if you want an independent Speaker, he or she is independent for the four years, not for 3½ and then becoming a partisan political warrior for the six months leading up to the election.

So the government will be strongly opposing the bill, and we look forward to the committee stage of the debate.

The Hon. F. PANGALLO (17:12): I thank all the speakers on the bill, and I take note of some of the comments that have been made by the honourable Leader of the Opposition, the Hon. Robert Simms and also the Treasurer.

Just briefly touching on Dorothy Dixers, I think I remember sitting with the Treasurer when I first got elected, and I think one of the things he said to me was, 'We hope to minimise Dorothy Dixers in the parliament.' To be actually quite frank, there have been some obvious examples of Dorothy Dixers that have been thrown up in the period that I have been in here, but generally I sit back and think, 'Well, what else can those backbenchers do?'

Members interjecting:

The Hon. F. PANGALLO: I am just saying, Mr President—it is not a derogatory term.

The PRESIDENT: I would make the comment that there are some on the opposition front bench who have been in exactly that position.

The Hon. F. PANGALLO: Yes. I am not saying that in a derogatory sense. They have a task, and the task can be quite limited; however, I have to say that I have found some of those questions to be quite informative. My only issue when these questions are asked is the time it takes for the ministers to answer those questions.

I am surprised that we do not have time limits in here so that the ministers who are answering those questions are wound up and told, 'That's it, thank you very much.' They just tend to go on and filibuster and eat into question time. One day I would actually like to see time limits there that limit the response time. Get to the point. Great, thank you very much, and we get onto the next question.

I think the Treasurer was talking about a scenario that could happen where a member, if elected to the role of Speaker in the House of Assembly and of course then takes on the role of being an Independent, two-thirds of the way through the term or close to an election, they may decide to suddenly return back to their blue or red colours.

Is it likely to happen? I would not think it would. Once a Speaker is in that chair, I think they enjoy the privileges that perhaps go with it and the authority that goes with it as well. I think they would be reluctant to suddenly give that up and, at the same time, have it impact on their credibility by suddenly deciding to jump back into their political landscape whence they came.

I think the Treasurer also mentioned the issue in Westminster in the House of Commons. I think I raised it last night about the Rt Hon. John Bercow and his background, where he started off as a conservative, he then became Speaker and demonstrated his independence throughout that period until 2019. Ironically, once he left the House of Commons, he then became a Labour member, and he was suddenly a turncoat.

I have only been here just short of four years. I have to say, I echo the words of the Hon. Kyam Maher. I have found every President in this chamber to have been fair and impartial, starting with the first President that we had, the Hon. Mr McLachlan. Subsequent to that, we had the Hon. Mr Stephens and then of course yourself. I must say that you have been a breath of fresh air as well, Mr President. You will not be here next year and I am sure we will miss your authority in this place and that strong, bellowing voice.

I do not know if I am speaking on behalf of my colleague, the Hon. Connie Bonaros, but I have not really had any complaints about the way that presidents in this place have conducted themselves in the period that we have been here, so we have no issue with that. As I said, the only thing we would ask for is perhaps that there be a time limit imposed on responses. If we get that, I promise to keep my questions brief.

The Hon. K.J. Maher: You'll be speaking frankly all the time!

The Hon. F. PANGALLO: I will; I will speak briefly and quite frankly. With that, thank you very much for the contributions and I look forward to the committee stage.

The council divided on the second reading:

Ayes.....12
Noes 7
Majority 5

AYES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Maher, K.J.	Ngo, T.T.	Pangallo, F. (teller)
Scriven, C.M.	Simms, R.A.	Wortley, R.P.

NOES

Centofanti, N.J.	Girolamo, H.M.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.		

PAIRS

Pnevmatikos, I. Wade, S.G.

Second reading thus carried; bill read a second time.

Committee Stage

In committee.

Clause 1.

The CHAIR: The deputy—the Leader of the Opposition.

The Hon. K.J. MAHER: Deputy leader?

The CHAIR: I said the Leader of the Opposition.

The Hon. K.J. MAHER: The Chairman knows something I do not, it appears.

The CHAIR: The Leader of the Opposition.

The Hon. K.J. MAHER: Changing leaders. I will address something the Hon. Rob Lucas, the Treasurer, touched on and wanted answers on in a moment. I might just reflect, being referred to as deputy leader, on the Hon. Frank Pangallo's frank and brief contribution.

We have had a number of presidents this term of parliament. As I was checking the batteries on smoke alarms, as you change to daylight savings, it reminded me that it is about that time each year we change presidents here, but we only had to change them once. The reflection on Dorothy Dixers, I must admit I was quite partial when the Hon. David Ridgway was in the chamber for his Dorothy Dixers, to find out what he had had for lunch the week before at the awards he was going to.

In particular, the Treasurer has asked about a part in the bill that refers to the possibility of a speaker rejoining a political party. This is not my bill. This was introduced by the Hon. Frances Bedford in the other place and the Hon. Frank Pangallo is carrying the bill here. I have had the opportunity to have a good look through the *Hansard* to get an idea of what was the intention of many parts of the bill. I will not quote directly, but from a few different parts of the *Hansard* I did pick up, and it seems very reasonable to me, the idea behind that part of the bill.

Early in the contribution, I think Frances Bedford was asked questions by the Attorney-General about the specific issue that the Treasurer raised about an Independent. The member for Florey pointed out at some stage in her contribution that the idea is not that you have to be elected as an Independent in order to be Speaker—that is not what the intention of the bill was—but that you have to show an independence if you want to be and remain Speaker and do that by not participating in the day-to-day activities of your party.

That is what Frances Bedford noted in her contribution. It is not that you have to be one of the five or six people in the House of Assembly, the growing number of them in the House of Assembly, who are elected or formally become Independent. A member of a political party can have ambitions of high office, but if they do—and I think it is by the end of the day or the next day; I cannot remember the exact provision in here—they resign from that party. It is not stopping someone who has been a member of a political party, but while they are Speaker they should not partake in the day-to-day activities.

Reading through further contributions, I think it has been mentioned most by the Hon. Robert Simms in this chamber that it is a very strong convention in the Westminster system, but so too is the convention that someone who is Speaker is not challenged at their next election. That is not a feature, I think, that we are contemplating here at all, but in recognition of that, reading through the contributions that were made, if someone is from a political party, becomes Speaker, resigns from that party, we should give that person, given that there is not a convention not to

challenge them, the opportunity, should they wish, to contest that next election as a member of the political party from whence they came.

