LEGISLATIVE COUNCIL

Tuesday 22 September 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

STATUTES AMENDMENT (PROPERTY OFFENCES) BILL

His Excellency the Governor assented to the bill.

VISITORS

The PRESIDENT: I draw honourable members' attention to the presence in the gallery of the Hon. Ruth Forrest MLC, from beautiful Tasmania.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:21): I bring up the report of the committee on an inquiry into the Aquaculture Variation Regulations 2008 and the Aquaculture Variations Regulations 2009.

Report received and ordered to be published.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Disciplinary Appeals Tribunal—Report, 2008-09
Rules of Court—
Supreme Court—Supreme Court Act 1935—Civil 2006—Amendment No. 9
First Aid in the Workplace—Code of Practice, August 2009

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Leases of Properties held by the Commissioner of Highways, 2008-09
Regulations under the following Acts—
Controlled Substances Act 1984—
General—Prescribed Quantities
Poisons—Declaration
Native Vegetation Act 1991—Fees
Public and Environmental Health Act 1987—General—Control of Refuse
District Council By-Laws—
Alexandrina—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Nuisances caused by Building Sites
Whyalla—
No. 8—Boat Harbours and Facilities
No. 9—Foreshore
Death of 'Kunmanara' Gibson—Report on actions taken following the Coronial Inquiry, June 2009

QUESTION TIME

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question in relation to the 30-year plan for Greater Adelaide.

Leave granted.

The Hon. D.W. RIDGWAY: The draft 30-year plan document contains a number of maps showing proposed transit corridors for development. For example, page 79 shows all the major

corridors and then, further on in the publication, there are directional maps broken up into regions. On further examination, the glossary at the rear of the book states, 'Transit corridors are located within 800 metres of a designated transit corridor.' Taking the northern Adelaide directions map on page 171, for example, the corridors are illuminated in yellow, with the areas in between designated for potential regeneration areas, and outside the corridors are the existing urban lands.

When these designated corridors are duplicated to scale on the current metropolitan map, those 800 metre wide vicinities literally morph into one another, a far stretch from the neatly delineated corridors portrayed on the maps. My question to the minister is: why have the maps in the document been drawn with no scale, depicting a totally misleading picture of the space that the transit corridors will cover?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:29): Heavens above! What the 30-year plan aims to do is concentrate the future growth of this city, first of all, within the existing boundaries. We are aiming for 70 per cent growth within the current urban boundary. That is a very ambitious target and, if we do not achieve it, we will get a lot more of the urban sprawl that people like Mr Parnell, and others, have been telling people around this state—in the various areas affected—they do not want.

The way we can best avoid urban sprawl is by getting development along corridors. There is an arbitrary designation of 800 metres, which is the sort of distance from a major transit station that people are prepared to walk.

The other objective of the Adelaide plan (and I have indicated this on a number of occasions) is that if we get this right you can achieve most of Adelaide's growth (70 per cent) over that period within the current boundaries and you can therefore put much less pressure on urban sprawl; but you can do it in a way that will not impact on 80 per cent of existing suburbs if you can concentrate medium development along the corridors. If Liberal Party members do not want to do that, let them say they would rather have urban sprawl and a greater impact on our suburbs. So what we are talking about is putting most of this growth within 20 per cent of the current boundary, and that will be along corridors.

The idea is to get as much density as possible within walking distance and, if you want a walkable city and less dependence on motor vehicles, you will put it around major transit nodes. In particular, 13 transit-oriented developments have been identified within the 30-year plan and, obviously, you want most people living within walking distance of that.

The Hon. J.S.L. Dawkins: How does the Buckland Park development fit into it?

The Hon. P. HOLLOWAY: It is amazing, isn't it! I am glad I had that interjection from the Hon. Mr Dawkins because, again, it exposes the gross hypocrisy and, I would suggest, dishonesty of the Liberal Party and others who oppose the 30-year plan. They say: what about Buckland Park? If the Liberals say they do not want people living in what they claim are high value agricultural areas, I think that is highly dubious bearing in mind some of the claims that have been made in relation to some of the areas south of Mount Barker, and most of the area is hobby farm. You might get the odd alpaca. The fact is they have been subdivided for rural living on medium size lots. Decades ago most of those areas passed their relevance in terms of concentrated agricultural production. They are essentially hobby farms. One of the problems we have had in planning, incidentally, is that we have allowed too many of these types of dwellings on the fringes of towns and cities.

The Hon. Mr Dawkins talks about Buckland Park, so he does not want growth there; and he does not want it on lower value land near the coast. So, where exactly do they want to put it? We are coming up for an election in six months. If the Liberal Party does not like the 30-year plan, let it put up its own. Let members opposite put up their own plan about where they believe the city should grow and how it should grow. Of course, maybe they do not want it to grow at all, but let them tell the people of this state what that means. Let them put up an alternative.

At present, the 30-year plan is out for discussion. In fact, it is incredible when you hear all these people—I assume they are all members of the Liberal Party—ringing talk-back radio and having a whinge about something. They have all been ringing up and saying. 'We were not consulted on it.' Heavens above! What we are doing now is going through the consultation period for the 30-year plan. That is what it is about. That is what we are doing at the moment. I welcome the discussion and, at the end of the period, I welcome hearing exactly what the Liberal opposition

and the shadow minister actually believe about it. Does he believe in the principles in there? Rather than the honourable member getting hung up on a few maps that identify major corridors—

The Hon. D.W. Ridgway: It is misleading.

The Hon. P. HOLLOWAY: It is not misleading. How can it be? If the map did not indicate what the corridors were, it would be misleading. To advance debate on this, we have tried to illustrate the corridors. The policy that goes around the corridors is obviously a different issue.

The Hon. D.W. Ridgway: It is 800 metres.

The Hon. P. HOLLOWAY: What might happen within that 800 metres, of course, will depend on a whole lot of extra work to be done, but we believe we can accommodate the population in there. That is why it is out for discussion. They have been sitting in opposition for 7½ years and have not come up with a single planning reform or planning suggestion in this state. This government has put forward a plan, and all we get is this incredible minutiae nit-picking about detail of the map. We are looking at 30 years ahead for Adelaide. They are trying to attack the plan before it has even been finalised and before consultation has concluded.

Of course, we know what the opposition is about; we know why it is doing that. It is doing this for one reason and one reason only; that is, it is a party which is fundamentally divided. We know that it is totally divided and, what is more, its members are so talentless that they are devoid of any ideas and they cannot come up with any reasonable suggestion. Is it not about time—we are now within six months of the next election—that the Liberal opposition in this state, rather than just attacking everything the government does, came up with an alternative? I challenge members of the opposition: if they do not like the 30-year plan, tell us what they disagree with and what they would do as an alternative.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. M. PARNELL (14:36): I have a supplementary question. Is it the government's intention to rezone land in these corridors for higher density housing, and is any of the land included in the 80 per cent of Adelaide which the government says it will not be rezoning?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:36): Once consultation has concluded, we will then look at the final proposal for Adelaide's 30-year plan. That will encapsulate whatever are the agreed objectives, and then the detail of that will be implemented. We can say that, on the basis of the research that has been undertaken and without too much disruption to this city—as I said, affecting no more than 20 per cent of the current area—we can accommodate 70 per cent of the future expected population growth within the current boundaries. That is the objective.

It is all very well for members opposite to try to raise doubts and to try to do things about that. It will be a hard ask, but what is the alternative? What is the Greens' policy. Do nothing? Have no growth or do nothing? The fact is that this government is setting out a way in which we believe that we can get the best value for every dollar of infrastructure that will be available in the next 30 years. It will be hard, but the best way we can do it is by concentrating the growth that we have along major transport corridors, because that will achieve a number of the objectives that we need simultaneously and it will have minimum impact upon the existing suburbs. Whatever the final form, if we achieve this objective over 30 years (and there is a long way to go yet) it will be one in which 80 per cent of the current suburbs will be untouched.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning another question about the 30-year plan.

Leave granted.

The Hon. D.W. RIDGWAY: On page 42 of the draft plan, the title 'An economic model to drive key decisions' is followed by an explanation that the plan is based on a detailed economic model that underpins the proposed policy directions and targets. Readers are then directed to the background technical report. Appendix A of the report is the economic modelling methodology results, and page 14 discusses the assumptions used to analyse the impacts of the plan.

The page states that the starting point of the analysis is a population scenario adopted by the Department of Planning and Local Government and that the economic analysis is largely driven by those projections, not a detailed economic model. In fact, the documents contradict each other by not providing any details of the economic model. How did the government arrive at these critical assumptions, and why does the government see the population growth of 139,000 in the Barossa region as the best 30-year plan?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:39): I am absolutely delighted that the honourable member has asked a question about population projections because it means that I can nail some of the quite misleading comments that have been made in relation to this matter.

The Hon. D.W. Ridgway: What about 139,000 in the Barossa? Answer that!

The PRESIDENT: Order! The Hon. Mr Ridgway has asked a question. He might want to listen to the answer.

The Hon. P. HOLLOWAY: The honourable member has asked a question about the population target for the Barossa region. Well, of course, very little of that growth is in the Barossa Valley; let me make that clear from the start. The name 'Barossa' is given collectively to that region which goes from the coast to north of the Gawler River.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The question to the opposition is: where would you have it? You are the shadow minister. What is your policy? Where would you put it? We have put out our policy. If you do not like it, where would you put it?

We can see a small illustration of just how devoid the opposition is of any alternative. Members opposite have become so used to opposition because they are so fit for it. They have grown into that role beautifully. They have grown into the role of opposing everything. What they need to understand, if they ever want to be a credible alternative government, is that they have to look for some alternatives.

There are quite obvious reasons why it was chosen. The government's policy is that we would not create further sprawl in the McLaren Vale area or the Barossa wine region, and we would also protect key environmental and agricultural lands. The most important horticultural lands are those within the Virginia region. What the government has said is that given the—

The Hon. J.S.L. Dawkins: You have totally ignored them.

The Hon. P. HOLLOWAY: We have not totally ignored them, Mr Dawkins. In fact, it is a fundamental part of it. Mr President, show him the map! The honourable member should look at the map and see where we are building. This is another bit of—

Members interjecting:

The PRESIDENT: Order! The Hons Mr Dawkins and Mr Ridgway will listen to the answer.

The Hon. J.S.L. Dawkins: I look forward to hearing an answer.

The PRESIDENT: Order! The minister is attempting to answer. If there is some quiet, other members can ask some questions today, as well.

The Hon. P. HOLLOWAY: What the Hon. Mr Dawkins is trying to suggest is that somehow or another we are proposing to rezone or do something different to the Virginia horticultural area. Well, look at the map and show us where we are doing that. If you say we have not listened to what the people out there are saying, then look at the map. We are actually protecting the area. All those areas north of the new Northern Expressway will be protected; all those areas are to be protected.

If we are going to protect the Barossa Valley wine region, the hills face zone and the McLaren Vale region, then the only way in which growth can be accommodated—and 70 per cent is an ambitious target—is within the existing area. If the Liberal Party members do not want that, if they want to throw it out, then let them say so. If they will not accommodate growth there, where will they accommodate it?

Given that we are trying to ensure that we have maximum use of existing infrastructure, the area at Roseworthy—just north of Gawler—as a new village and a growth area—and some other

areas around there—makes logical sense. When you look at the map of Adelaide, where else are you going to put it? Fundamentally, it comes down to the issue of: where else could you do it?

Again, it comes back to the point that I make again: if Liberal Party members do not agree with this, if they believe there is a better alternative, let them say so. All we have heard from them so far is a continual barrage of negative carping, whingeing and whining—something which they are very good at doing—but sooner or later the Leader of the Opposition as the shadow minister will have to attend some of the various meetings with different planning groups—the UDIA and others—and try to tell them exactly what the opposition stands for. I think we can see from their performance today that members opposite do not stand for anything at all.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:44): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the 30-year plan.

Leave granted

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order! The Hon. Mr Finnigan will come to order.

The Hon. D.W. RIDGWAY: We all know that the fish John West rejects makes his fish the best. I have searched the background technical documents and the document known as the 30-Year Plan for Greater Adelaide to look for other options that may have been canvassed by the government. There appear to be none. What other options for growth in Adelaide have been considered by this government?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:45): Heavens above! I have just gone through that. Obviously, the Leader of the Opposition was not listening to the answer.

The PRESIDENT: He might have been interjecting too much.

The Hon. P. HOLLOWAY: I went through all the possible options. If members of the opposition do not want 70 per cent infill, and would rather have it as greenfield, let them say where they want that greenfield development. That is the first option: do you do it as infill or as greenfield? This government is going for as high a level of infill as we reasonably can, consistent with protecting the character of this city, and we believe, with all the work that has been done with the 30-year plan, that we can do so without impacting on about 80 per cent of our suburbs. That is the first option.

When it comes to the greenfield areas, what do you do with what is left over that cannot be incorporated within the boundary? As I said, some broad studies were undertaken in relation to that, and I refer to the Growth Investigation Areas.

The Hon. M. Parnell: Release it!

The Hon. P. HOLLOWAY: Of course we will not release it; it is not what we are putting out. The Growth Investigation Areas was about all the possibilities; why would we now go out and consult with the public and give it misleading information? We know that the Hon. Mr Parnell wants to because he is opposed to it. He wants the public to be confused, and he wants information out there that would be misleading, because he could then raise all these issues and say, 'Look, there are these areas in the Growth Investigation Areas that could potentially be used, but they are not in there. Why not?' He would create this massive diversion about an issue that has nothing at all to do with the objectives of the plan. That is what he is on about, and we know that; you can read him like a book.

I am not about misleading the people of this state. As I said, there are areas such as the McLaren Vale wine region, the Barossa Valley, the hills face zone, and the area north of the new Northern Expressway around Virginia that this government is determined to preserve. Obviously there are options, but we have actually ruled them out. It is similar to the environmental lands that have been identified.

There are plenty of areas where there could be urban sprawl, but this government wants, first, to contain it by getting growth within the boundaries; and, secondly, where we do have to have a development, we want it to be in areas that have minimum impact on the environment, that give

best use of infrastructure, and that have minimal impact on environmental lands and the hills face zone, as well as agricultural land. That is what we have done: we have looked at all the alternatives—and when you look at a map of Adelaide you can see there are not that many, unless of course you want to build on the hills face. If the opposition wants to do that, that is one thing, but does it want to build on our key environmental and agricultural areas? If the opposition wants to do that then they are the alternatives, but this government has ruled them out.

Why would you put out reports that have options to develop certain areas which are not part of government policy? This government has made it clear right from the start that we understand that houses could be built there, but it does not want to do that. It is not our policy to impact on the McLaren Vale wine-growing districts, the Barossa or the Virginia area.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:49): Has the government considered the proposal recently floated by Professor Blandy in relation to the areas west of Elizabeth, with more development in Elizabeth and potentially a relocation of the Bolivar waste water treatment area?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): Yes; we have.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. CARMEL ZOLLO (14:49): My question is to the Minister for Urban Development and Planning. Given the questions already asked today, will the minister please explain, for the benefit of those opposite in particular, the bases for the population projections within the draft 30-Year Plan for Greater Adelaide—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: —and their consistency with the objectives of the State Strategic Plan and the ABS estimates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): I am delighted to receive the honourable member's question, because it gives me a chance to put some facts on the record. As we have discussed already, the 30-Year Plan for Greater Adelaide maps out a response to the challenges facing this state as we tackle the issue of where to house our growing population. Essentially, that was the question asked by the Leader of the Opposition. We also want to locate the new jobs that will be required to support our economy.

During the next 30 years we anticipate a steady population growth of 560,000 people in the Greater Adelaide Region, consistent with the State Strategic Plan's objectives. This will require the creation of 282,000 new jobs and demand for the construction of 258,000 additional homes to accommodate our larger population.

I concede that in terms of this state this is an ambitious target, but it does not hurt to set a high bar if you want to impose a discipline on government policy making. However, I would argue vehemently against those who suggest that those population forecasts are overblown. In fact, they are supported by the Australian Bureau of Statistics high projections.

In a media release this week, the Hon. Mr Parnell accused the government of 'loading up' our population forecasts to justify planning for new development outside the urban growth boundary. That is wrong—and demonstrably so. Mr Parnell stated on radio yesterday that he is not a statistician. I think that is about the only thing that he said in his entire statement that was accurate.

The projections adopted for the 30-year plan were produced by a team of very experienced and highly regarded demographers and statisticians within the Department of Planning and Local Government using ABS data. The Adelaide Statistical Division (ASD) figures and 'the rest of the state' are the only population projections that are publicly released by the ABS below the all-of-state level. So, if you look at the state figures that the ABS provides, you have the Adelaide Statistical Division and you have 'the rest of the state'.

I assume that Mr Parnell has used these Adelaide Statistical Division projections; however, I am advised that the population of the Adelaide Statistical Division is currently approximately

150,000 less than the population of the Greater Adelaide Region covered by the 30-year plan. It is important that the geographic distinction between the Adelaide Statistical Division and the Greater Adelaide Region is made clear. I table a map delineating the Adelaide Statistical Division within the area covered by the Plan for Greater Adelaide.

The Adelaide Statistical Division covers 1,800 square kilometres. This equates to just 20 per cent of the Greater Adelaide Region, which covers some 9,000 square kilometres. In addition to this, what Mr Parnell fails to mention is that the ABS produces 72 population projection series to cover the most likely range of future scenarios. The series presumably used by Mr Parnell is not the one viewed by the department's demographers as the local one to adopt when you are planning for growth during the next 30 years. It assumes large net losses of people interstate, which runs counter to the government's policy objectives. ABS series VI—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Just wait. The ABS series VI is the most logically consistent high growth series for South Australia as it assumes high fertility, high overseas net migration gains, and small losses interstate through net migration, consistent with the aims of South Australia's Strategic Plan. This is because we will continue to have jobs available in South Australia, and, if we ensure that we have an adequate affordable land supply for families, this should ensure that working age people are attracted to stay and work here rather than move interstate.

I am advised that the ABS series VI high projection is even higher than the population projection scenario used for the 30-year plan. The 30-year plan estimates are therefore entirely consistent with ABS higher projections based on high fertility, high overseas net migration gains and small losses interstate through net migration.

We are taking the view that the way our state is managed can affect population growth. We are sitting on the cusp of a mining boom and we are putting in place policies now to attract and maintain a working age population. To put this into an everyday context, I am advised that the current average weekly population increase for Greater Adelaide is 310 persons. The 30-year plan for Greater Adelaide anticipates an average weekly increase across the entire time frame of approximately 360 persons, which is hardly an overly ambitious target.

Treasurer Wayne Swan last week underlined the need to plan for a high growth scenario. In foreshadowing the latest intergenerational report, Mr Swan suggested that Australia's estimated population is expected to rise to more than 35 million people by 2049, up from the previous projection of 28.5 million by 2047. Remember, we are talking in 30 years about an extra half a million people in this state. In this scenario, we are saying that in two years the projection across the country has risen by 6½ million.

So, while this is across a 40-year period, rather than a 30-year period, if South Australia retains its 7 per cent proportion of the total Australian population, we would be looking at a state population, under Mr Swan's figures, of 2.45 million. That result is more than consistent with South Australia's Strategic Plan, which has established a long-term target of a population of 2 million by 2050, a target we expect to achieve well before that deadline.

Even today, the ABS released the March quarter population figures for 2009 which show South Australia's growth continuing at very high levels. As at 31 March 2009, Australia's population had grown to 21,779,000, an increase of 439,100 people compared with the previous year. During that same period, South Australia achieved a growth rate of 1.2 per cent. I have the figures here for March and, if you look at it, that is 18,600 for the 1.2 per cent growth. Just multiply 18,600 by 30 and see what you get—and, given that it is compounding, it will be more than that. That is what we got in the past 12 months. So, those people who are challenging these figures should look at the stats that have been released today.

South Australia's Strategic Plan commits the government to delivering on jobs and economic growth and reversing the decline that would have been the fate of this state if we had not adopted policies to attract investment, jobs and migrants to South Australia. What we are seeking to achieve through the 30-year plan is to provide an alternative to urban sprawl. Unless we can achieve the objective of the 30-year plan, which is to try over the three decades to put 70 per cent or more of Adelaide's growth within the existing areas, we will have more greenfield development and more urban sprawl than we want.

I think the question for Mr Parnell, who is questioning these figures, is whether he supports continued and sustainable economic growth for South Australia, or whether he is advocating a smaller population and a decline in our state's enviable living standards.

The 30-year plan shows how we can tackle the challenges of an ageing population, climate change, rising fuel prices, demand for affordable housing, and water security without forcing the economy to stagnate, which would be the inevitable consequence of adopting the Greens' policies. Of course, the alternative would be a shrinking population, less government revenues to support health, education and infrastructure, greater reliance on a smaller workforce to support an ageing population, and the inevitable fall in living standards.

By all means, let us have a debate on the 30-year plan and on the population targets, but let us do it on the facts. We need to look no further than today's figures from the Bureau of Statistics.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. M. PARNELL (14:59): I have a supplementary question. What is the minister's response to demographer Professor Graham Hugo's statement in this morning's newspaper about the population figures in the 30-year plan, when he said, 'They don't seem to correspond with any of the population projections that are around'?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:59): Mr Hugo should have waited and looked at today's statistics. He might be feeling a little embarrassed now.

BURNSIDE CITY COUNCIL

The Hon. DAVID WINDERLICH (14:59): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Burnside council.

Leave granted.

The Hon. DAVID WINDERLICH: On 12 June 2009, Mr Neil Jacobs, the chief executive officer of the City of Burnside, handed his letter of resignation to Mayor Wendy Greiner. On 15 June, Mr Jacobs advised councillors in an email that he would stay in the position of chief executive officer until August. On 23 June, a majority of Burnside councillors voted to accept the request of Mr Jacobs to retract his resignation and re-appoint him as chief executive officer. However, this appears to be a breach of section 97(2) of the Local Government Act which provides:

> A chief executive officer's appointment is terminated if the chief executive officer—
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> (a) resigns by notice in writing to the principal member of council; or
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> (b) completes a term of office and is not reappointed; or
>
> (c) is sentenced to imprisonment for an offence.

The relevant paragraph there is (a). This interpretation has been supported by advice from Grope Hamilton Lawyers which, in effect, states that Mr Jacobs cannot withdraw his resignation and council has no choice, under the act, but to declare the position vacant and advertise for applicants.

Members will also be aware that the terms of reference of the current inquiry into Burnside specifically refer to investigation of the circumstances of the chief executive's resignation and reinstatement in June 2009. My questions are:

1. Has the minister received advice that, under section 97(2) of the Local Government Act, Burnside chief executive officer Neil Jacobs effectively gave notice of his resignation on 12 June 2009?

2. Has the minister been advised that the chief executive officer Neil Jacobs' term of employment concluded on 11 September and that, to comply with the act, council must appoint an acting chief executive officer while it undertakes a new appointment process?

3. Has the minister been advised that the validity of the actions taken after 11 September 2009 by chief executive officer Neil Jacobs are open to challenge?

4. Will the minister outline what steps she has taken to ensure that Burnside council complies with the Local Government Act in relation to the appointment and termination of the appointment of Mr Neil Jacobs?

5. If the minister has not taken any steps to date, can she advise whether she intends to write to Burnside council informing it of the need to terminate Mr Jacobs' employment to comply with the Local Government Act?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:01): I thank the honourable member for his important questions. Indeed, we were concerned enough earlier on in the piece around the circumstances of the chief executive's resignation and reinstatement to make sure that it was explicitly included in the terms of reference for the investigation undertaken by Mr Ken McPherson, which is currently being undertaken. As yet, it has not been completed so, clearly, I do not want to pre-empt the outcome of the investigation.

Given the complaints I received, given the council's explanation in relation to that and the 'please explain' letter, and given council's response to that, I then determined that the council's explanations did not satisfy the concerns that had been raised with me and, therefore, I upheld my powers of investigation under the Local Government Act and appointed an investigator.

Since that investigation took place (and I do not have the dates with me), approximately a week or so ago, the investigator provided information that he had concerns around the appointment of the CEO Mr Jim Jacobs and—

Members interjecting:

The Hon. G.E. GAGO: Sorry; I beg your pardon. I will correct that. I meant to say the CEO, Mr Neil Jacobs. The investigator had concerns about the process of resignation and reappointment. The agency then wrote to the mayor and outlined the concerns that had been raised by the investigator.

The matter now rests with the council. The matter is under investigation and is included as a specific term of reference. Because we received concerns from the investigator, at that point I felt it was important that those concerns be passed directly to the council for its consideration. To the best of my knowledge at present it has not responded. The correspondence about this particular matter went to the council perhaps a week ago, maybe less.

CONSUMER CREDIT

The Hon. J.M.A. LENSINK (15:05): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question on consumer credit.

Leave granted.

The Hon. J.M.A. LENSINK: Through the COAG process, a number of the current roles of the states and territories are being transferred to a national system and, indeed, the minister replied in estimates that it would take place, under referral powers of the states, on 1 November 2009.

In media releases, the Hon. Chris Bowen MP, federal Minister for Financial Services, Superannuation and Corporate Law, has stated that there would be no gap in consumer protection between the turning off of the state and territory credit regimes and the turning on of the new commonwealth regime. He has also referred to a deferral of commencement of the scheme to give the credit industry more time to make necessary changes to the new regime.

My questions to the minister are: how does she make the claim that there will be no gap in consumer protection between the transition from states and territories to the commonwealth? Does she expect that this parliament will be required to pass legislation in order to refer those powers, and is she aware whether the additional red tape and the concerns raised in this place previously on behalf of the mortgage broking industry have now been addressed?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:06): I thank the honourable member for her important questions. Indeed, they are questions that draw attention to certain frustrations that we have had around the implementation of some of these COAG reforms. Indeed, the federal government set very ambitious time frames to achieve national reforms around credit, consumer law, trade measurement, and a wide number of other reforms as well. The federal government is to be commended for that. I am not criticising it for that; they were reforms that were long overdue. We saw that the previous federal Liberal government sat on its hands and did

nothing about these areas of reform. That led to a great deal of frustration for various industry sectors and businesses throughout Australia, including those in South Australia.

So, the federal government is indeed to be commended; however, the time frames are somewhat ambitious. There are various components of the credit reforms, but they are to be in place from the end of this year, early next year, and then I think the next round is mid year. They are going to be very tight time frames for us to achieve. South Australia has not yet received the referral powers from the federal government. The bill is still before the commonwealth government; I understand it is still in the Senate. I am unsure at this point in time whether there will be any amendments or changes to the bill, so we are still not sure what it will look like once it has been through the federal jurisdiction.

A bill will then come here to refer our powers. As I have said, it is a very ambitious target, but we expect and hope that it will be able to be tabled here very soon and will be able to proceed through both houses before the end of this calendar year. However, I do accept that it is an ambitious project.

A number of transitional matters have been put in place. First of all, I should say that the federal government has been late in delivering its legislation to the states. I think it was originally planned to be given to the states in around June or July this year. I think it was then deferred for a couple of months, and I have been advised that it has since been deferred again, which means that the states and territories have a tighter time frame within which to implement their referral powers.

Having said that, nevertheless, there are states other than South Australia that are having even greater difficulties meeting the time frames of the federal government. A number of contingencies have been put in place to ensure that protections occur throughout Australia and that consumer protection is maintained. I understand, for instance, that Queensland is responsible for the code of conduct around credit, and there was concern that that would be switched off by the end of this year, or very early in the New Year, and that that could leave some states exposed. I understand that negotiations have just occurred within a matter of the past few days to ensure that that will not occur, and Queensland is looking at a different time frame for that.

So, we are well aware of the imperative to ensure that our consumers retain protections whilst these transition arrangements take place. It is a very challenging task, and I can speak for South Australia and say that we are doing everything we can to assist the federal government to meet the time frames it has put in place, and we will continue with our efforts.

INTERNET SWEEP DAY

The Hon. B.V. FINNIGAN (15:11): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about internet-based scams and efforts by fair trading agencies to protect consumers.

Leave granted.

The Hon. B.V. FINNIGAN: The Internet Sweep Day is an annual initiative of the International Consumer Protection and Enforcement Network. Australia's involvement is coordinated by the Australian Competition and Consumer Commission, with regular participation by South Australia's Office of Consumer and Business Affairs. Will the minister advise the council about the Office of Consumer and Business Affairs' participation in a worldwide sweep of the internet to uncover scams and bogus websites?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:12): I can inform members that, today, consumer affairs agencies from over 20 countries are participating in a coordinated blitz of the internet to expose bogus operations and websites that promote what can be considered 'too good to be true' offers. Australia's involvement is being organised and coordinated through the ACCC, with staff from South Australia's Office of Consumer and Business Affairs working with the ACCC to particularly target sites that promote employment opportunities, health claims and so-called miracle cures.

I am sure we are all well aware that during these challenging economic times it is very easy for consumers to be vulnerable to offers of great things and tremendous offers that are too good to be true, particularly those who have a limited income because they have lost their job or those who are vulnerable to unscrupulous scam artists. Also, we know that people suffering illness are often looking for a quick cure or some form of assistance if they believe their circumstances are pretty

hopeless and they have tried everything. They can be vulnerable to promises that cannot be fulfilled. So, today's coordinated effort, with OCBA playing a significant role, is directed at not only catching the scammers but also raising community awareness that, when something sounds too good to be true, beware because it probably is.

The sorts of things that we are advising consumers about to avoid being caught include the following: avoid clicking on links in unsolicited emails (including those that appear to relate to major financial issues or major social events); avoid promises of instant wealth, incredible discounts and bargains, and also be wary of free gift offers; and beware of products or treatments that are advertised as a quick and effective cure-all. Also, we advise people to read all of the terms and conditions and fine print—and I know that can be challenging.

We also advise people to be wary of testimonials claiming to be outstanding, remarkable results. If in doubt, seek professional advice; and also do not be afraid to research the business; for instance, do a search online or go to an agency that might have some information about that particular business or product and double-check it that way. Consumers also need to be wary, as I said, particularly of the miracle health cures and such like.

I encourage the public to report any apparent scams, particularly those relating to dubious health and employment offers, to the Office of Consumer and Business Affairs. Obviously this government remains committed to exposing scammers and educating South Australians to be wary and also to take precautions while shopping or searching particularly for employment online.

FAMILIES SA

The Hon. D.G.E. HOOD (15:16): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question about Families SA.

Leave granted.

The Hon. D.G.E. HOOD: In 2004, tremendous concern was expressed in parliament when a departmental investigation found that some 5 per cent of cases where children were thought to be in immediate danger by child welfare were not followed up within the required 24 hours. In fact, the issue became the subject of a ministerial statement. At the time, the then minister for families and communities called the 5 per cent failure 'alarming'. He stated:

> I can assure the house that the resources will be provided to this organisation to achieve the required outcomes under the legislation, which is to investigate those matters within 24 hours. We know that investigations into the most serious of these matters are absolutely vital. It is vital that they occur within the 24-hour period, and it is incumbent upon us to give those involved the resources to do so.

Despite these promises to improve the situation for abused children in immediate danger, the number of delays has tripled since that time. This is a dramatic jump, rather than a decline, from the alarming 5 per cent figure some four years ago.

Given that a tier 1 notification is defined in the Families and Communities annual report as being when 'a child is in immediate danger and Families SA responds immediately', why have we come to this situation? Despite promises to fix this problem urgently in 2004, why has this failure to respond to urgent cases of child abuse where children are in immediate danger not been addressed as promised, and why is it some three times worse than it was four years ago?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:17): I thank the honourable member for his important questions and will refer them to the Minister for Families and Communities in another place and bring back a response.

SWINE FLU VACCINATIONS

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:18): I table a copy of a ministerial statement relating to the H1N1 vaccinations made earlier today in another place by my colleague the Minister for Health.

QUESTION TIME

ROXBY DOWNS COUNCIL

The Hon. S.G. WADE (15:18): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Roxby Downs Council.

Leave granted.

The Hon. S.G. WADE: According to the Australian Bureau of Statistics, the population of the Roxby Downs Council area was 4,453 in 2008. The Olympic Dam expansion development projects the population will increase to 7,000 in five years. There are 21 local government areas in South Australia which have populations that are less than that population; that is, around a third of South Australia's councils. These communities all have democratically elected councils to represent their interests. The BHP Billiton draft EIS states:

> Roxby Downs is unique in South Australia in that the Council operated under an Administrator and without a democratically elected body. As the Town grows and the responsibility of the Council becomes greater this situation is likely to require review.

The Roxby Downs Council submission on the Olympic Dam expansion draft EIS stated:

> [The council] notes aspirations for the potential change to an elected Council which under the Indenture is a matter for BHP Billiton and the State Government.

A poll taken by the *Roxby Downs Sun* revealed that 96 per cent of respondents said that Roxby Downs needs an elected council. Admittedly the sample was small. My questions are:

1. What triggers does the government use to assess the appropriateness of local government for a community?

2. When will the government engage the proponents of the Olympic Dam redevelopment, the Roxby Downs community and the Roxby Downs Council on appropriate local government arrangements for Roxby Downs going forward?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:20): Roxby Downs Council is a responsibility of the indenture minister, which is me as Minister for Mineral Resources Development. Ever since its establishment, Roxby Downs Council has been an appointed council. The reason for that, of course, reflects the unusual circumstances that exist in that town. In particular, the council is responsible for supplying electricity and water to the town. It has responsibilities beyond those which most other local government councils have.

Of course, in recognition of that it was included in the original indenture, which is now some 25 years old. The deficit that the Roxby Downs Council pays is jointly funded 50/50 between BHP Billiton and the state government through PIRSA. The reason for that is to ensure that the town is a liveable and a viable place. Of course, there is an acceptance by BHP that, if it wants its employees to live in the town, it is important that through the subsidy it supports the provision of basic utilities for the town.

Clearly, there has been some movement over time to change that arrangement. The current council arrangements are set out in the indenture. The state government in the past few months has established an advisory committee to ensure that there is greater accountability of that local government council, particularly in view of the fact that it is facing rapid expansion. Obviously, the town will grow dramatically as soon as the Olympic Dam expansion is announced.

In those circumstances it is the government's position that it is not appropriate to change the governance at this time—when there is to be quite rapid expansion—but, clearly, at some stage in the future when the expansion is underway the size of the town will be much more viable for local government services and it will be an issue that will need to be addressed in any case.

Obviously, the indenture is currently being negotiated between the government and BHP, and that would be a part of any arrangements. As a short-term measure, the government has put in place the Roxby Downs Advisory Reference Group, the membership of which comprises Bill Cossey (chairperson), Paul Case (Chief Executive of the Olympic Dam Task Force), Paul Heithersay (PIRSA Deputy Chief Executive) and Michael Kelledy from Wallmans Lawyers who has significant experience in local government. This body is currently providing a greater level of accountability to the affairs of the council. They are four very senior people, and I am sure many city councils would like such a group to be overseeing the affairs of their council.

I make the point that governance at a local level in Roxby Downs has been reviewed by the government. Clearly, the government's position is that, given significant expansion is about to take place and there are issues relating to a new camp, and the like, it would not be sensible or appropriate at this time to introduce local government on the verge of that expansion. However, at some stage in the future, I believe it is inevitable that there will be changes. The government will look at those at the appropriate time, once the expansion has been announced.

COOPER CREEK

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:24): I table a copy of a ministerial statement relating to Cooper Creek made earlier today in another place by my colleague the Premier.

QUESTION TIME

ROXBY DOWNS COUNCIL

The Hon. S.G. WADE (15:24): I have a supplementary question. Do I take it from the minister's comments that the terms of reference of the advisory committee preclude it from considering a democratically elected council as an accountability mechanism?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:24): This particular group has a charter to ensure that there is a level of accountability. Some other mechanisms have been adopted within the town to ensure that there is public input.

The point I am making is that with the expansion decision to be made in the next 12 months it is not the government's view, nor the view of BHP I would suggest, that it would be appropriate at this time to change those arrangements because the town is about to undergo significant changes.