Reading the member for Florey's contributions, the reason the date is in there, the member for Florey said at some stage, is on advice from parliamentary counsel as a relevant date that parliamentary counsel advised as the most suitable, being the relevant date under the Electoral Act, the relevant date before the election, that 1 July the year preceding an election. From the contribution of Frances Bedford, it seems entirely reasonable to me that you do not have to be elected as an Independent to aspire to become Speaker, but once attaining that you need to demonstrate independence outwardly by resigning from the party and not participating.

Because we do not have that convention that the Speaker is not challenged, that does not preclude you from rejoining your party. The reason for the date, as the member for Florey said, for the mechanism is that the advice in drafting it with parliamentary counsel was it is the relevant date as defined in other legislation, being the Electoral Act.

The Hon. R.A. SIMMS: I want to rise to advise the chamber that we will not be supporting the amendments from the government. I guess one of the key principles here that has weighed on my mind, and I think that of the Greens, has been this question of what our role is in terms of tampering with changes made in one house that relate to the way in which they govern their own affairs. I think it would be quite inappropriate, when the House of Assembly has come up with a proposal for how they would like to run their own affairs, for us to come in like big brother at the eleventh hour and say, 'We are not happy with this element. We think you should be doing this better.' That seems to me to be quite inappropriate.

I know the Hon. Rob Lucas has a wealth of experience in this place, and I am sure he would have some great ideas in terms of how we could reform and make this chamber work more effectively, but it is not really our role to then be pushing those ideas onto the House of Assembly. That is a separate discussion that they should have in terms of setting their own rules and protocols.

Is what they have put forward perfect, or is what they have put forward exactly how the Greens would have crafted it? Maybe not, but we should not let the quest for perfection be the enemy of the good here. I think it would be a shame if we were to start tinkering and reopening that process and therefore undermining the authority of the House of Assembly to determine how they want to run their own affairs.

I would not want to see us determining standing orders in terms of how we run our affairs and have the House of Assembly opening that back up again and telling us in a sort of paternalistic way, 'No, you can't do this. You can't have an independent Chair,' or 'You can't restrict questions' and so on. I do not think that would be appropriate.

I also have to question whether or not these are in fact genuine amendments, given the Leader of the Government in this place spoke so vehemently against the bill in its entirety and called a division on the second reading. I question whether or not he is really committed to wanting to improve the bill and make it work more effectively, as he asserts. With those remarks, the Greens will not be supporting the amendments that have been put forward by the government, but we will certainly continue to advocate down the track for changes that we can make in our chamber to make it operate more effectively, more democratically and to modernise the system.

The Hon. R.I. LUCAS: I welcome at least a part of that contribution from the Hon. Mr Simms, because what he has said is the position of the Greens is, if the House of Assembly says, 'This is the way we should want to conduct ourselves,' the Greens will not interfere with that. So should a future House of Assembly come back with an amendment to this particular provision to say, 'We want to govern ourselves in a different way,' consistent with the undertaking he has just given on behalf of the Greens, he would indicate that he would be supportive of that because he would not want to interfere with the way the House of Assembly organises themselves.

That is duly noted and recorded. I am sure he has an excellent memory. Should there be a different position adopted by a future government and a future House of Assembly that seeks to amend the way they run themselves and seeks the views of the Legislative Council, the Hon. Mr Simms has made it quite clear that the Greens' position is: who are they to interfere with the

House of Assembly and he will be supportive of that particular change. We, as I said, at least welcome that part of his contribution and acknowledge their particular commitment as to how they will operate in the future.

In relation to the contribution earlier from the Hon. Mr Pangallo, I have to respectfully disagree. I think the inference he was making was it was unlikely that a person who had been elected as an independent Speaker in the House of Assembly would rejoin their party, because they had been independent for 3½ years and, therefore, it is unlikely that they would want to sully that reputation of independence. All I can say is, if this operates, I will hopefully live long enough to be able to have a cup of coffee with the Hon. Mr Pangallo or maybe a spaghetti marinara across the road.

The Hon. F. Pangallo interjecting:

The Hon. R.I. LUCAS: Yes, the food court. I will take him to Shogun, and we will reflect on the first experience of this. The reason inferred by the Hon. Mr Maher in his attempted defence of this indefensible provision, if you support independence, was that the position is, for example, in the House of Commons you have this convention or tradition where the independent Speaker is not challenged. Why is that? The reason for that is, because you have 650 members, both of the major parties can afford to say it is unlikely that one vote is going to make much difference, and they accept the independence and, therefore, the independent Speaker is unchallenged.

In a house of 47, for the reasons I outlined, no-one—and the Hon. Mr Maher has conceded this—is ever going to concede a particular seat to the opposition. Therefore, the precedent that has been quoted as occurring in the House of Commons, where a Speaker would be unchallenged by everybody in terms of their future elections, in my view could not possibly occur in South Australia.

I guess the kicker in all of this is the situation of, for example, Speaker Tarzia, in the lower house, in a sort of marginal seat. The whole notion is that, in the Hon. Mr Pangallo's view, because you have been an Independent for 3½ years you will stay as an Independent. It means, therefore, that you have to run for that election as an Independent against a candidate from your own party, possibly, and certainly against a candidate from the other party, but you have no support.

In Speaker Tarzia's position, if we look at it that way, he would have been in a position where he would have a well-funded Labor campaign, spending the maximum amount of dollars, he might be an Independent candidate with no support of a political party and, even if the Liberal Party in that case chose not to run a candidate against him, he would be an Independent fighting an Independent against a well-funded Labor campaign in that particular area. That is why the circumstances of the South Australian House of Assembly are so different from the House of Commons.

If you have a Speaker who is about to retire and is therefore not contesting and does not care, then he or she may well want to continue on as an Independent because it is of no great consequence, but if you are a youngish person—Speaker Teague in a marginal seat up in the Hills, Speaker Tarzia in a marginal seat in the city—the whole notion that you will stay on as an Independent, as inferred by the Hon. Mr Pangallo, I do not think has substance. That is not going to be the reality in relation to what is going to occur.

You will have a whole series of issues in relation to whether you are in or out of a political party in terms of public funding and access to public funding. This relevant election period from 1 July through to March is the relevant election period for disclosures and for caps on expenditure and a whole variety of other issues, so whether you are an Independent or you are part of a political party or not is a critical issue.

So in everything the Hon. Mr Maher and the Hon. Mr Simms have said, they really have not answered the question. They have explained why it might make sense for an individual to want to go back to their political party, and I understand that argument, but it does not actually explain the fact that if you believe—and our position is pretty clear: we oppose the bill and the concept. What we are saying to those of you who say you believe in independence is we do not believe you can be half or two-thirds pregnant—you either are or you are not. If you believe in independence, then it is a nonsense if you are saying, at the most critical period in the election cycle, that you can hop back into your political party and be not Independent, that you can be a partisan political warrior for the last six to nine months of the election cycle.

Our position is pretty clear: we think it is a nonsense. If you lot want it, and you say it is because you want an independent Speaker, then you cannot have it both ways. You cannot say, as I said, that for 3½ years he or she will be Independent and then for the last six to nine months they will be a partisan political warrior. We can go over the detail of that when I move the amendments; we are just speaking broadly now at clause 1, and I do not intend to waste any more time of the committee by canvassing any of the other issues.

The Hon. F. PANGALLO: I just rise to say that SA-Best will oppose all those amendments.

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

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. R.I. LUCAS: I move:

Amendment No 1 [Treasurer–1]—

Page 2, lines 10 to 22—This clause will be opposed

Clause 3 of the bill currently seeks to amend section 6(1)(c) of the Constitution Act 1934 to prevent the Governor from proroguing parliament during a relevant election period. 'Relevant election period' is defined to mean:

…the period commencing on 1 July in the year immediately before a general election of members of the House of Assembly is held in accordance with section 28(1) and ending on the day of that general election…

The government opposes this clause and consequentially schedule 1 of the bill, which inserts transitional provisions related to clause 3, therefore I will treat the vote on this amendment as a test for the subsequent one. If I lose this on a vote, I will not proceed with the consequential amendment.

It is the government's view that the Governor should retain the ability to prorogue parliament in the lead-up to an election, as opposed to parliament merely being adjourned until the writs are called. Prorogation provides certainty to everyone involved, from members and staff of the parliament to public servants, that all pending business before the house will lapse and that no further sittings will be held after the conclusion of the current sitting calendar. Importantly, it prevents parliament from being recalled on a whim. Instead, as is appropriate, the parliament would only be recalled by the Governor to deal with matters of urgency and importance, such as further COVID measures, for example, or in the lead-up to an election.

The committee divided on the clause:

Ayes 11
Noes 8
Majority 3

AYES

Bonaros, C.	Bourke, E.S.	Franks, T.A.
Hanson, J.E.	Hunter, I.K.	Maher, K.J.
Ngo, T.T.	Pangallo, F. (teller)	Pnevmatikos, I.
Scriven, C.M.	Simms, R.A.	

NOES

Centofanti, N.J.	Darley, J.A.	Girolamo, H.M.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Stephens, T.J.	

PAIRS

Wortley, R.P.	Wade, S.G.

Clause thus passed.

Clause 4.

The Hon. R.I. LUCAS: I move:

Amendment No 2 [Treasurer–1]—

Page 3, lines 7 and 8 [clause 4(2), inserted subsection (4)]—Delete ', except during a relevant election period'

I think it is fair to say that this particular issue has been given a reasonable airing in the second reading and on clause 1, so I do not intend to repeat at length the government's position, but for those avid readers of *Hansard* I should at least explain what this particular amendment is and how strongly the government feels about it. Put simply, this particular amendment tests the strength of conviction of those who profess to claim that they want an independent Speaker in the house.

As I indicated at the second reading, if that is your view—it is certainly not the government's view but if that is your view—then the notion that you are going to have an independent Speaker for 3½ years and then conveniently, just before the election, the Speaker is no longer independent, becomes a partisan political warrior, hops back into the Labor Party or the Liberal Party and engages in political combat with all and sundry, makes no sense at all to anyone who tries to make any sense of this professed belief in having an independent Speaker running the House of Assembly.

As I said, I have indicated the government's strong opposition to the bill overall but, as I said, we have a very strong view that those who want it should get the whole lot, not just 3½ bits of it and conveniently forget the other half of the four-year term. I indicate that if we lose it on the voices, we will again be dividing on this particular issue.

The committee divided on the amendment:

Ayes 7
Noes..... 12
Majority..... 5

AYES

Centofanti, N.J.	Girolamo, H.M.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.		

NOES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Maher, K.J.	Ngo, T.T.	Pangallo, F. (teller)
Pnevmatikos, I.	Scriven, C.M.	Simms, R.A.

PAIRS

Wade, S.G.	Wortley, R.P.

Amendment thus negatived.

The CHAIR: We move on to amendment No. 3 [Treasurer-1], still on clause 4, which again is proposing the deletion of certain words.

The Hon. R.I. LUCAS: In the interests of being a good citizen, I will not move the amendment in my name.

Clause passed.

Remaining clause (5), schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. F. PANGALLO (17:54): I move:

That this bill be now read a third time.

The PRESIDENT: I do not think I need to read this all out, except to say that it is a requirement that we have an absolute majority on the third reading.

The council divided on the third reading:

Ayes 12
Noes 7
Majority 5

AYES

Bonaros, C.	Bourke, E.S.	Darley, J.A.
Franks, T.A.	Hanson, J.E.	Hunter, I.K.
Maher, K.J.	Ngo, T.T.	Pangallo, F. (teller)
Pnevmatikos, I.	Scriven, C.M.	Simms, R.A.

NOES

Centofanti, N.J.	Girolamo, H.M.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Stephens, T.J.		

PAIRS

Wortley, R.P.	Wade, S.G.

Third reading thus carried; bill passed.

Standing Orders Suspension

The Hon. F. PANGALLO (17:59): I move:

That standing orders be so far suspended to enable the Clerk to deliver the Constitution (Independent Speaker) Amendment Bill and message to the Speaker of the House of Assembly should the House of Assembly not be sitting.

Motion carried.

The PRESIDENT: I note, again, the absolute majority.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 26 October 2021.)