The other issue that would have to be addressed is, of course, funding. As I said, the town deficit is something in the order of $1.5 million a year, which is half-funded through PIRSA and half-funded through BHP. Those issues would also have to be addressed. However, while we believe that this particular group does provide a greater level of scrutiny over the decisions of local government, we also believe that the current arrangement should remain in place until the expansion is approved and complete. Then, given the greater size, the matter can, and should, be revisited.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. R.P. WORTLEY (15:26): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the draft 30-Year Plan for Greater Adelaide.

Leave granted.

The Hon. R.P. WORTLEY: The minister has already addressed the issue of population projections in an earlier answer, but I would like the minister to respond to comments made by Richard Blandy recently, when he criticised the plan for Greater Adelaide at a northern leaders forum, which were published last week in *The Advertiser*. Will the minister respond to these criticisms and outline the government's objectives in setting a growth strategy for Greater Adelaide through a 30-year plan?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:26): I thank the honourable member for his question. As discussed earlier in question time, in July the government published a draft 30-Year Plan for Greater Adelaide for public comment—and I need to repeat that because a lot of people do not seem to understand that we are still going through the consultation period at the moment. That plan was put out there to foster debate and hopefully attract some constructive criticism from the community on how this comprehensive document could be improved.

This strategic document sets out a vision for growth and development of the Greater Adelaide region for the next three decades, including ways to accommodate a growing population, provide more housing choices for changing demographics, and tackle the challenges of climate change, rising fuel prices and water security. As the Hon. Mr Wortley pointed out, Professor Blandy

has made some criticisms of the plan, including the economic analysis that helped frame many of the assumptions in our projections for growth.

There are three points I would make in response to Professor Blandy's comments. First, he appears to have misread and misunderstood parts of the 30-year plan; secondly, the economic modelling in the plan that he has criticised was undertaken by KPMG, one of the country's most respected modelling agencies; and, finally, the government does not and will not agree with Professor Blandy's view that there is no need to use planning to try to reduce carbon emissions as this problem will be solved by the federal emissions trading scheme.

I would like to deal with each of those points in turn. Professor Blandy claimed that 'elected local governments are replaced as partners of the state government by unelected regional bodies' in the plan. That is a complete misreading of it. The regional implementation forums to which Professor Blandy refers are made up solely of local and state governments. The purpose is to strengthen the partnership of state and local governments in delivering infrastructure and planning at a regional level. This will undoubtedly deliver better outcomes for the community.

In addition, some of Professor Blandy's criticisms appear to be of what he says are editorial errors in the plan; however, his editing criticisms appear to have confused the Background Technical Papers with the plan, despite the very clear labelling that they are not part of the plan. I am sure this is an honest mistake on his part.

In terms of the economic modelling, I would say that it is normal for economists to dispute each other's modelling. Historic growth rates are not the sole determinant of projected growth rates. In this case modelling was undertaken by the highly respected KPMG and relied heavily upon projections published by commonwealth Treasury which take into account the national trend towards a lower proportion of working-age population. The plan was modelled using input such as population scenarios endorsed by the cabinet, assumed impacts of transit-oriented developments, and the potential carbon pollution reduction scheme. The modelling projections are also in line with the Economic Development Board's economic statement.

I believe it is reasonable for the government to rely on such eminent sources. In addition, Professor Blandy claimed that the growth and manufacturing sector in the plan is high when compared to past trends. Again, the modelling was undertaken by KPMG and is a good news story for South Australia. Increases are expected as demand is maintained for defence goods, electronics and other manufacturers related to energy efficiency and renewable energy, alternatively known as advanced manufacturing.

It would appear that Professor Blandy might have been referring to an old definition of 'manufacturing'. I am advised that Professor Blandy has commented that there is no need for the state government to use planning tools to try to reduce carbon emissions by encouraging more use of public transport or more carbon efficient buildings. He says that this is unnecessary because the federal government's Carbon Pollution Reduction Scheme (CPRS) would rectify the matter.

The government does not agree with this proposition. Whilst the CPRS will put a price on carbon and therefore seek to drive down demand, it is not a magic bullet. We will all need to pull our weight and we must find ways to reduce emissions and assist South Australians to access more affordable living and use fewer resources into the future.

The government is very keen to strengthen Elizabeth's role as an economic and activity centre in the region. We are planning to have Elizabeth as a transit-oriented development so that people are able to live, work and play within the development but also use public transport for necessary trips. I think that covers the point raised earlier by the Leader of the Opposition that Elizabeth, of course, is one of the key 13 identified sites for transit-oriented development. Professor Blandy's suggestion of a second CBD is perhaps unrealistic when we look at the ageing demographics of the Greater Adelaide Region.

Finally, despite suggestions that the government failed to consult the community before publishing the draft, I can assert that the plan is the culmination of extensive consultation with local government, state government agencies, and key industry and community organisations. Three rounds of regional forums were held with councils across Greater Adelaide that discussed opportunities and constraints confronting councils in meeting the challenges of housing a growing population and facilitating regional economic growth. While elements of the plan are not explicitly attributed to councils, their input was an integral part of developing the direction of the plan.

Again, I would encourage all South Australians to obtain a copy of the draft plan and lodge a submission with the Department of Planning and Local Government. It is where we all live, so it is important that people have their say, but it should be based on fact.

I add that I think it was Professor Blandy who made some public comments in relation to the future of Bolivar as a site. That was raised with me some time back by Stephen Haines, the Chief Executive Officer of the City of Salisbury. As a result of that I had meetings with the chief executive officer of SA Water, but the information I was given was that SA Water had done some studies in relation to shifting that site and the economics did not stack up.

That is the reason why Bolivar is not in there, but I personally had some meetings in relation to that and it is a matter which has been considered. From a planning perspective it may well make sense to have development in that area, but obviously that will depend on SA Water's future plans for the site, and it has made it clear that, at this stage, it would not be economic to shift it.

ANSWERS TO QUESTIONS

OMBUDSMAN

In reply to the **Hon. A. BRESSINGTON** (March 2009).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Attorney-General received the report from Mr Ternezis and has referred it to the appropriate Minister, namely, the Minister for Families and Communities.

The Attorney-General does not accept Mr Ternezis's and the Honourable Member's allegations of procedural corruption, improper collusion and cover up and 'assimilation to the culture of bureaucracy'.

The Minister, the Ombudsman and the Crown Solicitor's Office do not agree with Mr Ternezis and the Honourable Member about the facts or that the law does not make them guilty of these allegations.

SELECT COMMITTEE ON CERTAIN MATTERS RELATING TO HORSE RACING IN SOUTH AUSTRALIA

The Hon. T.J. STEPHENS (15:34): I seek leave to move a motion without notice.

Leave granted.

The Hon. T.J. STEPHENS: I move:

That the select committee have permission to meet during the sitting of the council this day.

Motion carried.

ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. G.E. GAGO: I move:

That the council do not insist on its amendment.

This bill originated in another place. The amendment proposed here by the Liberal Party and passed on 18 June 2009 was disagreed to in the other place. The amendment proposes to remove the IAP regulation-making power from the bill.

I addressed the issues raised during debate on the bill in this chamber in July 2009. IAPs are now operational in New South Wales, Victoria and Queensland. Many freight companies and industry bodies support the legislation to enable the introduction of the IAP program in South Australia, but the government acknowledges that there is some opposition to IAP. That is why it will be a voluntary scheme, and it will not be required for existing access.

It is a commercial decision for every operator as to whether the benefits and participation in the scheme outweigh the costs and whether or not a freight company wants IAP. If the legislation is not passed then no freight operator from interstate or within South Australia will have the option of using IAP in South Australia. The government will also be denied a tool to manage road safety and to protect state and council road infrastructure. It is not in the interests of South Australia to insist

on the council's amendment to remove IAP from this legislation and I urge members to support the motion.

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to indicate that we will be opposing the government's motion and insisting on our amendment. There has been long debate about this since we last dealt with the matter. In particular, I think the minister referred to some support for this nationally.

Members will be aware that the minister's office advised the Victorian Transport Association to provide us with some information in relation to it supporting that position. However, it is interesting to note that every other transport body in the nation has contacted my office and given me written advice that they support the position that the Legislative Council took, and that was to remove the IAP from this particular set of amendments.

I think it is rather a shame and an indictment on the government that it has held onto this for some time. We were happy to deal with it several weeks ago—in fact, before the winter break—to allow the speed reforms to go ahead and to allow the trucking industry to sit down with the minister and the minister's advisers for some discussion.

The minister is now saying that this is a voluntary scheme, it will not be retrospective and it will deny other operators the right to use IAP in South Australia if we stick to our amendments. Clearly, we are operating properly now. There do not seem to be any road safety benefits from this particular amendment. Shortly, when I read some of the dozens of letters that I have received about this, members will become aware that this is not something that is operating accurately in any other state. The minister says it is part of a national framework, and yet none of the other states have embraced it at this point.

I was unaware that this would be debated as the very first item today because it was No. 2 or 3 on the list and, clearly, it is not a government priority. I have a couple of letters that I would like to read onto the record. I am aware that the minister's office has contacted the Road Transport Association and expressed disappointment that the association has briefed the opposition. I would have thought that is what democracy is about: that everybody is entitled to speak to the opposition and keep it informed of all developments. Clearly, I am disappointed to think that the minister has instructed his officers to complain about the fact that we have been lobbied. The first letter I wish to read was written by the South Australian Road Transport Association to the minister on 9 September 2009. It states:

Dear Minister,

SARTA, whilst not opposed in principle to the concept of IAP, remains opposed to the current proposal to implement IAP in South Australia because:

1. The technology is not yet in place to deliver effective mass monitoring and vehicle configuration monitoring and, hence, IAP cannot deliver the stated infrastructure protection aims.

Remember that the minister just said that it will protect the roads. The letter continues:

2. The implementation costs are far higher than claimed by the government, and the industry cannot bear these costs, especially as there would not be any offsetting business gain that might otherwise warrant the costs. A typical mid-ranged truck operator would incur costs of over $300,000 to implement IAP and they would have to grow their revenue base by some $9 million to break even—this hardworking industry had the slimmest profit margins, just 3 per cent.

3. The community, including weekly household shoppers and the businesses and industries that we serve and underpin, would have to bear the costs that we would be forced to pass on without any tangible road safety infrastructure protection gain.

4. The IAP proposal is seemingly being driven with the aim of establishing an ongoing revenue stream through using it principally as an enforcement tool that would impose an absurd level of technical enforcement in relation to purely technical and very minor breaches, such as a truck driver having a 14½ minute rest instead of the required 15 minute rest.

5. IAP is ultimately aimed at the imposition of a new taxes and charges regime on the trucking industry that would again lead to significantly increased costs on the community and the economy without any assurance that revenue would be turned back into the road network.

6. The increased costs can be expected, without question, to impact adversely on price-sensitive exports, such as grain and wine, where just a few cents per tonne makes the difference.

7. SARTA does not accept the argument that there would be any net gain in safety or compliance through the imposition of this hugely expensive and essentially unnecessary tool in its current form.

8. The proponents of the IAP concept are still no closer to overcoming its greatest weaknesses—their inability to prevent and effectively counter that minority of truck operators who may choose to circumvent the system so as to gain a commercial advantage whilst the vast law-abiding majority would pay a hugely expensive price merely to prove that they are law-abiding.

9. Whilst the government has commented that the IAP would not be applied retrospectively and that it would only be applied on a voluntary basis in relation to genuine and significant new benefits and access, it has rejected SARTA's calls to enshrine those conditions in the law and as such the industry is being asked to accept what amounts to a promise. We do not think that this is reasonable as the government's refusal to legislate these conditions gives us serious cause for doubting the government's intentions.

Accordingly, we do not support the SA government's proposed amendments of IAP in South Australia and will not consider doing so until the government addresses the issues set out above.

As can be seen, that letter raises some significant concerns. I will just mention the companies that have written to me which are, if you like, undersigned to that particular proposal. They are: Total Logistics of Dudley Park, South Australia; Whiteline Transport, an interstate express service; Harris Refrigerated Transport; South Australian Crane Association Incorporated; the Owner Drivers Association of South Australia; Brown's Transport of Lameroo; Bordertown Haulage (the Karger family in Bordertown); Associated Hemmings Pty Ltd (Kevin Hemmings), a transport company in Mount Gambier; Allisons Transport in Plympton; Allied Pickfords; AG Wilson Earthmovers; Dennis Transport; Linke Contracting; KC & MR Boult; and K&S Freighters—I think that is an interesting letter. I will actually read the K&S Freighters letter into the record in a minute. Hi-Trans Express supports SARTA's position. Glen Carron of Beachport also supports its position.

Gilberts Transport Service and Gericke Bulk Handling support SARTA's position, as also do the following companies: Transport Services, Diamond Brothers, Lochert Transport, Quinn Transport, Paterson Bulk Transport (and I declare that Mr Norm Paterson is a member of the Liberal Party, and recently received a Medal of the Order of Australia for his contribution to the community), Ortlepp Transport, Northline Transport, Australian Road Train Association Links, Mid North Bulk Super Service, Macklin Transport and McArdle Transport. That is the end of the list, but I have a couple of letters that I would like to read.

So, members in the chamber can see that the Road Transport Association has a large degree of scepticism that the government is not willing to enshrine its promises in legislation. I think all members have seen in this place that the government has said one thing and done another. In fact, that is one of the hallmarks of this government: it continually says one thing and does another. This letter is from the Australian Transport Association of New South Wales and states:

ATANSW is aware that the SA government's proposed IAP legislation and the debate that it has attracted in the state parliament is opposed by SARTA.

ATANSW acknowledges that SARTA's position has been adopted in the best interest of the SA trucking industry and the SA economy.

We note that technology is not in place to deliver effective mass and vehicle configuration monitoring. The implementation costs are far greater than claimed and industry simply cannot [afford to bear this cost]...

IAP is an imposition of a new tax and charges regime on our industry and would again lead to significantly higher costs on the overall economy without any assurances that the revenue would be returned back into the road network.

ATANSW [agrees] supports the SARTA position that does not accept the argument that there would be any net gain in safety or compliance through the imposition of this hugely expensive and essentially unnecessary tool in its current form.

ATANSW would urge the SA government to work closely with SARTA in achieving the best possible outcome for the...road safety industry.

I think it is interesting for honourable members to note that the interstate bodies have urged the government and the Road Transport Association to work closely together. Clearly, there has been no willingness to do that on the part of the government.

There is also a letter from the Civil Contractors Federation. I think in the debate some weeks ago minister Gago indicated that the civil contractors supported the IAP, and I will quote from this letter written to Mr Conlon, as follows:

There has been some confusion within DTEI regarding the Civil Contractors Federation SA Branch's...position on the introduction of IAP in South Australia. This has been despite several meetings directly with DTEI staff and clear communication by the CCF SA at the Heavy Vehicle Forum in July 2009.

The Civil Contractors Federation...are opposed to the introduction of IAP in South Australia.

I will also read a letter which I think is quite interesting from Gericke Bulk Handling to Steve Shearer, the CEO of the Road Transport Association. It says:

Dear Steve,

The issue of IAP becoming compulsory for operating at higher mass is growing quite frustrating. Just in costs alone implementing IAP is beyond comprehension at this time. We look at all avenues to keep our costs down, thus being able to keep our customers happy; we take a great deal of pride in being able to provide a specialised service, with attention to every detail and quality taken very seriously by our company. Basically being forced to move into IAP we would have to pass the cost onto our customers. We have a hard enough time trying to get a rate increase as it is, without trying to get a rate increase for something that is not necessary.

Maybe the government should look at upgrading the roads in South Australia to higher mass standards, then IAP would not be required. All IAP is going to achieve is the enforcement agencies are going to be able to monitor the companies who are doing the right thing. There will still be the rabbits out there that will cut corners and breach the rules just like they do now!

There is one thing that my dad taught me when I first started work. You don't make money by sitting on your bum. You have to get out and get your hands dirty. What I am trying to say is that monitoring IAP from an office is not going to gain anything. They would still have to get out and perform random checks. A costly fine for being 30 seconds short for a rest break [is] just ridiculous. Obviously the government wants to cut corners by not having to get out and enforce the road laws, just sit in their air conditioned office [and] enforce the laws from there. We agree that IAP as proposed will not achieve higher safety or compliance outcomes because it cannot do what is being claimed. So the increased cost would add a burden to our economy for no gain.

Yours sincerely

Matthew Gericke

I refer to a letter from K&S Freighters to minister Conlon. K&S Freighters is part of the Scott group in Mount Gambier, as I am sure you are aware, Mr Chairman. Although, sadly, with the passing of Mr Alan Scott, the company may have changed somewhat in structure. The letter states:

Dear Minister Conlon

K&S Freighters Pty Ltd has been actively involved with Road Authorities and other parties within the supply chain on the development and introduction of model legislation in respect to Compliance and Enforcement. As you know, these new laws shift the onus of transport related matters on all those within 'the chain of responsibility' and not just the driver and/or operator, ensuring that any party who has control in a transport operation can be held responsible and made legally liable for transport related incidents.

Extensive work by the NTC with varying parties has resulted in the approval of the National Road Transport Reform (C&E) Bill by the ATC—November 2003.

As you are aware, the C&E legislation forms part of a broader package of measures focusing on improving compliance outcomes for road safety, infrastructure and the environment, while minimising the adverse impacts of road transport on the community.

Reform packages have been developed and introduced for mass, dimension and load restraint. Last year State Governments introduced the second major reform package—Heavy Vehicle Driver Fatigue. The Industry has experienced a significant degree of difficulty in the implementation of these packages due to a number of states (not necessarily South Australia) who have departed in varying degrees from the NTC model legislation. Implementation has been difficult and costs have been greater as a result and overall compliance has been harder to maintain as a result of all these variations.

We write to you as Minister for Transport—South Australia, with our concern over the next reform package to be introduced in South Australia—Speed, and the combining of this reform package with other matters, namely IAP (Intelligent Access Program). The reform packages to date have been significant for the Industry and others within the supply chain. To add additional burdens and complexity by combining other items to this reform departs from the original intent of the model legislation/packages and will cause greater confusion in respect to interpretation and/or implementation difficulties including costs.

In relation to IAP, our experience to date in other states has been that the costs associated with fitting and maintaining IAP compliant monitoring devices on vehicles have not justified any efficiency gains available from new routes and access regimes. We are very concerned to ensure that the introduction of IAP as a pre-condition of making new route and access regimes available to transport operators be subject to proper cost-benefit disciplines so that one of the fundamental outcomes of IAP (i.e., productivity gains) is achieved.

We also take this opportunity to record our concern that IAP not be introduced retrospectively to existing route and access regimes used by transport operators. To do so would be to impose significant additional costs upon transport operators in circumstances where they may be precluded contractually from recovering these increased costs from their customers. We believe that this would be unfair and unintended consequences of the introduction of IAP.

We seek that the South Australian Government continues to introduce and implement the transport reform packages as stand alone units, as we have in the past. We also ask that you take into account our concerns in relation to IAP, regardless of whether speed and IAP reforms are progressed as stand alone units or as a package.

Yours sincerely

Legh Winser

Members can see that there is a depth of understanding and feeling. I hope members in this chamber understand that the industry is very concerned with a government that makes a promise that it will be a voluntary program, or why would these 50 or so companies write to me and send so many letters to the minister if they genuinely believed that this would be a voluntary program?

Minister Gago should put on the record the reasons that the government will not enshrine in the legislation the commitment it has made that this is voluntary. Clearly, the Road Transport Association nationally supports IAP in principle. It is very concerned about the impost on its operations. Given the global financial times we are facing—and I suspect we are not out of the woods by any stretch of the imagination—imposts on small businesses will be significant. A figure of $300,000 has been quoted to implement the IAP for mid-range operators.

Members can also pick up from the tone of the letters I have received that there is a level of concern about where this might lead in relation to new taxes and charges. That raises another issue about openness and transparency in what the government is trying to achieve. The opposition—as is the industry—is still more than happy to support the speed reform but, clearly, in relation to the IAP a lot of questions are unanswered.

Clearly, the industry is concerned. It has dealt with the government for some 7½ years and, obviously, it has some experience with commitments, which have been given off the record or which have not been enshrined in legislation, failing to materialise. I would like the minister to explain to the chamber why the government cannot sit down with the industry and come up with a legislative package that gives the industry the comfort for which they have asked.

The Hon. G.E. GAGO: Many of the issues that the honourable member has raised have been dealt with already during the second reading summary and/or the committee stage. I accept that there are those who do not agree with us and do not support the scheme but, nevertheless, we have addressed already in depth many of those issues. It is not in anyone's interest to keep repeating the same responses so I will endeavour not to do that.

In terms of those fairly new matters that the honourable member has raised, there are some who do support the introduction of IAP. SATAR clearly does not support this, but I cannot stress strongly enough that the scheme is voluntary. It is a voluntary scheme which will not be required for existing access. It will be a commercial decision for every operator as to whether the benefits of participating in the scheme outweigh the costs.

Before going onto the reasons why we do not believe it is a good idea to enshrine it in legislation, the honourable member mentioned the Victorian Transport Association. That association has written to the Minister for Transport to express support for the IAP and its introduction in South Australia. The VTA has over 800 members, including many freight companies operating from and in South Australia.

Some of those organisations that do support what we are doing include: Roads Australia with 67 members, including major construction, engineering, paving and road operating companies in Australia, together with industry peak bodies and unions.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: Truly, how does the honourable member think they transport their goods in order to conduct their business?

The CHAIRMAN: Order! The honourable member should ignore interjections.

The Hon. G.E. GAGO: Indeed, I will take your advice, sir, and ignore the ignorance of the honourable member opposite. Infrastructure Partnerships Australia, which is another organisation that supports this legislation, is a peak infrastructure forum comprising public and private representation which advocates the public policy interests of the infrastructure industry. The Australian Logistics Council is a partnership of senior industry leaders, including customers, transport providers, peak bodies, state-based freight councils and other industry specialists, with the aim of advocating on behalf of the transport and logistics freight industry. NatRoad, Australia's largest trucking association, representing all long-distance and regionally based operators, is another organisation supporting it. While originally having reservations about the bill, NatRoad now supports it, based on further information provided to it. Also supporting the bill is the Noske Group, a freight company which has significant operations developing in the Green Triangle region and

which already has vehicles enrolled in the IAP system in both New South Wales and Queensland. It believes that a national IAP system offers fully compliant companies the opportunity to maximise the benefits of heavy mass limits without incurring further increases in non-productive administrative overheads. There are others, but I think I have mentioned some important ones.

I would like to put on record that many of the letters of support that the Hon. David Ridgway quoted are a result of the pro forma letter that SARTA sent out to its members—in fact, most of them are from SARTA members. Of course, it is their prerogative to write letters, but I remind honourable members that it is a voluntary scheme.

In terms of why we feel it is unnecessary to enshrine this policy in legislation—and we have certainly put this on the record often enough—we believe it would compromise the minister's powers to approve access under the provisions of the Road Traffic Act and would reduce flexibility for existing operators. For example, it would prevent IAP being made available to operators on South Australian higher mass limit routes who are enrolled in IAP for higher mass limits in New South Wales and Queensland. These operators may wish to operate under IAP to avoid filling in and carrying the route compliance certificate currently required in South Australia as a higher mass limits condition. No other jurisdiction has included restrictions like this in its IAP legislation and, as I put on record before, IAP is now operational in New South Wales, Victoria and Queensland.

Another reason for not enshrining it in legislation is that the policy on heavy vehicles access is set according to the principles of the DTEI heavy vehicles access framework, and this is sufficient to guide application of the IAP. The framework was developed in consultation with the transport industry and approved by the Minister for Transport, and changes to policy are not undertaken without consultation with the industry and distribution of information about the changes. DTEI is very aware about the potential impact of changes to transport operations.

If IAP was applied only where the minister was satisfied that the operational benefits justified the requirement for IAP, the minister would have to assess each individual application and grant individual permits. It would force an operator who wanted access, subject to IAP, to provide a cost benefit analysis to satisfy the minister that the benefits justified imposing IAP. It would add red tape, time and cost for both government and operators, and it would prevent operators registered in IAP schemes in other states from using IAP monitoring in South Australia without satisfying the minister that the benefits justified imposing it. Finally, it would restrict the availability of new access—for example, where IAP is required for legitimate road safety or infrastructure protection reasons but there is not an operational benefit for that particular access.

The Hon. A. BRESSINGTON: I rise to indicate that I will support the government on this particular motion. I would like to put on the record that I have consulted with some of the crossbenchers and, in regard to the letters that the Hon. David Ridgway read out and put on record, none of us has been lobbied by those people; none of us has received those letters, or pleas from those particular people, to support the Liberal Party in its efforts. I find that a little curious, given that when there is a contentious issue we are probably lobbied as much as anyone else in this place. I would also like to put on the record that we do have copies of the letters to which the minister referred.

At the end of the day there will always be someone who does not want it and someone who does. However, the feeling that I get is that the people who are involved in trade and the business of transport and infrastructure nationally see a benefit in this.

There is one question that I would like to ask the minister. Can the minister give us an outline of what inconveniences would be imposed on the industry itself (transport and that sort of thing) if South Australia does not implement the IAP?

The Hon. G.E. GAGO: There are a number of inconveniences, but probably two of the most obvious are the fact that, if we do not have this system in place where business operators could opt in, South Australian operators registered in states such as New South Wales, Queensland and Victoria, where they travel interstate, would be required to be registered in the IAP systems that are available in those states and would have to have a separate lot of compliance documents registered here in South Australia rather than having just one system for the nation; and, conversely, those companies that are registered in other states that travel to South Australia would be required to be registered under two separate systems. Surely, it is just commonsense to put in place a system that eventually could be rolled out right around Australia and make it easier for this sector, in particular.

The Hon. D.G.E. HOOD: The position of Family First remains unchanged, that is, we will insist on the amendment. The reason for that was largely outlined by the Hon. Mr Ridgway. Like he, we too have had extensive lobbying from multiple organisations that have written to us strongly urging that we maintain our position, that is, to oppose the introduction of the IAP as proposed by the government.

We are happy to listen to the concerns of those constituents. After all, they are the people on the front line in this situation and who would know better than they whether this will positively or negatively impact their industry? We are not above taking the advice of these people. In fact, I have spoken to a number of them individually and for that reason we will maintain our position.

I would just like to address one issue which, as far as I heard, the Hon. Mr Ridgway did not address, because most of what I planned to say he did address, including listing the letters that he has. We, too, have letters from the same organisations and, indeed, maybe a couple that he does not have, as far as I can tell.

With respect to the issue raised by the minister regarding the Victorian Transport Association's position on this matter, we have some concerns about that because it has been suggested to us—and we are reliably informed—that the IAP applies only to cranes in Victoria. On a number of occasions, the VTA has consistently criticised the IAP, as have many areas of the industry nationally. It seems to me from my discussions with these individuals that there are a number of members of the VTA (both large and small) within Victoria itself, that are openly rebelling against the VTA's position with respect to their latest communication to the South Australian government on this issue.

So, I think there is clearly enough concern from the people who will be affected by this the most for us to credibly hold our position, and that is our intention.

The Hon. G.E. GAGO: I have been advised that, in relation to the VTA, the Hon. Dennis Hood is correct when he says that it does apply only to cranes, but the VTA intends to expand that. In a recent announcement by the Victorian minister, the Hon. Tim Pallas, regarding the introduction of the next generation high productivity freight vehicle trial, he said that he welcomed the trial and that it would be undertaken with the use of IAP technology. Mr Pallas launched the trial guidelines on 11 September 2009, and it will see the trial run for two years. The trial allows B-double vehicles, capable of carrying large containers, to move goods and such like. So, the VTA is looking at a trial, with a mind to extending it.

The Hon. D.W. RIDGWAY: When the Legislative Council amended this bill, the industry bodies made it very clear that they wanted to sit down with the minister and departmental officials to see whether there was some sort of common ground. They have clearly articulated that they support in principle the IAP. I would like to know why the government is not prepared to support the speed reforms, as we are doing today, and make sure that is implemented and then go back and look at the IAP in some detail with the industry. Clearly, that would be a sensible thing to do.

I say to the cross-benches that we, like the industry bodies, support in principle the IAP. Given that industry bodies have given in principle support to the IAP, surely there should be an opportunity for them to all sit down to try to work out a solution and not have it forced upon them. I say to those on the cross-benches that, time and again, we have seen the government make commitments on a whole range of things and not deliver. I think that is why this industry is so concerned; that is, that by the end of today this legislation will be imposed upon the industry, and that they have no level of confidence that what the minister has said will actually be delivered.

I know that the minister has carriage of this bill in this chamber, but I would like to know why minister Conlon is not prepared to sit down with the people who are here today, as well as those in the gallery who advise him, to work out a solution. Clearly, that seems to be the logical way in which to go forward, given that the government already has in principle support for IAP. I really think the cross-benches should know why you are not prepared to sit down and work with them.

The Hon. G.E. GAGO: In fact, the government is prepared to sit down to discuss this matter. A heavy vehicle industry forum was held in June and July this year, which forum included representatives from SARTA and a number of chief executives and other appropriate agency representatives. There has been considerable opportunity to have input into this matter. However, the bottom line is that this is a voluntary scheme, and that is the ultimate compromise, I guess. No-one will be forced to implement this. I have outlined in detail in this place why it is not advisable to

implement that in legislation. We have given a commitment—the commitment is well and truly on the record—and it is time to move on.

The committee divided on the motion:

AYES (11)

Bressington, A.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hunter, I.K.	Parnell, M.	Winderlich, D.N.
Wortley, R.P.	Zollo, C.	

NOES (10)

Brokenshire, R.L.	Dawkins, J.S.L.	Hood, D.G.E.
Lawson, R.D.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W. (teller)	Schaefer, C.V.	Stephens, T.J.
Wade, S.G.		

Majority of 1 for the ayes.

Motion thus carried.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 10 September 2009. Page 3184.)

Clause 8.

The Hon. P. HOLLOWAY: Amendment No. 3 is to the itinerant elector's provisions. It imposes another requirement on a person seeking to enrol under the itinerant elector provisions. The person seeking enrolment must live in South Australia and have lived here for a continuous period of one month prior to the application for enrolment. This is aimed at addressing concerns that the itinerant enrolment provisions are open to abuse by people coming into South Australia and enrolling to vote just before an election. It is also consistent with the requirements that must be satisfied under section 29 by other electors who have to reside at their principal place of residence for a continuous period of one month prior to enrolling under section 29(1)(c).

The Hon. R.D. LAWSON: I indicate that the opposition will support the amendment as an improvement on the government's original proposal.

Amendment carried.

The Hon. R.D. LAWSON: I move:

Page 6—

Lines 17 to 19 [clause 8(3)]—Delete subclause (3)

Lines 26 to 33 [clause 8, inserted section 31A(4)(c)]—Delete paragraph (c) and substitute:

(c) the Electoral Commissioner will cause the name of the person to be entered on the roll—

(i) for the subdivision for which the person last had an entitlement to be enrolled;

or

(ii) if the person has never had such an entitlement, for a subdivision for which any of the person's next of kin is enrolled; or

(iii) if neither subparagraph (i) nor subparagraph (ii) applies, for the subdivision in which the person was born; or

(iv) if none of subparagraphs (i), (ii) and (iii) applies, the subdivision with which the person has the closest connection.

Lines 35 and 36 [clause 8, inserted section 31A(5)]—Delete 'and after taking into account any address specified under subsection (3)'

As indicated earlier, the bill (as introduced) gave the Electoral Commissioner a discretion in relation to the particular subdivision in which the itinerant person was to be enrolled, and that included such matters as any other relevant factor. However, the Commonwealth Electoral Act has a hierarchy by which the commissioner determines when a person goes on to the roll, and that hierarchy is more objective and less subjective.

During the course of a briefing on this bill, the South Australian Electoral Commissioner said that she would propose to apply the commonwealth hierarchy even though it is not specifically stipulated. Given that fact, namely that the commissioner would apply the commonwealth hierarchy, and given also the fact that this is a common electoral roll between commonwealth and state electors, we believe it is appropriate to have a uniform provision with the commonwealth and one which is not subject to the individual whim of electoral commissioners. Whilst I do not imagine that would give rise to any particular problem, it is best in matters like this—which talk about legal entitlement to be enrolled—that the provisions be in legislation. So, I seek members' support for this amendment, which we believe is a considerable improvement.

The Hon. P. HOLLOWAY: The Hon. Robert Lawson has placed three amendments on file and, if I understand the amendments correctly, they all relate to the same subject matter and, as such, this amendment should be treated as a test for the series. Clause 8 of the bill inserts new section 31A into the act. This provision is intended to enable a person who does not have a principal place of residence to enrol to vote in state elections. Currently, they cannot.

New section 31A is modelled on the equivalent commonwealth provision although, as the Hon. Mr Lawson's amendments disclosed, they differ in one important way. Proposed subsection (3) of section 31A, the South Australian provision, provides:

> The form approved by the Electoral Commissioner may require the applicant to specify an address that may be taken to be the person's principal place of residence for the purposes of this Act.

Subsection (4) provides that, if all other requirements are met, the commissioner will enter the person's name on the roll for the subdivision which is, according to the determination of the commissioner, the most appropriate subdivision, having regard to any address specified by the application and any other relevant factor; that is, the decision as to the subdivision is up to the commissioner.

By contrast, section 96 of the Commonwealth Electoral Act provides that the commissioner must enter an itinerant elector on the roll for the subdivision for which he last had an entitlement to be enrolled; or, if he has never had an entitlement for the subdivision for which any of his next of kin are enrolled; or, if neither of the above apply, for the subdivision in which the person was born; or, if none of the above, for the subdivision with which the person has the closest connection.

The Hon. Mr Lawson's amendments will insert equivalent subsections into section 31A. The government's view is that this will introduce a degree of inflexibility into the itinerant voter provisions that may lead to inappropriate results in some cases; however, the government is prepared to support the Hon. Mr Lawson's amendments.

Amendments carried.

The Hon. R.D. LAWSON: Before we leave that clause, I ask the minister to indicate why we have continued to use the expression 'subdivision' in our legislation. I note that the roll was at one stage divided into subdivisions, and our existing act contains a definition of 'subdivision'. In this amendment, we once again refer to subdivisions, whereas, as I understand it, subdivisions which were a peculiarity of the commonwealth roll are no longer used. I just wonder why we do not use this particular occasion to remove that reference, which appears to be unnecessary. I should say in this connection that, in South Australia, we refer to districts not only in the Electoral Act but also in the Constitution. Electorates are referred to as districts, not subdivisions. Elsewhere in the Electoral Act we use the expression 'district', but in this particular provision we refer to 'subdivision'. I wonder whether the minister can provide an explanation for the committee.

The Hon. P. HOLLOWAY: As best we can measure, it is purely for historical reasons. The honourable member is correct: they were called divisions under the federal legislation and, therefore, that terminology, if you like, was adopted here and has just remained. It has been carried over, so it is purely for historical reasons. I think it would be something worth raising with the Electoral Commissioner. If she thinks it sensible to change the name at some stage in the future, that is perhaps something we can take up with her.

Clause as amended passed.

Clause 9.

The Hon. DAVID WINDERLICH: I move:

Page 8, lines 37 to 49, and page 9, lines 1 to 8 [clause 9(1) and (2)]—Delete subclauses (1) and (2) and substitute:

(1) Section 36(1), definition of eligible political party—delete the definition and substitute:

Eligible political party means a political party whose membership includes at least 200 electors;

(2) Section 36(1), definition of parliamentary party—delete the definition

This amendment would have the effect of restricting the definition of 'eligible political party' to a political party based on a party having the required membership of 200, or whatever the final membership agreed in this bill. It would remove the notion of a political party based simply on the fact that there is a member of a party in parliament where that party does not reach the required number of members.

I think the rationale for this is that an MP having a political party without any reference to membership is perhaps just the latest and strangest of perks available to members of parliament. We hear concerns about cars, phones and travel allowances, but there is this particular perk—not that anyone is particularly upset about it—which is, if you are a member of parliament, you can have a party, even if you have only one member.