The Hon. R.I. LUCAS (Treasurer) (18:00): I thank members for their magnificent contributions to the firearms bill, which I have read assiduously and understood completely, and I look forward to the committee stage of the debate.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (18:03): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ADVANCE CARE DIRECTIVES (REVIEW) AMENDMENT BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (18:03): On behalf of the Minister for Health and Wellbeing, obtained leave and introduced a bill for an act to amend the Advance Care Directives Act 2013. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (18:04): I move:

That this bill be now read a second time.

Breaching every convention I have held dear for 40 years, given it is a bill being introduced in this house for the first time I should read the speech, but I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Today I rise to introduce the Advance Care Directives (Review) Amendment Bill 2021. This Bill seeks to amend the *Advance Care Directives Act 2013* to enhance the operation of the Act in response to the statutory review of the Act, before its five-year anniversary, that was conducted by Professor Wendy Lacey in 2019.

The *Advance Care Directives Act 2013* was passed by the South Australian Parliament in 2013 and commenced on 1 July 2014.

The Act created a single advance care directive to replace the existing Enduring Power of Guardianship, Medical Power of Attorney and Anticipatory Directions documents. It enables a competent person to make decisions and give directions in relation to their future health care, accommodation arrangements and personal affairs; provides for the appointment of substitute decision-makers to make such decisions on behalf of the person if a person is not able to make them due to impaired decision-making capacity; ensures that health care is delivered to the person in a manner consistent with their wishes and instructions; facilitates the resolution of disputes relating to advance care directives; and provides protections for health practitioners and other persons giving effect to an advance care direction.

Section 62 of the Act provides for a review of its operations to be completed before the fifth anniversary of the commencement of the Act.

The Department for Health and Wellbeing engaged Professor Wendy Lacey to undertake the review which was conducted over a 10-week period from 10 April 2019 to the end of June 2019. Professor Lacey consulted extensively, with both targeted consultation with interested organisations, persons and professions; as well a broad invitation to contribute provided to members of the community.

The Lacey Review made 29 recommendations and was tabled in Parliament on 1 August 2019. The South Australian Government's Response to the Review was tabled in Parliament on 23 July 2020 and supported, in full or in principle, 22 of the recommendations.

To guide the implementation of the recommendations of the Review, an Advance Care Planning Oversight Group and a Working Group have been established by the Department for Health and Wellbeing. This ensures the implementation is overseen by a broad range of stakeholders from the health, aged, disability, legal and community sectors, including the Australian Medical Association, Council on the Ageing and the Legal Services Commission South Australia.

The Bill has been drafted to implement the recommendations of the Review that recommend changes to the Act. This Bill includes amendments on the following:

- Inclusion of references to digital copies of ACD documents
- Interaction with other Acts and laws

- Giving advance care directives where English is not the first language
- Requirements in relation to appointment of substitute decision makers and their empowerment
- Resolution of disputes by Public Advocate; and
- Referral of certain matters to Tribunal.

Consultation on the Bill commenced via YourSAy on 25 June 2021 and concluded on 3 August 2021. Over this period, there were 1200 visits to the YourSAy consultation page. Engagement occurred via the online survey, a webinar session and through written submissions.

In total, 64 responses were received comprising 31 survey results and 33 written submissions.

As a result of community consultation on the draft Bill, changes have been made to how the Government has responded to the recommendations of the Review undertaken by Professor Lacey. The Government feels confident in making these changes to reflect the best interests of the community in making Advance Care Directive law as robust as possible. These changes will improve access to Advance Care Directives and provide stronger support for the principles of the Act.

Recommendation 22 of the Lacey Review recommended that interpreters must be duly qualified as interpreters of the relevant language, they should be an adult with capacity and they should be subject to similar requirements as apply to witnesses under section 15 of the Act. During our consultation with the community it was made clear to us that additional barriers to completing ACDs will be unintentionally created for culturally and linguistically diverse communities if interpreters must be duly qualified through a relevant accreditation scheme. For some dialects there may be few or no interpreters with a relevant qualification, thereby preventing access for that community to complete Advance Care Directives.

For this reason, the Bill does not impose this requirement on interpreters. However, I would emphasise that the ACD Guide and supporting materials being developed will strongly encourage the use of accredited interpreters where possible, if this amendment is passed. The remaining recommended requirements on interpreters continue to be proposed in this Bill.

Recommendation 17 of the Lacey Review recommended that the Act be amended to require the Office of the Public Advocate to discontinue a matter where a reasonable suspicion of elder abuse exists and refer the matter to SACAT for determination.

In some cases where abuse is alleged in a matter that has been brought to the Public Advocate for resolution, further analysis and discussion with the parties to the dispute has identified a misunderstanding about the roles of Substitute Decision-Maker (SDM) and principles of the ACD Act. In these less serious cases, the Dispute Resolution Service (DRS) of the OPA has the opportunity to provide education and support to those people involved in the dispute and resolve matters without needing to refer the matter to SACAT.

Requiring the OPA to discontinue mediation and refer the matter to SACAT in these scenarios has the potential to reduce public confidence in completing Advance Care Directives. When people complete ACDs, they do so under the principles of self-autonomy and believing their wishes will be respected. The potential for a dispute to be referred to SACAT, and potentially a guardian appointed who is not of that person's choosing, undermines these principles.

In addition, these amendments could potentially significantly increase SACAT's case load with a range of matters that are not most appropriately dealt with by SACAT.

The above feedback has been received through consultation with the community and the Office of the Public Advocate (OPA). The Government has considered this, and agrees that the OPA should continue to have the option to refer certain matters to SACAT where abuse of a person is alleged, but not be required to do so, as is currently specified in the Act.

Maintaining a strong legislative framework for Advance Care Directives is a commitment of the Marshall Liberal Government and is essential for empowering South Australians to make clear legal arrangements for their future health care.

The Bill will improve the functioning of Advance Care Directive legislation in South Australia and will also be essential for medical practitioners to have legislation that is up to date and appropriate for their task of achieving compliance with the Act.

In closing, I would like to thank officers from the Department for Health and Wellbeing and Parliamentary Counsel who have assisted with bringing this legislation before the chamber.

I commend this Bill to members.

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

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Advance Care Directives Act 2013*

4—Insertion of section 5A

This clause inserts new section 5A into the principal Act, providing that certain electronic copies of advance care directives, prepared in accordance with the regulations, will be taken to be advance care directives.