I think the logic of a party, in a way, was expressed elsewhere by the Hon. Michael Atkinson, and he implicitly said that a party must have a reasonable participation from members of the community, and I think that is essential if parties are to be vital and vibrant. They need a reasonable level of membership, and I think a party should have an identity separate from that of a member of parliament or there is no point to them.

This is really a test amendment because there are a number of other amendments related to the same concept of removing the notion of a political party just because there is a member of parliament. It restricts the eligibility of a political party to its membership, and I think that puts it back where it belongs—that is, a party being in some way representative of the community and in some way separate from the member of parliament.

I see absolutely no argument for a member having a political party with one member in it. I can see no argument in terms of public interest, democracy or participation in elections. It just seems to me to be a fairly redundant perk, and this is one of a number of amendments that would remove that perk.

The other amendments of mine that relate to parliamentary provisions are 4, 6, 9, 10, 14, 19, 24, 25 and 29. If the committee votes against this amendment at this stage, it will make it unnecessary for me to move the other amendments.

The Hon. P. HOLLOWAY: The last point makes it even more tempting to defeat it. As the honourable member says, this is the first of a series of amendments that will limit the criteria for registration as a political party under part 6 of the act to a party that has a minimum of 200 members. A party will no longer be eligible for registration on the strength of its representation in parliament. The government believes this amendment should be treated as a test for this series.

The government opposes this amendment. The fact that a political party has an elected member of parliament, in the state parliament or as a South Australian member of the House of Representatives or the Senate, is, in the government's opinion, sufficient to warrant its registration. That is why we oppose the amendment. To describe it as a 'perk' is somewhat curious, I would have thought.

The Hon. R.L. BROKENSHIRE: My question to the minister is one that I will ask again during debate on clause 10 and possibly clause 11. I want a categorical assurance from the minister that this clause will not come into effect until after the 2010 election. We would like an absolute assurance of that.

The Hon. P. HOLLOWAY: Yes; the government will not commence these sections until after the 2010 election, and that means all of those related to the registration of parties.

The Hon. R.D. LAWSON: I indicate that Liberal Party members do not support the amendment proposed by the Hon. David Winderlich. We believe that the current definition of 'parliamentary party' is an appropriate definition, save only with the exception that a party that has

a member of another state parliament but not a federal South Australian member or a state South Australian member should not be classified as a party for the purposes of registration in South Australia.

We agree to the government's amendment to remove from the definition of 'parliamentary party' those parties that do not have South Australian members, but to go further and eliminate entirely the notion of a party based upon a single member would be a step too far.

We believe there are problems with the notion of registration of a political party and the definition of eligible political parties, and I will be exploring that a little later. For example, we believe that notions such as a party called Country Labor, which is really not a party at all but simply a slogan which is being registered not because there is some genuine party or party organisation behind it, have highlighted the weakness of these provisions.

We have a so-called party being registered now as Royalties For Regions, which is a slogan registered under the guise of a political party when it is not a political party: it is merely a slogan. However, these are wider issues and not specifically affected by Mr Winderlich's measure, which we do not support.

Amendment negatived.

The Hon. P. HOLLOWAY: I move:

Page 9—

Line 11 [clause 9(3), inserted subsection (3)]—Delete 'member' and substitute:

person

Line 15 [clause 9(3), inserted subsection (4)(a)]—Delete paragraph (a) and substitute:

(a) a person who is relied on by two or more political parties may nominate the party entitled to rely on the person, but if a party is not nominated after the Electoral Commissioner has, in accordance with the regulations, given the person an opportunity to do so, the person is not entitled to be relied on by any of those parties;

Line 24 [clause 9(3), inserted subsection (4)(b)]—Delete 'member or members' and substitute:

person or persons

I will speak to the first amendment because, obviously, the other amendments are consequential. New section 36(3) of the bill inserted by clause 9 provides that, for the purpose of the registration requirements, the minimum number of members—a sitting member of the South Australian parliament or a South Australian member or senator of the commonwealth parliament—'two or more political parties cannot rely on the same member for the purpose of qualifying or continuing to qualify as an eligible political party'.

Questions were asked in another place as to whether this provision means that a sitting member of parliament cannot be used by two or more parties to qualify or maintain qualification. The better interpretation is that it can, although we admit it is ambiguous. The term 'member' is used in the context of a parliamentary party and the term 'membership' is used in relation to a non-parliamentary political party.

Amendments Nos 4, 5 and 6 make it clear that subsection (3) applies to both; that is, an elector cannot be counted towards the minimum number of members—that is, the 200—of more than one party, and an MP cannot be used by more than one party to qualify as a parliamentary party.

The Hon. R.D. LAWSON: I indicate support for this amendment. One of the difficulties under the current regime is that there have been a number of what are termed political parties, registered political parties, which are not parties at all, but are simply slogans by which persons seeking to have their name on the ballot paper—names such as the Smokers and Drinkers Party and other names which have been registered—can use exactly the same membership. There are a number of them which would be well known to most members. For example, we have the Over-Taxed Motorists, Drinkers and Smokers Association, which has registered names such as the Smokers Rights Association, the Over-Taxed Smokers Association, the Over-Taxed Drinkers Association, the Over-Taxed Motorists Association and Over-Taxed Pokies, etc.

We have other parties that are registered in the same name. For example, Mr Leonard Andrew Spencer, well known to people in the South Australian political scene, registered in 2000

the No Emergency Services Levy Party and the No Nuclear Dump SA Party; they were both registered by the same person.

The Hon. R.L. Brokenshire: Was he a member of any political party?

The Hon. R.D. LAWSON: The honourable member poses the question whether he is a member of any political party. Frankly, I am not aware of that. Is it envisaged that, under this amendment, what is termed a 'subsidiary party', such as the New Labor Party or the Country Labor Party, can rely upon the same members as the registered party called the Australian Labor Party South Australian Branch?

The Hon. P. HOLLOWAY: My advice is that two parties, related or not related, cannot rely on the same member to make up the 200.

The Hon. R.D. LAWSON: I suppose that, in relation to the Australian Labor Party, that is a party which is registrable by virtue of the fact that it has members of the state and federal parliaments and does not have to rely upon the minimum number of members, but do the other entities have to rely upon a particular membership and, if so, let us say within the Australian Labor Party's registered group, New Labor can rely upon the same members as Country Labor?

The Hon. P. HOLLOWAY: My advice is that this section is only about registration. It is only about registration of parties. Obviously someone can be a member of more than one party. I guess that is up to the party concerned whether they allow that. For the purposes of registration, they can only be a member of one to be counted towards it. In relation to Country Labor, I am sure that we have many more than 200 members.

The Hon. R.D. LAWSON: In relation to the amendments to this particular clause, the committee should be aware that the government originally proposed that the number of electors necessary be 500. Currently, the requirement is 150 electors. The bill was introduced with great fanfare by the government. The Attorney-General justified 500 members but then, obviously as a result of pressure from—

The Hon. David Winderlich: The Democrats.

The Hon. R.D. LAWSON: No, I do not believe that the government would ever respond to any pressure at all from the Australian Democrats. However, the National Party in South Australia might have a little more pull with the government and, accordingly, the new number is 200.

The truly extraordinary thing is that the current number is 150, and here we are increasing the number by 50. For what purpose? It is really for no purpose at all. Originally, no doubt, the Attorney-General was anxious to cause embarrassment to the Australian Democrats, consistent with an attitude that he expressed at the time of the retirement of the Hon. Sandra Kanck from this place and in his continuing attacks upon that particular party. One of the reasons we on this side are opposed to this entire measure is that it is full political opportunism by the government, as well as political point scoring by the government.

The Hon. P. HOLLOWAY: I reject that argument. Clearly, there must be some threshold. Everyone can have a view as to what it is. After discussion, the government is putting forward the 200 number and it is ultimately up to parliament to decide. I hope we all would agree that there should be some threshold. Clearly, it must be a number large enough to sort out genuine political parties, if you like, if you can call them that. It is the government's view that the figure of 200 will do that.

Amendments carried; clause as amended passed.

Clause 10.

The Hon. R.L. BROKENSHIRE: I would like confirmation from the minister that this comes into effect after the 2010 election.

The Hon. P. HOLLOWAY: The honourable member will note that an amendment has been circulated in relation to schedule 1 of the bill to insert 2011 into that date in order to ensure that the transitional arrangements are in place following the next election and that the registration requirements, if this bill becomes an act, will not apply until after 2011. We have circulated that amendment which we will deal with in schedule 1.

Clause passed.

Clause 11.

The Hon. M. PARNELL: I move:

Page 10, line 10 [clause 11, inserted subsection (3)]—Delete '6 months' and substitute: 3 months

This amendment goes to section 40 of the act, which is the order in which applications for registration as a political party are to be determined. The government's amendment, as I understand it, proposes to add an additional restriction. The restriction currently in the act is that the applications must be determined in the order in which they are received, and that makes sense.

The government's amendment proposes that, if any applications are received more than six months out from an election, they must not be determined until after the election. Effectively, my understanding of the government's amendment—and the minister can correct me if I am wrong—is that if we take, for example, the next election coming up, applications received after this weekend just gone would not be determined until after that election. In other words, the cut-off date would be Sunday 20 September 2009 for the 20 March 2010 state election.

The effect of my amendment is to reduce that period from six months to three months. In other words, it leaves the door open a little bit longer for political parties to register. The reason for me proposing that is that there are, in many elections, a number of issues which do not arise until quite late in the piece.

I think it is unfair to restrict the formation of political parties too far out from an election. I understand that in the other place the member for Mitchell moved for a two month period, so, in other words, no new political parties could be registered two months before the election. I understand that the Hon. Rob Brokenshire has that amendment as well, and, as I understand it, the Hon. David Winderlich's amendment basically leaves the door open right up until the last moment, so, effectively, no period of restriction.

The purpose of my amendment is to keep the democratic process open a little bit longer, to give people in the community that little bit longer to get themselves organised into a political party. I believe that it strikes a balance with the needs of the Electoral Commissioner to be able to draw a line under the list of parties and say, 'Well, it's getting too late; no more parties after this date.' I think three months out from an election is a reasonable time for that to occur.

The Hon. P. HOLLOWAY: I understand that there are some like amendments with various permutations of this. The bill inserts a new provision that requires application for registration as a party to be lodged six months before polling day. The six month cut-off is intended to protect the Electoral Commissioner from having to deal with applications for registration lodged so close to polling day that her office has insufficient time to process the applications before an election period commences. That is particularly the case given the new requirement to vet members and the notice, objection and appeal processes, and how far out from polling day the writs may be issued. In addition, her office is forced to process applications when it should be preparing for the election.

The new six month cut-off also sends a clear message to parties as to when they need to lodge applications by. The Hon. Mr Parnell's amendment halves that period. The six month cut-off period was chosen after consultation with the commissioner. It is the minimum amount of time the commissioner thinks is necessary to allow for an application to be processed, including the public advertising and objection procedures, before the writs are issued, given that the earliest the writs can be issued is 55 days out from polling day. Section 42(4) of the act provides:

Where a writ for an election has been issued, a political party must not be registered during the election period.

It is also relevant to note that this is simply about registration—just registration. There are some advantages to registration: the nomination process is easier because all candidates can be nominated on one form, and a registered party has a form of copyright, for want of a better term, over its name. However, failure to obtain registered party status does not prevent a party from contesting an election. It does not prevent a party from running candidates at an election, and it does not prevent the grouping of the party's candidates on the Legislative Council ballot paper.

The amendment would place unreasonable demands on the resources of the Electoral Commissioner's office and therefore it is opposed. I suggest it would be very unwise indeed for any parliament not to take the advice of the Electoral Commissioner in relation to how long a particular section of the bill might take to be implemented; given the advice of the Electoral Commissioner, it would be unwise indeed to mess around with this period of time. I also indicate that this would apply—as we have already indicated to the Hon. Mr Brokenshire—only after the next election.

The Hon. R.L. BROKENSHIRE: I would like to put on the public record that Family First had similar thoughts on this matter when it initially looked at this with our colleague the Hon. Mr Parnell and his party. When we looked at the democratic aspects of this, we were concerned about the incredibly short notice and the fact that it would be impossible for any party to register now for the next election.

We made more inquiries, checking what the minister has just said, and it is a strong recommendation from the Electoral Commissioner. The Electoral Commissioner has said that the writs could be issued well out of the election. In my experience, and from memory, they are generally issued 28 to 32 days or perhaps five weeks out but, strictly speaking, the writ can be issued a lot earlier.

So, after looking at it all, and after realising that it does not come into effect until the election after this coming one—that is, the election of 2014—Family First felt that, democratically, there was enough time for parties to be forewarned, as it is four years from now. Given that the minister has confirmed in the chamber that it does not take effect until 2014, I will not push my amendment.

The Hon. R.D. LAWSON: Whilst the Liberal Party has every respect for the convenience of the Electoral Commissioner, frankly it is not convinced that six months is an appropriate time. It is unduly restrictive in enabling people to register a new political party. We would have been prepared to support the amendment foreshadowed by the Hon. Robert Brokenshire making the period two months; however, I gather from the information that he has just given that he does not propose to move that. In those circumstances—that is not being moved, and I do not propose to move it—we would be prepared to support the three months proposed by the Hon. Mr Parnell.

We have seen, for example, in recent weeks an application for the registration of a new political party, the Save the RAH Party, with Dr James Katsaros as the applicant named in the notice appearing in the *Government Gazette*. In my earlier remarks today, I have been rather critical of this process of registering what are in effect slogans rather than political parties, as one would ordinarily define a political organisation. However, the Save the RAH Party, I think, is a good example of a community group that is emerging, and it is quite possible to imagine political groups emerging in the last six months before an election. We ought err in the Electoral Act in favour of political expression and would-be political participants generally. Therefore, we will be supporting the proposed three months in the amendment moved by the Hon. Mr Parnell.

The Hon. P. HOLLOWAY: I will just make some comments about the lack of wisdom in supporting that. Once the act has a clause in it which clearly sets out a time under which registration will be lodged, there will be an expectation that the party lodging it will ultimately be successful at the end of the period in getting that registration.

Clause 41 contains all the statutory provisions that have to be undertaken by the Electoral Commissioner in the advertising or gazetting, and so on, of the name and all the processing that has to be done. If it turns out that we accept a shorter period, and a party that lodges it within that time ultimately does not get registered because it simply cannot be done, then there will be a lot of disappointment. Surely it makes more sense to get a period beyond which everybody knows that they must have their application lodged, and there is every expectation that that process will then be fulfilled and that they will be registered as a political party.

I would have thought that it is most unwise to have a period of time in which there will be an expectation that if they conform within that time they will be registered; but the point we are making is that that may not happen. If the process is part way through and the writs are issued, that is the end of it; they will not be registered, they cannot be registered, and that is what I think is the dangerous thing.

At least if the period is set at six months—and it will not apply now; in fact, I think we are already within six months of the next election—that gives plenty of time, as the Hon. Mr Brokenshire said, for parties to get their house in order. However, I believe it would be most dangerous to set a period of time in which we may not be able to deliver the promise. That is where I think we would be most unwise not to take the advice of the Electoral Commissioner: it would just put her, I believe, in a very difficult position—a position in which we should not put someone like the Electoral Commissioner, where the expectation is that if you lodge it in time it will be delivered; it just may not be possible to do that in certain circumstances.

The Hon. M. PARNELL: The minister has referred to the expectation that applicants for registration might feel. As I understand the government's amendment—and it would translate

through to my amendment—it provides that, if during the period of six months before election day an application is lodged, 'that application must not be determined until after the general election'. Is the corollary, or the flipside, of that true; in other words, if an application is lodged within six months, must it be determined? In other words, if all steps are not able, for whatever reason, to be followed within that period, is there a reverse obligation to the one provided for in the minister's amendment that provides that it must be resolved within six months?

The Hon. P. HOLLOWAY: No there is not, because there could be an appeal, or some other event may take place, which was obviously not expected or foreseeable. However, there could be some event which would mean that it could not be delivered. I suppose it is even possible, under the Electoral Act, that there could be an early election, under certain circumstances. We have fixed elections in this state, so we know the date on which they will be held. However, there can be certain circumstances, such as bills of special importance or something. I do not know. We would have to get advice on that. I guess you could never be totally certain with that circumstance.

Clearly, with a fixed election, if it is lodged six months before the expected date, one could reasonably expect that the application would be properly processed. There is certainly time for the Electoral Commissioner to do it, and I am sure the Electoral Commissioner would do everything possible to do that. Of course, if there are factors outside of her control, such as appeals and other things, she may not be able to deliver. The point I was making earlier is that at least within six months the Electoral Commissioner believes there is every prospect that, apart from those sorts of events beyond her control, she could process an application. However, if it was two or three months, that may not be the case.

The Hon. M. PARNELL: I want to further explore this issue. I understand what the minister is saying, and that is that at present there is no time limit. The commissioner just starts processing them in the order in which they are received and, if they are resolved before the writs are issued, they are registered. However, if, for whatever reason, they are not resolved, they are not registered.

What I am interested in hearing from the minister is whether there are particular examples where the Electoral Commissioner has identified there have been difficulties when a party has lodged their application three, four or five months out from an election. If there are no examples of applications lodged in that period that have caused real difficulties, I wonder why the need for such a long time period. It is one thing for the commissioner to say that six months sounds like a good time period, but are there cases to which the minister can refer where three, four and five month out applications have been problematic?

The Hon. P. HOLLOWAY: It is more what will happen in the future when these new provisions come into force—and we are talking about prior to the 2014 election—and I am referring particularly to the vetting of the 200 members. That is what will cause the significant workload to the commissioner. It is that part of it which will come in which will make this more difficult than what has happened in the past. I do not believe that has been the case under the current act.

The Hon. R.D. LAWSON: I remain of the position that I outlined earlier, especially in light of the fact that the minister is unable to identify particular problems. Obviously, anyone seeking to register a political party close to an election will, if the application is made three months before the election, run the risk that it might not be completed by the time of the election. However, that risk is run by the person seeking registration. If the Electoral Commissioner cannot fulfil the requirements in that time, the party simply will not be registered and they will not have the opportunity to have their name printed on the ballot paper. However, as the minister has said, they will be able to contest the election.

There is no specific timetable laid down in the existing legislation of which I am aware, other than the fact that the commissioner must give the public one month in which to lodge an objection. I cannot believe it would take a great deal of the commissioner's time to check the name and address of 200 persons. I do not for a moment believe that the commissioner will be sending private investigators out to identify that these are, in fact, legitimate applications and that they have been duly signed, etc. I think the risk is all run by the applicant for the party and, if they do not apply early, they run the risk of not being registered, but why impose what seems to be an unnecessarily long period for the processing?

We are not convinced that three months is not appropriate in these circumstances, because the sanction will not be against the Electoral Commissioner: it will be against the person who is making the application. If they put in an application in which there are insufficient details—

for example, that is not correctly signed, without addresses, etc.—then they run the risk of not having their name registered, but the risk is with them.

The Hon. P. HOLLOWAY: While I accept that the risk may be with them, I think that in any electoral system in a democracy it is imperative that you have the utmost confidence in the electoral system itself and the fairness of the system. I think it is unwise to have any provision which will raise expectations. The other point is that, if we have a two month or a three month period and somebody comes in just before, firstly, there is the issue of the writs. We are talking about six months before the election, but the writs could be issued anything up to 55 days out, so that needs to be taken into account for a start, because that is the operative date at which no processing can take place.

To me, if the act spells out that they can lodge at two months and you have somebody lodging and ringing up every day asking what has happened, it puts the Electoral Commissioner in a position which you are best not to impose on an electoral commissioner. The confidence in the system is important, and I would have thought that any electoral act should not even by implication raise expectations. It might be true that the risk is with the person, but somebody forming a new party may well be unaware of that risk. We, as the practitioners and those who have introduced the bill, are well aware of the risks, but for a new practitioner or a new party that wants to establish itself that may not be the case.

At least if there is a six month rule and everybody knows it—it is there in the act—the Electoral Commissioner cannot be accused of unduly delaying an application or something like that. If it happens to be lodged just two months before the writs are issued quicker than expected and somebody misses out, I just do not think it is wise to put the Electoral Commissioner in that position, even though we all know here that the risk is upon somebody or some new party applying.

The Hon. M. PARNELL: I want to ask the minister about the job the Electoral Commissioner has to do in relation to the verification of party membership. I know we have dealt with that clause, but part of the minister's argument as to why the long six month period is needed is that the commissioner has this new job. Unless I have misunderstood it, when a group of people form a party and they want to apply for registration, they provide 200 people they want to rely on and, from what the minister is saying, I get the feeling that his expectation is that the Electoral Commissioner will contact every one of those 200 people.

I would have thought that a party, on the safe side, would probably lodge 300 or 400 people, knowing that there might be some mistakes and, if I were the Electoral Commissioner, I reckon I would probably randomly pick out 20 and, if all 20 had no errors in them, I would probably work on the assumption that those declarations received were sufficient. Unless I have misunderstood something, is the Electoral Commissioner obliged to verify personally the declarations made by at least 200 people who have applied or who have said they are happy to be relied on as a member of that party that has applied for registration?

The Hon. P. HOLLOWAY: I take the point the honourable member is making in relation to extra members, and I am sure that most parties would seek to do that. The commissioner needs to be satisfied is the requirement now. The commissioner may not necessarily check every number. What I assume she would do—and what I would do if I were the Electoral Commissioner—is first of all check that everyone is at least on the roll. That is an obvious check (because there could be made-up names and so on) and, if there are a lot of people in that category, the commissioner may wish to go further.

Obviously, that would be a matter of judgment for the commissioner. If she had any reason to doubt the authenticity, presumably she would undertake more action than if it were a well-known and credible party that had a large number of members; in other words, one would expect her to use common sense.

The point is that, if a number of parties lodged at the last minute, and you had just a two or three month time frame, again I make the point that, if the writs are issued 55 days out, there would be virtually no time to do any checking or even go through the statutory requirements in section 39 of the act. It is not only the checking but also section 41 of the act, which provides:

> Where an application for registration is lodged with the Electoral Commissioner, the Electoral Commissioner must publish notice of the application in the Gazette and in a newspaper circulating generally in the State.

That is all going to add a few days, a week or perhaps two weeks on top of that, depending on when the *Gazette* comes out. The notice has to invite any elector who desires to object to the

application to submit a written objection containing particulars on the ground of the objection to the Electoral Commissioner within one month of the date of the publication of the notice in the *Gazette*, so you have already added a month on to that process.

If you have 55 days in which time the writs could be issued, and then you have a one month statutory period plus a week or two on top of that to get the notice in the *Gazette*—and that is even before some preliminary checking has been done—the time is starting to get on.

I am sure that the Electoral Commissioner will do her best for any new party that advertises but, again, it comes back to the point I was making about expectation. Her advice is that six months out from the election should be adequate to deal with that and meet reasonable expectations; less than that and there is a risk that some party bringing in its documentation after that time may not make the cut-off if the writs are issued in that 55 day period.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): I think it is time that we asked the Hon. Mr Winderlich and the Hon. Mr Brokenshire to move their amendments.

The Hon. DAVID WINDERLICH: I move:

Page 10, lines 7 to 14—Delete clause 11 and substitute:

11—Substitution of section 40

Section 40—delete the section and substitute:

40—Order in which applications are to be determined:

Applications for registration of political parties must be determined in the order in which they are received by the Electoral Commissioner.

In effect, this reverts to the status quo by deleting the period of six months. As pointed out by the Hon. Robert Lawson, that would essentially leave one month to lodge an objection as the effective deadline for the registration of a political party.

The Hon. P. Holloway: Plus the 55 days.

The Hon. DAVID WINDERLICH: Plus the 55 days, which makes it surprisingly close to three months. When we look through the argument for the government's amendment, which is to have a period of six months by which a registration for a political party must be lodged, it is hard to see what the argument actually is.

There has been no evidence presented of actual problems. We have heard that there are theoretical problems. I can see that the argument is administratively easier, and it appears from the minister's answers that, in fact, the government is not even particularly clear on what is driving the six month extension; it just seems to be a general feeling.

The Hon. P. Holloway interjecting:

The Hon. DAVID WINDERLICH: It seems that the advice of the commissioner does not include—or perhaps the minister has not been made aware of it—the detailed reasoning behind that advice other than that would generally be a convenient time. As I said, we have no evidence to date that there have been significant problems here. There is certainly an argument of administrative convenience. Also, with respect to the new provisions that relate to numbers, to date at least we do not appear to have seen reasons as to why that imposes a significant additional new burden.

I do not see a compelling argument other than administrative convenience for having a waiting period of six months. The effect of having this period of registration—'must be received six months preceding the day of a general election'—would be to entrench the incumbents; it would be to stop new parties from forming and, in effect, it would be to stifle political expression. Generally, when new parties form—or very often when they are formed—they are a grassroots expression of a feeling in the community, or a grassroots expression of the degree of frustration or anger. As a general principle I think we would accept that we would want to allow the maximum opportunity for that kind of development of political opinion to take place. We would want to allow the maximum opportunity for political expression in that way.

I guess the other fundamental fact is that people focus more on politics and they focus more on elections as those elections come closer. To require parties to register six months before an election works directly counter to the very dynamic of political expression in the lead-up to elections. I think that is undesirable and restricting participation in the democratic process. In terms

of the actual time line, what is theoretically possible or sensible, as the Hon. Robert Lawson pointed out very clearly, is that the risk is with the applicant. If the applicant leaves it too late and the Electoral Commissioner is not able to make the necessary checks, the party may not complete the registration process in time for the election. In fact, that risk already exists. If the would-be party does not get its act together it will be not be registered.

In effect, nothing changes: the risk is still with that party as it currently is under the act. In order to allow the maximum opportunity for new political groups to form and for political sentiment to be expressed in the form of political parties, I think we should keep to the status quo, which essentially allows for applications for the registration of political parties to be determined in the order in which they are received by the Electoral Commissioner; and, of course, that is subject to the issuing of the writs and the one month period of time for the lodging of objections to the registration of a political party.

If the writs are lodged 55 days out, that is getting close to the three months proposed by the Hon. Mark Parnell. On the other hand, if the writs are lodged closer to the actual election date, that provides more opportunity. I think that we should maximise the opportunity for political participation and expression by sticking to the status quo. I do not think that any compelling reasons have been given why that is not possible.

The Hon. P. HOLLOWAY: It is nonsense to suggest that this has anything to do with freedom of expression: it is simply about registering political parties. There is nothing to stop any political party from forming or running candidates in an election. We are simply here talking about the provision of registration which, as I said, does have certain benefits under the act. There is nothing to stop groups forming. We are simply talking about registration; and, on the advice of the Electoral Commissioner, six months is a period which would be necessary to ensure that any application could be reasonably processed.

Yes, there is a risk that even then it may not be done but, again, I just do not believe that it is good practice to put expectations on the Electoral Commissioner by putting words in the act that say that within two months you can nominate to become a party. I think that any new party that is forming would have the expectation: they have complied with the act and they should therefore be registered. However, on the advice of the Electoral Commissioner that may not be delivered, and I do not think that is good practice.

The Hon. R.D. LAWSON: I think the minister's response—that there is nothing to stop groups forming—is somewhat disingenuous. The question here is not whether we can stop groups forming; the question is whether a group can form and have its name printed on a ballot paper as the banner under which it is standing in an election. This six month rule will impose a barrier that does not presently exist.

I point out that many of the amendments being made—especially the technical ones—arise out of recommendations made by the Electoral Commissioner over the years. I think there were some 23 contained in the Electoral Commissioner's recommendations, and not one of them was the imposition of a six month period, or any other particular period, within which one would have to make an application to register a political party. This is a political issue. This is designed by the government to enhance the prospect of an incumbent government and to reduce the capacity of those who want to register names. This is an age-old tactic. In the old days, they used to prevent people from getting on the roll within a close period to an election, all on the basis that it would be administratively inconvenient to have people making an application at the last minute—and they would all do it at the last minute, etc.

We now accept that people should be able to get on to the roll up to the very last minute before an election, but here we are imposing this artificial and artificially long period of six months to register a political party. It is all about restricting participation and it should not be supported.

The Hon. P. HOLLOWAY: Talk about disingenuous! The honourable member accuses me of being disingenuous—his comment is disingenuous. The only reason the government is putting up this amendment is that the Electoral Commissioner has suggested it. Whether or not this is carried, I do not think it will really make a lot of difference to the government, as such. However, I again make the point that to put expectations on the Electoral Commissioner that she tell us that she may not be able to deliver is not good practice. That is the reason we have put this up, because, as a responsible government, we act on the advice of the commissioner. It was her suggestion that we have this six-month period. Given the time for closing the rolls, this is what she

believes—and I made this point earlier in the debate—is a reasonable period, and that is the reason we are choosing it, and for no reason other than that.

If the committee thinks it knows better than the Electoral Commissioner, so be it, but all we can do is put up reasonable amendments based on the best advice available by the person who has to implement this act.

The Hon. A. BRESSINGTON: I rise to indicate that I will be supporting the government on this. The Electoral Commissioner was present at the briefing that I received, and she actually indicated that she requested this particular provision be put in the bill. We have had these debates in this place before, about the Commissioner for Human Rights, the Commissioner for Victims of Crime and the commissioner for this and that. They are put in those positions to be independent and to advise the government, and us, on how the system would work best.

I think that, if we pay people to do these jobs and we require them to advise us of the best way and the best systems that are in place to be able to do that, we should take heed. I do not believe that any of us here—and I could be wrong—actually know exactly what workload or requirements are placed on the Electoral Commissioner and her office to get parties registered and make the election happen and roll out as smoothly as it can. I think it is a little presumptuous of us in here to think we actually know better than the commissioner in that particular area.

The Hon. J.A. DARLEY: I indicate my support for the government on this issue.

The Hon. M. PARNELL: I am glad that fellow crossbenchers have spoken. I will not be supporting the Hon. David Winderlich's position, because I am prepared to accept a brief period, and that is the three month period. However, having heard the crossbench members speak, I will not be dividing on my three month amendment.

The Hon. Mr Winderlich's amendment negatived; the Hon. Mr Parnell's amendment negatived; clause passed.

Clause 12.

The Hon. R.D. LAWSON: This will insert into the provisions relating to registration—and, in particular, section 42—a provision that prohibits the registration of a party which has a name or abbreviation or acronym of the name of a prominent public body or so nearly resembles the name or abbreviation or acronym of the name of a prominent public body that it is likely to be confused with that name.

I have already pointed out to the committee that there is presently before the Electoral Commissioner an application to register the name Save the RAH Party, which I think members of the community would accept refers to the Royal Adelaide Hospital. So, here is a body that is seeking presently to be established.

The purpose of this amendment of the government is to prevent political parties using names of that kind. We believe in maximum political participation and maximum freedom of political expression. We do not believe in closing down opportunities for groups such as the Save the RAH Party from participating in the political process. Therefore, we do not accept that it is appropriate to impose these restrictions that are now being imposed in this clause 12. It is for that reason that we will not be supporting this amendment. We do not believe there is a sufficient need to do so.

The Hon. P. HOLLOWAY: For a start, we have indicated that this amendment would not come into effect until after the election, anyway. So, in relation to any group such as Save the RAH Party, the current provisions of the act would apply, which are exactly the same. The current provisions of the act already say:

> (3) An application for the registration of a political party may be refused if, in the opinion of the Electoral Commissioner the name of the party, or the abbreviation (if any) of the name, that it wishes to be registered—
>
> (a) is the name, or an abbreviation or acronym of the name, of a prominent public body, or so nearly resembles the name, or an abbreviation or acronym of the name, of a prominent public body that it is likely to be confused with that name, abbreviation or acronym;

That particular part is not being changed, so rejecting this clause will not change anything. In any case, it is not the government's intention to bring this into effect in any way before the next election, so it would have absolutely no impact whatsoever given the current provision because it does not really change the wording at all.

The only thing that will change in the future following the next election is subsection (3)(b), and probably the new subsection (3)(a). So I think the example the Hon. Robert Lawson gives is not affected in any way by this amendment.

The Hon. R.D. LAWSON: The point is: why should it be permissible for them to stand in 2010 but not in 2014 under the same name?

The Hon. P. HOLLOWAY: But, if the law says they cannot stand in 2014, they cannot stand now, because the law is the same. That part is the same. It is not changed.

The Hon. R.D. LAWSON: I wonder whether the minister could indicate exactly what change is wrought by clause 12.

The Hon. P. HOLLOWAY: I think I have just indicated that. It is really subsection (b). Section 42(3) is effectively section 42(3)(a). What is different about the clause is that we are bringing in new paragraph (b) which stops the use of the word that takes the name of another political party, so it would affect things such as Liberal For Forests or those sorts of—

The Hon. C.V. Schaefer: Country Labor.

The Hon. P. HOLLOWAY: No, it does not do that, because that is the Labor Party. It totally misses the point.

An honourable member interjecting:

The Hon. P. HOLLOWAY: No, it has not let the cat out of the bag. For example, in relation to Liberals For Forests, I would have thought the Liberal Party would not want people feeding off the name Liberal to try to get votes, and I do not think any political party would necessarily like its name used in vain. It is simply to prevent that. That is what is new about this. In relation to the other bodies such as the RAH, as I said, section 42(3)(a) in the current act applies. The wording has not been changed so, if it is not able to stand now under the current act, nothing will change in the future, and vice versa. It is really only paragraph (b) and the new subsection (3)(a) that are changed.

The Hon. M. PARNELL: I want to ask the minister about new paragraph (b). This is the provision that prevents others using the distinctive aspect or part of the name of another political party. The drafting of this provision provides for a note, and the note lists five parties with the word that is regarded as the distinctive word being underlined. My question of the minister is: in relation to my party, would the word 'greens', plural, or 'green', singular, be included as a distinctive element that other parties could not use?

The Hon. P. HOLLOWAY: We are assuming it is not a related political party and we are assuming that the Greens are registered, which they would be. We believe that it would do. We believe that would be in it, so it is then really up to the commissioner, who may refuse. It says:

> An application for the registration of a political party may be refused if, in the opinion of the Electoral Commissioner the name of the party, or the abbreviation...of the name, that it wishes to be registered...so nearly resemble a distinctive aspect or part of the name of another political party (not being a related political party).

So, I think that it would apply.

The Hon. M. PARNELL: I thank the minister for his answer. I notice one of the examples that is given in the drafting note is the National Party of Australia SA Inc. Could the minister clarify whether the intention of this section is that any party that had the word 'national' in it, because that is the word that is underlined, would be prohibited from registering with that name, including National Unity, National Socialists—anything in fact with the word 'national' in it?

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

The Hon. M. PARNELL: Nationals (plural).

The Hon. P. HOLLOWAY: That is right, and because they do call themselves the 'Nationals' that is exactly why. Just like the Labor Party is Labor and the Liberal Party is Liberal, they are the proprietary words, if you like. That is the property that we believe ought to be protected, because obviously people using those words who are not genuinely members of those parties are trying to take some advantage, if you like, of the goodwill of the other party. That is why this is proposed.

In relation to the Nationals, again I think that is the brand name. As the Hon. John Dawkins said: the Nationals are the Nationals. We all know who they are and, if someone else is trying to

use that name in a way that, in the opinion of the commissioner, so nearly resembles it that it could be misleading, if you like, then she has the right to refuse it, but it is at her discretion. Obviously the word 'national' has more general usage, if you like, than the words 'liberal' or 'labour' and, ultimately, that is why there has to be a discretion.

The Hon. R.D. LAWSON: That is why we are concerned. The Labor Party is the only party which presently has the name 'country' on it. They want to put a mortgage on the word 'country'. They want to use it in relation to Labor. They put a mortgage on the word 'new'. They have registered 'New Labor' and they will object to the New Greens, the Country Greens or the New Australian Democrats. They will be complaining that you have chosen something out of a name which they, as it were, have put a mortgage on.