5—Insertion of section 8A

This clause inserts new section 8A into the principal Act, clarifying that the principal Act does not limit the operation of other Acts and laws and also that a direction under another Act or law is not an advance care directive.

6—Amendment of section 14—Giving advance care directives where English not first language

This clause amends section 14 of the principal Act to add additional protections around who can be an interpreter who can assist a person to give an advance care directive.

7—Amendment of section 21—Requirements in relation to appointment of substitute decision-makers

This clause amends section 21 of the principal Act to clarify that a person who gives an advance care directive can have such number of substitute decision-makers as they see fit.

8—Substitution of section 22

This clause amends section 22 of the principal Act to clarify that a person who gives an advance care directive can appoint substitute decision-makers in conditionally and in order of preference.

9—Amendment of section 24—Exercise of powers by substitute decision-maker

This clause amends section 24 of the principal Act to provide that a requirement to produce an advance care directive can be satisfied by accessing the advance care directive electronically or in accordance with the scheme to be set out in the regulations.

10—Amendment of section 45—Resolution of disputes by Public Advocate

This clause amends section 45 of the principal Act to remove the ability for the Public Advocate to make the declarations specified in current subsection (5).

Schedule 1—Statute law revision of *Advance Care Directives Act 2013*

This Schedule effects a statute law revision cleanup of obsolete terms and references in the principal Act.

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

STATUTES AMENDMENT (STEALTHING AND CONSENT) BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (18:05): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935, the Criminal Procedure Act 1921 and the Evidence Act 1929. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (18:06): 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 clauses inserted in *Hansard* without my reading them.

Leave granted.

Mr President, the Government is pleased to introduce the Statutes Amendment (Stealthing and Consent) Bill 2021.

The Bill contains a number of improvements to the operation of laws around consent to sexual activity.

The issue of consent in cases involving sexual offences has recently been the subject of consideration by a number of law reform bodies across Australia. The Queensland Law Reform Commission and New South Wales Law

Reform Commission each published reports in 2020 reviewing consent laws in their respective jurisdictions. The Victorian Law Reform Commission is also currently looking at improving the responses of the justice system to sexual offences, and is expected to release its report imminently.

The South Australian Government has considered the recommendations made by the NSW and Queensland law reform bodies in the context of South Australia's legislative framework, and has identified a number of areas where improvements can be made to our laws.

The first amendment in the Bill is to the *Criminal Law Consolidation Act 1935* and deals with the practice known as stealthing. Stealthing is where a person deliberately and without consent does not use, damages or removes a condom before or during sexual activity.

Section 46 of the Criminal Law Consolidation Act provides that a person only consents to sexual activity if they freely and voluntarily agree to the activity. It further provides a non-exhaustive list of circumstances in which a person is taken not to freely and voluntarily agree to sexual activity.

The Bill amends section 46 of the Criminal Law Consolidation Act to include stealthing as an additional situation in which consent is negated. It provides that a person is taken not to freely and voluntarily agree to sexual activity if 'the person agrees to engage in the activity because of a misrepresentation (whether express or implied) as to the use of a condom during the activity'.

This means that, where a person agrees to engage in sexual intercourse on the basis that a condom will be used, non-consensual removal of the condom will amount to rape. This will leave no room for uncertainty that this harmful and degrading practice is unlawful and will not be tolerated by the South Australian community.

I wish to acknowledge the work done in this area by Hon. Connie Bonaros MLC. The Hon Ms Bonaros recently introduced a Private Member's Bill to address this issue, and in doing so provided personal accounts from individuals that she spoke with about being a victim of stealthing. Her remarks highlighted that this is a real issue affecting South Australians, and that clarification of the law is indeed required.

The second reform is an amendment to the *Evidence Act 1929* to broaden the jury directions that must be given in cases involving a sexual offence where consent is in issue.

Section 34N of the Evidence Act already provides a number of jury directions that must be given by the trial judge, where applicable in the circumstances of the particular case. For example, the judge must direct the jury that the person is not to be regarded as having consented to the sexual activity merely because the person did not protest or physically resist, or because the person consented to the sexual activity on an earlier occasion. These directions are aimed at addressing misconceptions about how a person might ordinarily respond to non-consensual sexual activity.

The NSW Law Reform Commission identified a number of other common misconceptions about non-consensual sexual activity that exist within the community, and raised concerns about the possibility of juries making, or being invited to make, unwarranted assumptions about consent. The NSW Law Reform Commission recommended that these misconceptions be addressed via a direction from the trial judge.

In South Australia, a number of the misconceptions identified by the NSW Law Reform Commission are already captured by section 34N of the Evidence Act.

The Bill expands the list of section 34N directions to include:

- that non-consensual sexual activity can occur in many different circumstances and is not always perpetrated by a stranger in a public place;
- that non-consensual sexual activity can occur between different kinds of people, including people who are married or in an established relationship;
- that trauma may affect people differently, and the presence or absence of emotional distress when giving evidence does not necessarily mean that a person is not telling the truth about an alleged sexual offence; and
- that it should not be assumed that a person consented to sexual activity because the person wore particular clothing or had a particular appearance, consumed alcohol or any other drug, or was present in a particular location (either generally or at a particular time).

The third reform, also to the Evidence Act, expressly allows the admission of expert evidence relating to the topics dealt with in section 34N.

Finally, the Bill contains a related amendment to the *Criminal Procedure Act 1921* to require disclosure of expert reports where the expert evidence relates to the topics dealt with in section 34N of the Evidence Act.

While the prosecution is already required to disclose the evidence it intends to call well advance of trial, the same does not automatically apply to the defendant.

Under section 124(8) of the Criminal Procedure Act, the court may require the defendant to provide the prosecution with a copy of any expert report it proposes to rely on, but equally the court may exercise its discretion to refuse to order the disclosure.

If the expert evidence relates to the conduct of the complainant and deals with misconceptions around consent, it is imperative that the prosecution has the opportunity to consider the report in advance of the trial. The Bill amends section 124(8) of the Criminal Procedure Act to require expert reports of this nature to be disclosed to the prosecution.

Mr President, I commend the Bill to Members and I seek leave to have the Explanation of Clauses inserted in Hansard without my reading them.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal. The measure will commence on assent.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

3—Amendment of section 46—Consent to sexual activity

This clause amends section 46 to specify that a person is taken not to freely and voluntarily agree to sexual activity if the person agrees to engage in the activity because of a misrepresentation (whether express or implied) as to the use of a condom during the activity.

Part 3—Amendment of *Criminal Procedure Act 1921*

4—Amendment of section 124—Expert evidence and evidence of alibi

This is a related amendment to clause 6 and requires the defence to provide the prosecution with a copy of any report obtained from a person who is to be called to give expert evidence at a trial of a kind referred to in proposed new section 34N(2a) of the *Evidence Act 1929*.

5—Transitional provision

The requirement in clause 4 applies to proceedings relating to an offence that are commenced after the commencement of the Part (regardless of when the offence occurred).

Part 4—Amendment of *Evidence Act 1929*

6—Amendment of section 34N—Directions relating to consent in certain sexual cases

This clause provides that, in a trial of a charge of a sexual offence where a lack of consent of a person in relation to a particular sexual activity is in issue, the judge must direct the jury as to certain matters set out in the proposed provision (and a court may, in a trial of a charge of a sexual offence, receive expert evidence about any such matter).

7—Transitional provision

The requirement in clause 6 applies to proceedings relating to an offence that are commenced after the commencement of the Part (regardless of when the offence occurred).

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

OPCAT IMPLEMENTATION BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (18:07): 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 clauses inserted in *Hansard* without my reading them.

Leave granted.

Mr President, I am pleased to introduce the OPCAT Implementation Bill 2021 ('the Bill').

The Australian Government ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 21 December 2017. The Optional Protocol is known as OPCAT.

The Bill creates a new standalone Act, 'the OPCAT Implementation Act' to give effect to South Australia's international obligations under OPCAT.

In implementing OPCAT State Parties are required to establish one or more independent National Preventive Mechanisms or NPMs. NPMs conduct regular and unannounced inspections of places of detention and closed environments where people are deprived of their liberty.

State Parties are also obliged to facilitate international expert visits to domestic places of detention from the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Australian Government is the State Party for Australia. Australia is required to have implemented OPCAT, including the establishment of the NPMs by 20 January 2022.

The approach being taken to the implementation of the NPM obligation is a mixed model approach comprised of a network of inspectorate bodies across the Commonwealth, States and Territories which will be supported by a national coordinating mechanism, known as the NPM Coordinator.

The Australian Government has nominated the Office of the Commonwealth Ombudsman as the NPM Coordinator. In addition, the Commonwealth Ombudsman has also been designated as the NPM for inspecting Commonwealth places of detention. This includes military detention facilities, immigration detention facilities and Australian Federal Police cells.

Mr President, the Australian Government has taken the view that the implementation of OPCAT will initially focus on 'primary places of detention', being:

- adult prisons;
- juvenile detention facilities (excluding residential secure facilities);
- police lock-ups or police station cells (where people are held for 24 hours or more);
- closed facilities or units where people may be involuntarily detained by law for mental health assessment or treatment (where people are held for 24 hours or more);
- closed forensic disability facilities or units (where people are held for 24 hours or more);
- immigration detention centres; and
- military detention facilities.

In accordance with this approach, the Bill designates an NPM or NPMs for each of the primary places of detention.

- The NPMs for correctional institutions will be the Official Visitors, as provided for in the *Correctional Services (Accountability and Other Measures) Amendment Act 2021*. There will also be an Official Visitor appointed as the NPM for prescribed custodial police stations.
- The NPM for training centres will be the Training Centre Visitor under the *Youth Justice Administration Act 2016*;
- The NPM for prescribed mental health facilities will be the Principal Community Visitor, under the *Mental Health Act 2009.*

The Government recognises that, while the implementation of OPCAT will initially focus on *primary* places of detention, the implementation will be an iterative process. Additional places of detention will likely be included as the scheme evolves over time. This is similar to the approach taken by New Zealand when it implemented OPCAT in 2007.

In relation to both prescribed mental health facilities and custodial police facilities, the facilities that fall within scope are to be prescribed by regulation.

- It is the government's intention that the prescribed facilities for police facilities will include lock-up or police station cells where people are held for 24 hours or more. There are 19 facilities that are to be prescribed.
- The prescribed facilities for mental health facilities will include closed facilities or units where people may be involuntarily detained for 24 hours or more for mental health assessment or treatment. There are 18 facilities that are to be prescribed.

The primary function of an NPM under OPCAT is to undertake regular and unannounced inspections of places of detention, including their installations and facilities. The purpose of the inspections is to examine the conditions and treatment of persons deprived of their liberty.

NPM functions are directed toward *preventing* ill-treatment and other human rights abuses from occurring. This is to be distinguished from the other existing inspectorate bodies which exercise complaints and advocacy functions.

In recognition of this mandate, the Bill makes related amendments to the *Mental Health Act, Youth Justice Administration Act* and *Police Act,* to provide for the specific powers and functions of the NPMs, including:

- to carry out regular and unannounced inspections of places of detention;
- to conduct interviews with detainees and to make inquiries about the detention of detainees;
- to require persons to answer relevant questions or produce relevant documents relevant to the NPM's functions; and
- to make reports and recommendations relating to the detention of people and for those reports to be tabled in Parliament.

In addition, the Bill provides for the independence of the NPMs and requires them to be provided with such resources as are reasonably required for the NPMs to exercise their functions effectively under OPCAT.

For the Training Centre Visitor and the Principal Community Visitor, the Bill sets out NPM powers and functions that are separate to the existing powers and functions of those inspectorate bodies.

This has been done with a view to creating a clear legislative distinction between the existing powers and functions of those inspectorate bodies and their new NPM functions and powers. A similar approach has been taken with respect to the NPM for prescribed custodial police stations.

The Bill takes a different approach in respect of the Official Visitors Scheme in its role as the NPM for correctional institutions. For correctional institutions, the Bill provides that the powers and functions of the NPM are as set out in the *Correctional Services (Accountability and Other Measures) Amendment Act 2021.* The Government has taken this approach in recognition of the fact that the Official Visitors Scheme is a new scheme which has been specifically developed with the intention that it would be designated as an NPM under OPCAT.

Mr President, keeping our laws current and relevant is one of the Marshall Liberal Government's key justice priorities. These reforms represent a unique opportunity to improve and strengthen independent oversight and monitoring of places of detention.