Our objection to this clause is that this is all about closing down the political process by entrenching existing players, and it might be because we are existing players. No doubt it advantages us but, in principle, we are against closing the field to others by having names registered, mortgaged and made the property of a particular political party, and that is why we will not be supporting this clause.

The Hon. P. HOLLOWAY: It is really nonsense to suggest that the people of this country and this state do not understand. They understand who the Greens, the Labor Party, the Democrats and the Liberal Party are. Anyone else who tries to use a name which is so close to the name of another political party will not be doing so for any purpose other than to try to cash in on that or, of course, it could be done for some sort of subterfuge to try to direct preferences away and, if that is the case, that is going against democratic principles. When voters see the name of the party they wish to vote for, they should be able to vote for that party and not be misled by other parties using a similar name in an attempt to try to cash in on the goodwill, if you like, of an established name.

To suggest that, in some way, this provision would restrict democracy or restrict new parties is nonsense. In the past 20 or 30 years, plenty of new parties have arisen. We have Family First and others. They have established their own brand name. They have been successful on that account. Why should they not be able to have the benefit of that? Why should they, the Greens or any of the major political parties have someone try to cash in on their name which is established and registered?

Surely political parties should have some proprietary rights over their name and its property; to do otherwise can only confuse the electorate. It cannot enhance the democratic process in any way that I can see.

The Hon. DAVID WINDERLICH: I indicate that I will be opposing this clause. I think this is the McDonaldisation of politics. I do not think that these sorts of words, like Democrat, Green, Labor or Liberal, should be owned and should be restricted from use by others. The most common way in which candidates use words like Independent Labor or Real Labor is to make a point, and it is generally people with a Labor background or a Liberal background, whichever government or party they are making a point against.

It is generally people who are disillusioned, arguing that the party whose name they are partly using has strayed from its core beliefs, and they are making a political point and expressing themselves politically. I think there is scope within the act already for the Electoral Commissioner to prevent confusion so that, if somebody wanted to call themselves the Adelaide Labor Party and have 'ALP' appear, it seems to me that there would be plenty of scope for the Electoral Commissioner to refuse that sort of configuration, but for someone to seek to make a political point by using—

The Hon. P. Holloway interjecting:

The Hon. DAVID WINDERLICH: Well, I think the word 'independent' sends a pretty strong signal these days. I believe that we should allow people the freedom to express their arguments and to express their disillusionment with major parties and, in fact, that is probably what this bill is designed to prevent—that freedom of expression, that ability to make a point particularly against an incumbent government of the day.

If it is misleading, the Electoral Commissioner has the ability to deal with things that are misleading or genuinely confusing. I think that parties should have to fight in the political arena for the legitimacy of their name. They should not use legal processes to behave like McDonald's and

take ownership of particular concepts that are implied in their name. I think that that is the McDonaldisation of politics, and I oppose it.

The Hon. R.D. LAWSON: The note to this particular clause refers to the Australian Labor Party, and the word 'Labor' is the distinctive aspect of the name of this political party. The minister says 'over the last 30 years'. Well, think of the Democratic Labor Party. There was a party that was valid, strong, vibrant. In fact, I think it may even have had somebody standing in the last Victorian election—

The Hon. David Winderlich interjecting:

The Hon. R.D. LAWSON: And he got elected. You are introducing something here the purpose of which is to stop somebody registering a party like the Democratic Labor Party and coming along and saying, 'We're trying to save you, the Liberals, from Liberals for Forests.' This is all about stopping splinter groups from Labor registering names, and they ought to be able to. They have in the past, and this is about closing down opportunities of that kind.

The Hon. P. HOLLOWAY: The challenge for Mr Lawson is to explain why, back in 2001, he voted for this. When the Hon. Trevor Griffin introduced this bill in 2001, it was supported by the then government and the opposition. I see here that, when the vote was taken, the Hon. Mr Lawson voted for it and the Hon. Mr Lucas, the Hon. Mr Dawkins and so on all voted for it. As it happened, the bill began here and did not get through the lower house.

Members interjecting:

The Hon. P. HOLLOWAY: No; we did not vote against it; in fact, my name is there—I voted for it. There were 16 for and five against, and it went through the upper house. Trevor Griffin introduced it, and it did not have time to get through the lower house, presumably, but it was voted for. It was a government bill that Trevor Griffin introduced, and honourable members voted for it. I think for the record that all the comments the Hon. Mr Lawson has made need to be heavily discounted from the fact that he actually supported this very clause, and the wording is absolutely identical, the same as that back in 2001. Really, who is playing politics here?

The committee divided on the clause:

AYES (12)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P. (teller)	Hood, D.G.E.	Hunter, I.K.
Parnell, M.	Wortley, R.P.	Zollo, C.

NOES (9)

Dawkins, J.S.L.	Lawson, R.D. (teller)	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Winderlich, D.N.

Majority of 3 for the ayes.

Clause thus passed.

Progress reported; committee to sit again.

CRIMINAL LAW (UNDERCOVER OPERATIONS) ACT

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (18:01): I table a copy of a ministerial statement relating to the Criminal Law (Undercover Operations) Act 1995 made earlier today in another place by my colleague the Attorney-General.

[Sitting suspended from 18:01 to 19:45]

LOCAL GOVERNMENT (ELECTIONS) (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. DAVID WINDERLICH: I move:

Page 3, line 11 [clause 4, inserted definition of designated person]—Delete 'majority' and substitute: 16

We have discussed this extensively, so I will take very little time on it. This is simply to extend the vote in local council elections to 16 year olds, on a voluntary basis. As I have said before, this is voluntary. It will only attract that small minority of 16 year olds who are interested in local government, which is an even smaller minority of the general population that participate in local government elections.

In nine out of 10 cases it would have very little practical effect. It may provide an opportunity for motivated young people to mobilise support around specific issues in their local council areas, but I think that is a good thing. I think it is a good thing to interest young people in participating in the democratic process, and if they do in any numbers then I think other generations will notice and will mobilise in response, and I think that is a good thing.

I believe there is very little to be lost and the potential to engage young people at the age of 16. As I said, most of the arguments have already been made here. One additional argument to put is that the opposition to this sort of measure—to lowering the voting age—seems to come from some sort of notion that somehow the bulk of the population, when they turn 18, studiously trawl through our websites, study our policy documents, listen intently to everything that we say on the radio—

The Hon. R.P. Wortley: Too busy watching *Australian Idol*.

The Hon. DAVID WINDERLICH: I do not know whether you are talking about the over 18s or the under 18s.

The Hon. R.P. WORTLEY: Under 18s. It has been proven that 90 per cent would rather watch *Australian Idol* than—

The CHAIRMAN: Order!

The Hon. DAVID WINDERLICH: I think it has been proven that 90 per cent of over 18s would rather watch *MasterChef* than read the transcripts of *Hansard*. So we are not somehow contrasting this fount of wisdom and engagement and careful study that is untapped once you turn 18: we are talking about a population that, over all, does not pay a lot of attention to politics until they have to. In this case, at least, it would open the door for a group of young people who may be interested. In fact, there is a small group who are interested; it does not include my children, but it does include other young people with whom I have had contact. I think it would be a good thing to provide those young people with the opportunity to become engaged in political life, and I think this is a very safe and appropriate place to start.

I have a number of other amendments that are consequential on this; therefore, if this amendment is rejected all my other amendments to this bill would not need to be moved. However, I would not want that to be an incentive for honourable members to rush into a decision to reject this amendment. I look forward to a sudden outburst of idealism from the major parties, and commend the amendment to the committee.

The Hon. M. PARNELL: I very briefly add my support for this amendment. The Greens' policy has long been that 16 and 17 year olds should have the right to vote voluntarily, and I moved these same amendments to the state electoral reform that we are currently discussing. I thank the Hon. David Winderlich for putting this before us and urge all honourable members to support it.

The Hon. G.E. GAGO: These amendments are directed to only one proposed change, and permit persons aged 16 or 17 to apply to a council to be placed on that council's electoral roll. This would permit 16 and 17 year olds to vote in local government elections, even though he or she would be ineligible to vote in a state or commonwealth government election. I have a lot of sympathy for the sentiments outlined by the honourable member; however, I am sure he understands when I say that unfortunately the government is not able to support those amendments.

In his second reading contribution and in his introductory remarks to his amendment, the honourable member advanced a number of reasons in support of the proposal. He also tried to anticipate some likely objections to his proposal. The independent review of local government elections examined the suggestion that the voting age be lowered to 16. On page 31 of its interim report, published in October 2007, the review quoted the opinion of the member for Fisher on this subject and noted that amongst hundreds of responses to its consultation only three people argued for this change. It therefore concluded that there was little evidence of widespread support for this possible reform.

Against this is the fact that such a change would necessarily reduce the already low level of consistency between local government elections and elections for the other spheres of government. It is this issue of consistency, or lack of consistency, that dissuades the government from supporting the honourable member's amendment. The government has some sympathy for the amendments; if the commonwealth or state parliament, or both, decide at some stage in the future that the voting age should be lowered to 16 then we would surely argue that local government should follow suit. However, I consider that it would be unwise for local government to lead the way in this reform. Such a change would tend to work against efforts to improve consistency between electoral systems; although more persons would vote, it may tend to reinforce an unfortunate perception held by some in the community that local government elections are not to be taken as seriously as elections for other spheres of government.

On a related matter, in his second reading contribution the honourable member made the point that in federal elections young people can already enrol to vote when they are 17 so that they can vote in the election that occurs as soon as they turn 18. The honourable member, I am sure, has noticed that in this bill we have picked up that point as part of our reform. Under the provisions of this bill a young person aged 17 will be able to provisionally enrol to vote in local government elections as well. He or she can vote in such an election provided his or her 18th birthday occurs before the close of voting. Unfortunately, that is probably as close as the government can come to supporting the honourable member's amendment.

The Hon. S.G. WADE: The opposition has not been persuaded by the arguments to reduce the voting age to 16. In any event, as the minister indicated, we agree that it would not be helpful to have a different age for local government elections from those of state and federal elections.

Amendment negatived; clause passed.

New clause 4A.

The Hon. S.G. WADE: I move:

Page 3, after line 17—insert:

4A—Substitution of section 5

Section 5—delete the section and substitute:

5—Periodic elections

Elections to determine the membership of each council must be held in accordance with the act at intervals of three years on the basis that voting at the elections will close at 5pm on the last business day before the second Saturday of November in 2010, at 5pm on the last business day before the second Saturday of November in 2013, and so on.

The opposition seeks through this amendment to amend the act to change the intervals for elections from four years to three years. It has been Liberal Party policy, and it has also been in accordance with my experience, having been, until recently, the shadow minister for state/local government relations.

My consultation with elected members shows that four years is seen by many as too long. A four-year term may be appropriate in full-time roles, but in unpaid, part-time roles people often feel unable to commit as far ahead as four years. In a tighter job market, when people stay in jobs for shorter periods than they did in the past, people feel more able to commit if the commitment is shorter. Anecdotally—I must admit, not scientifically—I am advised that this disincentive impacts particularly on women, perhaps because they are called upon to juggle a wider range of responsibilities than men often take on.

I note that the LGA position, as reflected in its policies, is that it supports four-year terms. I note in passing that these policies are made by people who are actually elected members. For them it was not an inconvenience; it may well be for others. I think it is our job as a parliament to be aware of the impact on the minority and to make sure that as many people as possible see local government service and local government elections as a feasible opportunity for them.

The Hon. G.E. GAGO: The effect of this clause is to reduce the term of local governments from four years to three years. The government is not able to support this amendment. This is effectively a rerun of a debate that occurred only four years ago in 2005. At that time, the Statutes Amendment (Local Government Elections) Act 2005 increased the term of local government elections from three years to four years. It also set the date of the local government elections to be in November, eight months after each state election. As a result, the current term of local government is the first term that will be for four years.

In 2005 several reasons were promoted for making this change. These reasons included: to avoid what would otherwise have been a clash of election dates in March and May 2006; to provide for a more stable government over a four year term; to provide consistency with the state election timetable; to reduce the overall cost to ratepayers of the election schedule; and to allow newly elected councillors some months to learn about their role, after a November poll, before considering an annual budget in the following April and May.

I need to add that standards for the role of local government, such as the level of expertise required, knowledge of legislation and processes of governance and so on, are increasing and more and more difficult for people to get their head around. In fact, a longer term provides more opportunity for people to come up to speed with those matters and to operate in a highly effective and efficient way.

The other reason is to permit serving councillors to seek election to state parliament with minimum disruption to their council. Those who are successful in a March poll would leave a vacancy on their council that would not need to be filled until the local government election in November. Those who are unsuccessful in a March state election might consider recontesting a council election in November.

At the time, the change was controversial. However, after the change was made in 2005, there has been little interest in revisiting the issue until now. The independent review of local government elections in 2007 looked at this issue in one of its issues papers released in 2007. The review asked: what change, if any, should be made to the timing of local government elections; for example, do they need to be further apart from the state elections and a different year?

The independent review received 20 responses to the question: six respondents recommended no change to the current provisions; nine proposed a different year; three proposed that it be at the same time as the state election; and two proposed only that November was not a good time. It is to be noted that there was not a single response to this question that suggested that the term of local government elections should be wound back from four years to three years.

As a result of the responses received, the interim report of the independent review put forward two possible suggestions, that is, either to make no change to the election date or to shift the date of the local government elections so that they fell 18 months after each state election. The final report of the independent review favoured the latter option. Recommendation 14 of the independent review states:

> Altering the date of future local government elections so that they fall 18 to 19 months after the state elections would require extending the current term of office to all elected councils by 10 to 11 months, to conclude with an election some time in September or October 2011 and every four years thereafter.

The state government rejected that recommendation. The government formed the view that the election date should remain unchanged, on the basis that the present local government term is the first ever to run for four years and that an extension of that to meet the independent review proposal would mean that the current term was extended to almost five years, and we feel that is quite unreasonable.

It is ironic that the independent review sought to increase the current term of local government to almost five years. On the other hand, the Hon. Stephen Wade is now suggesting that local government terms should be three years. The government is sticking to the middle ground, which is a four year term. We believe that is appropriate.

The reasons advanced for a four year term in 2005 are still valid today. A four year term provides a more stable government. It provides consistency with the state election timetable, and it reduces the overall cost to ratepayers of the election schedule. The amendment would increase the cost of local government elections to voters. With an election every three years, instead of every four years, there would be four elections in a 12 year period rather than three.

I should also point out the obvious fact that the initial four year term has not even been completed. So, the Hon. Stephen Wade's amendment comes before the first four year term has even been completed. We are not even into the third year of the first ever four year term of local government. The honourable member is not even willing to have this first ever four year term properly evaluated on its completion and has already declared that it is a failure. It is for those reasons the government opposes the amendment.

The Hon. S.G. WADE: I would like to comment on the element of drama the minister brought in at the end there. We do not need to complete a term to know whether it has discouraged people. People nominated at the beginning of the term knowing it was a four year term. It was at that point that discouragement would have been experienced.

The Hon. M. PARNELL: The minister made the case that having some connection between the local government election cycle and the state government election cycle can result in less inconvenience. I think the minister made the point that, if someone has been perhaps a local councillor and then run in the state election and been unsuccessful, there is a vacancy on the council that does not need to be filled and it is only a fairly short period before the next election. That is how I understood the minister's argument. This might be a basic question, but are local councillors obliged to resign their local council positions before nominating for election to state parliament?

The Hon. G.E. GAGO: I have been advised that, yes, they are.

The Hon. S.G. WADE: In response to the minister's comments and, following on from the comments of the Hon. Mark Parnell in relation to electoral cycles, I think one needs to be clear that if a local councillor wanted to pursue a parliamentary career there is actually more than one parliament in Australia. I remind the honourable minister that a member of her own party, Mr Zappia, served as mayor of Salisbury.

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

The Hon. S.G. WADE: Gawler, was it? No, I was thinking of federal—Mr Zappia was the mayor of Salisbury and then served in the federal parliament. As to the synchronisation of parliaments, it might be cute if the minister thinks that local councillors are only capable of serving in a state parliament. It is clearly not synchronised with the federal parliament's three year terms, and my amendment puts it at least in synchronisation with that parliament.

The Hon. G.E. GAGO: Because I am not sure of the response that I gave in relation to the requirement to resign, although I was advised that that was so, I would like that double checked for the record, so we are double checking that.

The Hon. DAVID WINDERLICH: What were the initial arguments for moving from three year to four year terms? What was the basis or the reasons for the move from a three year term to a four year term?

The Hon. G.E. GAGO: I have just listed them. I will briefly go through them again. They were:

- to avoid the clash of election dates, for example, in March 2006 and May 2006; the change would have resulted in a clash;
- to provide for a more stable government over four years (and I spoke about the job underpinning greater complexity, indicating that there were greater governance and other legal requirements, with standards always increasing), so it enables local councillors to take on board and learn their role, giving them a greater opportunity to put that in place;
- to provide greater stability and hence more consistency with the state election timetable—the four year period; and
- to reduce the overall cost, as it is more costly to have a three year cycle than a four year cycle.

Then I talked about newly elected members having to learn their role and to be able to apply it, and the need to permit serving councillors that opportunity to apply for a state election position and/or local council position.

The Hon. DAVID WINDERLICH: Yes, you did list those; you are correct. Were those arguments put forward by the state government or by local government? Essentially, was there any demand from local government for the move to four year terms?

The Hon. G.E. GAGO: We are double-checking the LGA's position in relation to that at that time. I will put on the record that councillors are required to resign on election rather than at the time of nomination—that is just to set the record straight.

In relation to the points that I outlined, the advice I have received is that that was the government's position and, at this point in time, we cannot confirm whether the LGA supported those sentiments or not but we will endeavour to do that quickly.

The Hon. M. PARNELL: To avoid the matter perhaps going to an unnecessary division, I should state our position. I have listened very carefully to the arguments and I am quite attracted to what the mover of this amendment had to say in relation to the fact that these are effectively voluntary positions with very small levels of remuneration that, no doubt, do not even cover the costs of running. It is a big commitment and there may well be people who would put their hand up for this sort of service if it was a shorter term.