The Bill will support the establishment of robust methods of preventative inspection and reporting to ensuring that we have appropriate conditions and standards of care for people who are deprived of their liberty, who are some of the most vulnerable members of our community.

Mr President, I commend the Bill to Members and I seek leave to insert the Explanation of Clauses in Hansard without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Interpretation

These clauses are formal.

4—Application of Act

This clause clarifies the relationships between this and certain other Acts.

Part 2—National Preventive Mechanisms

5—National Preventive Mechanisms for specified places of detention

This clause sets out who the NPM is for the various categories of places of detention.

6—Independence of NPMs

This clause provides for NPMs to be independent of any direction or control of government.

7—Functions and powers of NPMs

This clause sets out the functions and powers of NPMs under the measure (including those set out in Schedules to the various Acts by Schedule 1 of this Act).

8—Delegation

This clause is a standard power of delegation.

9—NPMs may disclose information to other NPMs and NPM Coordinator

This clause permits an NPM to disclose information obtained in the course of performing their functions or exercising their powers to another NPM or to the NPM Coordinator (or both).

10—Referral of matters to inquiry agencies etc not affected

This clause clarifies that the ability of an NPM to refer a matter to certain investigative and other agencies is not affected by this measure.

Part 3—Reporting

11—Annual reporting by NPMs

This clause is a standard annual reporting requirement for NPMs.

12—NPMs may prepare additional reports

This clause allows an NPM to prepare additional reports for the Minister responsible for the NPM.

Part 4—Miscellaneous

13—Confidentiality

This clause is a standard confidentiality provision preventing disclosure of personal information except in the circumstances specified in the clause.

14—Victimisation

This clause is a standard victimisation clause protecting people who provide information to an NPM.

15—Obstruction etc

This clause creates an offence for a person to obstruct, hinder, resist or improperly influence an NPM in the performance of a function, or exercise of a power, or to attempt to do so.

16—False or misleading statements

This clause creates an offence for a person to knowingly make a false or misleading statement in information provided to an NPM.

17—Protections, privileges and immunities

This clause confers protections from liability on people who answer questions, produce information or otherwise do things in accordance with the Act.

18—Review of Act

This clause requires the Minister to cause a review of the Act to be undertaken before the fifth anniversary of its commencement.

19—Regulations

This clause is a standard regulation making power.

Schedule 1—Related amendments

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of Mental Health Act 2009

2—Amendment of section 106—Confidentiality and disclosure of information

This clause amends section 106 of the principal Act consequent upon this measure.

3—Insertion of Schedule 1A

This clause inserts new Schedule 1A into the principal Act, setting out measures (including the functions and powers of the NPM) relating to the role of the NPM under the principal Act.

Part 3—Amendment of *Police Act 1998*

4—Insertion of Schedule 1A

This clause inserts new Schedule 1A into the principal Act, setting out measures (including the functions and powers of the NPM) relating to the role of the NPM under the principal Act.

Part 4—Amendment of *Youth Justice Administration Act 2016*

5—Amendment of section 49—Confidentiality

This clause amends section 49 of the principal Act consequent upon this measure.

6—Insertion of Schedule 1

This clause inserts new Schedule 1 into the principal Act, setting out measures (including the functions and powers of the NPM) relating to the role of the NPM under the principal Act.

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

UNCLAIMED MONEY BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (18:08): 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 clauses inserted in *Hansard* without my reading them.

Leave granted.

Mr President, I rise to introduce the Unclaimed Money Bill 2021.

This Bill repeals and replaces the Unclaimed Moneys Act 1891. It modernises and simplifies administration of unclaimed money in South Australia, as agreed to as part of the Commonwealth Project Agreement for Small Business Regulatory Reform, with additional reforms proposed by the Department of Treasury and Finance.

As part of the Commonwealth Project Agreement for Small Business Regulatory Reform, the Government committed to a number of measures aimed at collectively reducing the regulatory burden of complying with the Act on small business. The Commonwealth has agreed to provide an estimated financial contribution to South Australia of $0.6m upon successful delivery of the agreed measures.

The Bill also proposes additional measures identified by the Department of Treasury and Finance as measures to improve the administration of unclaimed money.

The first measure committed to an increase in the threshold of unclaimed money that can be lodged by business with the Department of Treasury and Finance. Currently business must lodge unclaimed money greater than ten dollars with the Department of Treasury and Finance. This threshold will increase from ten dollars to fifty dollars, enabling business to adopt a pragmatic approach to the management of multiple low value amounts of unclaimed money.

The second and third measures committed to are the removal of the requirement for business to advertise unclaimed money in the South Australian government gazette prior to having to lodge it with the Department of Treasury and Finance, and no longer having to hold the money for nine years, prior to transferring it to the Department of Treasury and Finance.

Currently, after holding unclaimed money for a period of seven years, a business is required to publish a register of unclaimed money in the South Australian Government Gazette, during the January of the seventh year of having held the money. Business must continue to advertise their unclaimed money register in the gazette for an additional two years, and after having held the money for nine years in total, may then transfer the money to the Department of Treasury and Finance. There is a cost borne by business for advertising in the gazette, which is levied per name in the register.

Under the proposed Bill, business will now be able to provide unclaimed money directly to the Department of Treasury and Finance, after having held the money for seven years without needing to advertise in the government gazette. Once the unclaimed money has been transferred to the Department, the information provided will be made available on the Department of Treasury and Finance unclaimed money database.

The Bill also proposes to provide business with the option to publish the unclaimed money it holds on its own website or in the Department of Treasury and Finance unclaimed money database, including the records of amounts not yet eligible for transfer to the Department of Treasury and Finance. This change will provide business with an additional avenue to locate claimants in addition to providing claimants with centralised searching capacity.

The database is freely available on the Department of Treasury and Finance website for members of the public to access and there will be no cost to business for lodging money with the Department.

The Bill introduces a 25-year cap on the ability to make a claim for unclaimed money, with a 5-year transition period upon commencement of the Act. Whilst currently there is no time limit on claims, there are a large number of low value unclaimed money amounts held by the Department which date back to 1946. Reducing the number of entries

in the unclaimed money database will assist in simplifying administration through optimising the performance of the unclaimed money database.

Further, in line with the new fifty-dollar lodgement threshold for business, the Bill also includes a fifty-dollar minimum claim limit. Again, a five year transition period will be provided for any existing claims less than fifty dollars. Given that it is currently estimated to cost more in administrative costs to process claims which are fifty dollars or less in value, than the actual value of the claim, this change will likely to also reduce administrative costs.

Other minor changes include the removal of the requirement for the public to pay a fee of twenty cents to access a business' register of unclaimed money. Penalties to be imposed where business fail to keep a register have been standardised with other legislation and there is now also a provision for the Treasurer to delegate his/her power under the Act.

As a matter of house-keeping, the Bill adopts terminology consistent with contemporary business practice, with the language of the Act having been modernised.

In preparation of this Bill, the Department of Treasury and Finance has consulted with both business and the public.

Upon passing of the Bill, the Department of Treasury and Finance will commence a review of its unclaimed money database to provide an improved user experience for both business and claimants.

I seek opposition support for this Bill which will seek to improve the administration of unclaimed money in South Australia for businesses, claimants and the government.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions required for the purposes of the measure.

Unclaimed money is defined to mean any sum of money (including, but not limited to, principal, interest, dividends, bonuses and profits) that—

- has come into the possession of a corporation by virtue of a transaction with the owner of the money occurring in South Australia; and
- has been held by the corporation for at least 5 years; and
- in respect of which there has been no claim by the owner against the corporation.

4—Register of unclaimed money

This clause requires corporations to maintain a register of unclaimed money. A register is to be in a form determined by the Treasurer and made available on the corporation's website or on a website approved by the Minister. The public must have access to the website free of charge. A corporation must, by 31 January each year, enter into the register the particulars determined by the Treasurer relating to unclaimed money exceeding the prescribed amount held by the corporation as at 1 January in that year.

The following corporations are not required to maintain a register:

- a corporation established on a non-profit basis;
- an ADI;
- a superannuation provider within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth;
- a corporation of a prescribed kind.

5—Unclaimed money to be paid to Treasurer

Under this clause, unclaimed money that has not been paid by a corporation to the owner of the money before the second anniversary of the day on which notice of the unclaimed money first appeared on a register of unclaimed money must be paid by the corporation to the Treasurer within 4 months after that anniversary. Any such money paid to the Treasurer is to be credited to the consolidated account.

6—Other money may be paid to Treasurer

A person in possession of money of an amount not less than the prescribed amount may, if the person has been in possession of the money for more than one year, and if the owner of the money can't be found, pay the money to the Treasurer. Money paid to the Treasurer under this clause is to be credited to the Consolidated Account.

7—Treasurer may pay money to lawful claimant

This clause sets out the procedure by which the Treasurer may pay money that has been paid to the Treasurer under the Act to a person who claims to be the owner of the money.

8—Treasurer's power to require information

Under this clause, the Treasurer may, at any time, examine accounts of a corporation relating to unclaimed money referred to in the corporation's register of unclaimed money. The Treasurer may require a person to provide information and also require that the information be verified by the person by statutory declaration.

9—Exemptions

This clauses authorises the Treasurer to exempt a specified person, or class of persons, from the application of the Act or particular provisions of the Act. An exemption may be absolute or subject to conditions.

10—Delegation

This clause authorises the Treasurer to delegate a power or function under the Act—

- to a particular person or body; or
- to the person for the time being holding or acting in a particular office or position.

11—Continuing offence

This clause provides for the imposition of additional penalties where a person is convicted of an offence against a provision of the Act in respect of an act or omission that is continuing.

12—Regulations

This clause authorises the making of regulations that are necessary or expedient for the purposes of the measure.

Schedule 1—Related amendments and repeal

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Correctional Services Act 1982*

2—Amendment of section 31—Prisoner allowances and other money

The amendment made by this clause is consequential.

Part 3—Amendment of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

3—Amendment of section 20—Disposal of vehicles

The amendment made by this clause is consequential.

Part 4—Amendment of *Emergency Services Funding Act 1998*

4—Amendment of section 20—Sale of land for non-payment of levy

The amendment made by this clause is consequential.

Part 5—Amendment of *Fines Enforcement and Debt Recovery Act 2017*

5—Amendment of section 42—Power to dispose of uncollected seized vehicles

The amendments made by this clause are consequential.

Part 6—Amendment of *Ground Water (Qualco-Sunlands) Control Act 2000*

6—Amendment of section 59—Sale of land for non-payment

The amendment made by this clause is consequential.

Part 7—Amendment of *Irrigation Act 2009*

7—Amendment of section 52—Sale of land for non-payment of charges

The amendment made by this clause is consequential.

Part 8—Amendment of *Landscape South Australia Act 2019*

8—Amendment of section 86—Sale of land for non-payment of a levy

9—Amendment of section 158—Effect of cancellation of water management authorisations

The amendments made by these clauses are consequential.

Part 9—Amendment of *Local Government Act 1999*

10—Amendment of section 184—Sale of land for non-payment of rates

11—Amendment of Schedule 1B—Building upgrade agreements

The amendments made by these clauses are consequential.

Part 10—Amendment of *Native Vegetation Act 1991*

12—Amendment of section 33I—Sale of land for non-payment

The amendment made by this clause is consequential.

Part 11—Amendment of *Renmark Irrigation Trust Act 2009*

13—Amendment of section 54—Sale of land for non-payment of charges

The amendment made by this clause is consequential.

Part 12—Amendment of *South Australian Water Corporation Act 1994*

14—Amendment of section 18D—Power to sell land

The amendment made by this clause is consequential.

Part 13—Repeal of *Unclaimed Moneys Act 1891*

15—Repeal of Act

This clause repeals the *Unclaimed Moneys Act 1891*.

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

MOTOR VEHICLES (ELECTRIC VEHICLE LEVY) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

At 18:09 the council adjourned until Tuesday 16 November 2021 at 14:15.

Answers to Questions

AUSTRALIAN ARID LANDS BOTANIC GARDEN

In reply to **the Hon. J.A. DARLEY** (26 August 2021).

The Hon. J.M.A. LENSINK (Minister for Human Services): The Department for Environment and Water has advised:

The Minister for Environment and Water recently visited the Australian Arid Lands Botanic Garden on his regional visit to the area. Minister Speirs is currently considering options regarding opportunities to support the future financial sustainability of the garden.