However, I am also conscious of what the minister has said about there not having been great agitation in the community or any submissions in relation to this change. For me, a key issue is the fact that we have not yet got through the first of the four year terms, and I think there is a case to be made to say that we should evaluate the experience of this first four year term before changing the system.

What I would like to see is some qualitative research, in particular, in relation to people who may have considered being candidates but, in the end, did not because they were not prepared to commit for that length of term. I would also be interested in seeing research about any increase in the number of by-elections as a result of the lengthy term because, if it seems that people are not lasting the distance and that by-elections are the result, some of the cost savings that the government has referred to by keeping the status quo might evaporate.

For now, my position is that I will not support the amendment but I look forward to revisiting this issue after we have been able to evaluate the experience of the first round of four year terms.

The Hon. A. BRESSINGTON: I indicate that I will not be supporting this amendment. One point raised by the Hon Mark Parnell was that these are voluntary positions and perhaps a four year term is a greater impost on people who would like to be elected to council. Being elected to a local council is a responsible position and it could be that some people would run for election on a local council to get a specific project through in a three year time frame, but to then have to stay on for an extra year might be an impost on them. I believe that this would sort out the wheat from the chaff, and people who understand the dedication, responsibility and commitment that is required to be on a local council would be elected.

I believe that part of the thinking behind this was also to get the community used to the cycle of elections, to encourage more people to get into the flow of becoming involved in their local council elections. As I understand it, the level of participation for local council elections is lower than we would like. If it is run on the same cycle as a state election then people might, over time, become more involved in local government elections than they are now.

Also, an indication from the LGA that it does not support this amendment should speak volumes for us. It is not yet a completed cycle as we have not yet gone through a full four year term. I do not quite understand the Hon. Stephen Wade's logic that we would be sure about this at the beginning rather than at the end, because we do not do trials like that. We do not trial these sorts of things on the basis of the outcomes at the beginning. I am not going to rave on, but I will not be supporting this amendment for the reasons that the minister has given. I think they make common sense. The LGA has also indicated that it does not support this amendment.

The Hon. DAVID WINDERLICH: I will not be supporting the amendment either. I am sympathetic to it. I think the point about four years being a long time for a voluntary position is a strong one. I think it is also interesting that, in this parliament, we will be considering reducing the term of legislative councillors from eight to four years. That seems to imply that there is a balance between stability and not losing touch with the community and being brought back to account on a

frequent basis. I think that is interesting in the context of local government, but I do not think the case has been made to unpick what was a fairly major change not so long ago, so I will not be supporting the amendment.

The Hon. S.G. WADE: I take this opportunity to clarify my remarks at the suggestion of the Hon. Ann Bressington. The reason I do not believe that we need to wait until the end of a local government term to make some initial assessment of the relevance of a three year or four year term is that the decision whether or not to nominate for a local government position is not made at the end of the local government term; it is made at the beginning. At the beginning of the last local government elections, people were faced with a four year term rather than a three year term. It was at that point we knew whether that was a disincentive.

I would like to pick up the suggestion that the Hon. Mark Parnell made, because I think it would be very unfortunate if the parliament continued to rely on the policies of the LGA alone on this matter. After all, the point I made is that the people who sit on the LGA bodies to decide these policies are the people who did not find it a disincentive—people who, for whatever reason, are able to make a four year commitment. So, I think the Hon. Mark Parnell's suggestion that we should be looking to qualitative research is a good one. I think we should be looking for research that attempts to access people who might be considering being a council candidate, not just those who go on to be members.

In that regard, I ask the minister: is it intended that there be an independent review after this local government election, and will she give an undertaking to carry out the qualitative research that the Hon. Mark Parnell suggested?

The Hon. G.E. GAGO: I have been informed that the number of nominations for the last local government election compared with the previous one—that is, those going for a three year term versus those facing the prospect of a four year term—was roughly the same. So, there is nothing to support what the member is saying, that somehow the prospect of a four year term has suddenly scared away people nominating for local government elections.

The Hon. S.G. WADE: That is very fascinating, minister, but that has nothing to do with my question. Can I have an answer to my question?

The ACTING CHAIRMAN (Hon. R.P. Wortley): Are there any further questions?

The Hon. S.G. WADE: I am still waiting for an answer to my question. The minister gave me an answer to a very interesting question, but I did not ask it.

The ACTING CHAIRMAN: Have you answered it, minister?

The Hon. G.E. GAGO: I believe I have. If there is an outstanding question, I would love to hear it.

The Hon. S.G. WADE: I will ask the question again if the minister had trouble understanding it. Will the minister undertake to have an independent review into these local government elections and will she undertake, as the Hon. Mark Parnell suggested, as I understand it, that there be qualitative research into the impact of various factors, including the length of the term for candidates who decide whether or not to run?

The Hon. G.E. GAGO: The government will, indeed, be prepared to listen to feedback following the outcome of the next election. We are prepared to monitor responses to that, and we are prepared to consult with the LGA in terms of any further proposed changes that might be worthy of consideration.

The Hon. S.G. WADE: So, there are no plans at this stage for an independent review similar to the one that happened after the 2007 election?

The Hon. G.E. GAGO: I have given my response. I have outlined quite clearly what our actions will be in relation to this.

The Hon. DAVID WINDERLICH: Do we have a gender breakdown of the candidates who stood for the last local government elections?

The Hon. G.E. GAGO: We do not have that with us, but I can find out that information. I doubt that we will be able to give that information to the honourable member this evening, but I am happy to get that breakdown and give it to him.

New clause negatived.

New clause 4A.

The Hon. A. BRESSINGTON: I move:

Page 3, after line 17—After clause 4 insert:

4A—Amendment of section 6—Supplementary elections

(1) Section 6(2)(b)(iii)—Delete '(disregarding the office of mayor)'

(2) Section 6(3)(b)—Delete '(other than mayor)'

This simple amendment seeks to remove the current limitation caused by the current wording of section 6 that prevents a council which is carrying a casual vacancy under section 6(2)(b) and then a subsequent mayoral vacancy to hold a by-election for both vacancies. This recently occurred when the member for Frome exited his mayoral position in Port Pirie. As members would be aware, the Local Government Association has sought this amendment solely on the argument that, if a by-election is to be held, the council should not be prevented from filling all vacancies at that election. This is common sense. I urge members to give it consideration and support the amendment.

The Hon. R.L. BROKENSHIRE: I advise that Family First had an identical amendment. We support the Hon. Ms Bressington's amendment. It makes sense. It streamlines and makes efficiency gains, as well as helping the ratepayers and the councils. We strongly support the amendment.

The Hon. G.E. GAGO: The government will be supporting this amendment. In 2007 the independent review of local government elections consulted widely on all matters concerning local government elections. Amongst other things, the review asked: what changes, if any, should be made to the rules on casual vacancies and supplementary elections? In its interim report published in 2007, the review canvassed all suggestions made in response to that question. No concerns were expressed about the operations of section 6(2) of the act at that time.

This matter was raised early in 2009 when a supplementary election was necessary for the position of the Mayor of Port Pirie at the same time that the council was already carrying a vacancy for a councillor. Under the council's own policy, the council had elected not to replace the casual councillor vacancy. Some persons formed the view that the circumstances surrounding that election and what became a subsequent vacancy for two councillors indicated a problem with the operation of section 6 of the act.

This point of view was put to the government by the Chief Executive of the Port Pirie council. I was not persuaded at that time that it was a matter that required legislative amendment. Since the development of this bill, however, I am aware that this matter is of concern to the Local Government Association. I am now therefore persuaded by the arguments presented and note that councils can still set their own policies in relation to this issue even with this amendment.

I note that this amendment has also been filed by the Hon. Robert Brokenshire, and therefore the government is supportive of it.

The Hon. S.G. WADE: The opposition supports the amendment also.

New clause inserted.

Clause 5 passed.

Clause 6.

The Hon. S.G. WADE: I move:

Page 3, lines 28 and 29 [clause 6, inserted section 13A(1)(a)]—Delete paragraph (a)

This amendment proposes to strike out section 13A(1)(a), which intends to give the Electoral Commissioner the responsibility to educate the public about the role and functions of local government. The LGA has expressed a concern that this is not the role of the Electoral Commissioner, and the opposition supports that position. Our view is that it is not for the Electoral Commissioner or for the state government to define local government or how local government develops.

There is a diversity of view, even within the local government sector, as to the role and function of local government. Perhaps at the state level we could see it as being the leader of a cheer squad for the roads, rates and rubbish view of local government. The Treasurer, Mr Foley, denigrated local government with that phrase on FIVEaa in the past month. However, the fact of

the matter is that some councils see that as their primary raison d'être, and they will cling to that and have a narrow view of their purpose.

There are other councils, particularly some of the metropolitan councils, that take an extremely broad view of their purview. For example, they will become involved in community service development—community development in the broader sense of the word—crime prevention strategies and a whole raft of services in their jurisdiction, and those councils will look totally different from local governments with a narrower focus.

I think it is within the right of each local government body—for that matter, each local government constituency—to decide what their local government will look like. It is not for the state government, or the Electoral Commissioner as an agent of the state government, to start defining another tier of government.

I would also contrast this with the general educative role in relation to state and federal elections. I think it would be fair to say that there is much more unanimity within the state parliament and the federal parliament as to what are the roles of those parliaments. We do not get the same diversity of view as we do in local government and it is not as contended.

The opposition believes that it is inappropriate for the Electoral Commissioner to be drawn into this debate. We believe it is appropriate for the Local Government Association, the broader local government community, independent local government bodies and local government communities to define what local government will be now and in the future. It is not the role of the state government.

The Hon. G.E. GAGO: The government opposes the Hon. Stephen Wade's amendment. The LGA does not support the Electoral Commissioner or the returning officer having the responsibility for educating the public about the role and functions of local government and its council members. It has made its views very clear on this. However, the independent review recommended the inclusion of this provision.

The review considered that it was unwise to try to promote local government elections without putting elections in a context. In short, any advertising campaign needs to explain why an elector should bother to vote. This requires educating the elector about the role and functions of local government and elected members. It is a very basic function that we are talking about.

The LGA's view, reflected by the honourable member's amendment, seems to be that these two aspects of election promotion should be kept separate: the Electoral Commissioner should promote some aspects, particularly the administrative type roles, and the LGA should reserve for itself the role of educating the public about the role and functions of local government elected members—so, that general educative function.

It is not practical to try to divorce that aspect of election promotion from the other aspects of promoting the conduct of an election. A single advertising campaign can and should explain both why and how to vote, so there are some economies of scale in giving both of those roles to the Electoral Commissioner. They can perform both roles pretty much at the same time—not necessarily exclusively, but predominantly so. The bill requires the Electoral Commissioner to consult with the LGA for that purpose, but it would be unworkable to prohibit the Electoral Commissioner from authorising campaign advertisements that deal with both these elements.

I bring to honourable members' attention the fact that this does not prevent the LGA from conducting an education campaign. There is nothing in this bill that prevents the LGA, or any other individual council, contributing its own education campaign to the election process—in fact, they are encouraged to do so, for some of the very reasons that the honourable member has picked up. Individual councils might have slightly different perspectives and a slightly different range of issues, so they would be encouraged to do that. This bill does not prevent that from happening. What it does is ensure a reasonable standard of education attached to election campaigns.

The participation rate in local councils, on average, is 31.6 per cent, and it is a disgrace. That participation rate currently relies on the education campaigns of the LGA and local councils. That current activity is generating a 31.6 per cent participation rate, and it is not good enough. The independent review has identified that that is not good enough, and we as citizens should not accept that level of participation rate. The independent review determined that there are a number of elements contributing to that low participation rate, including a lack of general public understanding or basic knowledge around the role, function and importance of local government and the incredibly valuable contribution that it makes to our community. The Electoral

Commissioner being made responsible for a general educational aspect would enhance that situation, as well as provide education and information around the mechanisms of the election itself. It is a commonsense approach, and it addresses some of the appallingly low participation rates that we have in South Australia.

I also want to put this on the record: the Electoral Commission has a similar general educative role in relation to elections, so it is very similar to what is happening at state government level. Also, it is a practice similar to that occurring in other jurisdictions (New South Wales, Victoria and Queensland). I need to say that there is some variation around the education role within those jurisdictions, but all those jurisdictions have some general education capacity within their legislation. So this is nothing outstandingly and outrageously ahead of its time. This is just a very sensible approach to dealing with a serious problem.

The Hon. R.L. BROKENSHIRE: Family First supports the amendment. Frankly, best placed to specifically home in on improving voter numbers at council elections is the LGA. It is passionate, committed and well structured, and it represents all the councils across the state. My observation is that the State Electoral Commission has enough to do as it is. I am not sure how significant the budget increase will be, and the minister might like to tell us how much the budget will be increased so that the State Electoral Commission can do this, not only for direct input into advertising and other promotion but also in terms of staff numbers.

The other point is that we are always negative about the fact that only about 33 per cent of ratepayers bother to vote. I know the LGA and councils want to see this percentage lifted but, whilst everyone resents paying any taxes (whether they be council rates or others), there is an argument that the people comprising that 33 per cent show a real interest and make a deliberative vote that way, and other people who do not vote are probably not all that focused on or committed to what is happening with regard to their ward councillors and mayors. I think that the body best positioned to improve the voting outcome at the next election and into the future is clearly the LGA.

The Hon. A. BRESSINGTON: I ask the minister a question about an issue that the Hon. Robert Brokenshire has raised; that is, where is the money coming from? I believe it will be determined as an across-the-board figure that councils will contribute to the Electoral Commission for these advertising campaigns. I would like to hear from the minister about how those amounts are determined. Is it council by council? Is it based on their budgets? Will their budgets have to be adjusted to find that money? How will the funding work?

The Hon. G.E. GAGO: The determination around the budget will be made by the Electoral Commissioner. The funds will be sourced from local councils, as it is currently. The Electoral Commissioner will be required to consult with the LGA regarding the setting of the budget. We believe that the budget for this will also be sourced from savings that councils will derive from the maintenance of the voters' roll. Within this bill, we are proposing amendments to the way voters' rolls are maintained. Currently, it is quite costly and arduous. Those changes would generate some costs savings for local councils and we believe that those savings will help fund the election.

A budget has not been determined as yet. The Electoral Commissioner would consult with the LGA around that. Clearly, the commissioner's objective would be to ensure a very responsible approach is taken in the same way that the commissioner does the state election. They are certainly not renowned for being extravagant. They would be looking to ensure that any cost imposts are kept to a minimum. At the moment, the amount that local councils spend on elections is quite arbitrary. Some local councils spend considerable amounts of money, and for those councils it is likely that the cost impost would be quite minimal because they would be spending roughly that amount, anyway.

However, I do accept that some councils would spend a minimal amount on council elections. In fact, it is quite disturbing to see how little some councils spend on elections. For those councils, there would be a cost impost. As I said, we hope to offset that with the savings generated around the efficiencies to the voters' roll. The Electoral Commissioner will be required to consult with the LGA. The Electoral Commissioner is a very responsible person in the way she conducts her activities.

The Hon. A. BRESSINGTON: I thank the minister for her response. She is talking about savings around the voters' roll. Could the minister outline what that means and how that would work?

The Hon. G.E. GAGO: Currently, local councils are required to maintain rolls for people who own property in a particular council area but who do not live in the area, or who live in the area

and who have an additional property as well. It could be commercial premises which they rent out. There is a residents' roll that is quite easy to put together because it is similar to that of the House of Assembly. So councils are required to maintain another voters' roll, which lists property owners and non-residential voters, for instance, people who might own a property, which is a holiday unit, as well as other business properties or properties that are being rented out.

Local councils find this an extremely costly and arduous task, and a later amendment deals in more detail with the specific costs. They have said that it is a very costly and arduous exercise. The bill seeks to remove the requirements for individual councils to maintain that roll and shift that responsibility to an opt-in arrangement where property owners would indicate whether or not they wanted to vote. They would opt in and register on the electoral roll. It would be a much simpler and less costly and arduous task for councils.

The LGA supports the proposal, so the LGA is supporting the proposed changes to the voters' roll. Although we are not suggesting that these savings would completely offset the costs of an education and information campaign, nevertheless, we believe they would help to contribute to offset those costs.

The Hon. S.G. WADE: On what basis does the minister think some councils are spending very little on education campaigns? My understanding is that the Local Government Association already levies its members. The state government is deciding that it wants to take over a function from local government and impose another levy on South Australian ratepayers, so local councils will not only be having that levy transferred but also be losing control over it through the LGA.

The Hon. G.E. GAGO: The first point I would like to make is that I have been advised that for the last election the LGA levied metro councils around $700 and $300 for country councils. I go back to the basic premise of my argument, which is that whatever they have been spending—that plus whatever additional moneys they spend—is resulting in a 31.6 per cent participation rate. Whatever we are currently doing clearly is not working; it is inadequate. Putting that aside, the interim report, referring to requested information about council expenditure on the election promotion for recent elections, states:

> Thirty-nine councils reported on their spending. Although one council reported expenditure over $6 per enrollee [or per voter], 33 councils reported on expenditure of less than 50¢ per [voter] and 23 councils reported expenditure of 10¢ or less for each [voter].

It goes on to talk about the $700 and $300. So, you can see that there are some councils—and only some; not all—that are spending very little on the promotion of council elections. I just reiterate that, irrespective of whether or not you think that is a lot, the bottom line is that we are currently facing participation of 31.6 per cent, and that is not good enough. We need to put in place some changes that seek to improve the level of participation and improve people's knowledge and understanding of the importance and value that local government contributes to our community.

The Hon. A. BRESSINGTON: I rise to indicate that I will not be supporting this amendment. One of the reasons is that it has been suggested to me that there are some councils that lie pretty low around election time and that it is just easier for the councillors and members that are there to slip through that phase and not promote those local elections a great deal. I know of one instance where a particular person was basically held over in a local council for about 10 years. Local residents were not particularly happy with the performance, but they missed the election.

I think it is very important that, as the minister says, with such a low rate of participation in local government elections, this starts to become more centralised and more organised and that the South Australian public is educated equally about the importance of these elections, how to vote, when to vote and all that sort of thing. If it can be done from one particular central point and there is a system and a process, then I think that can only improve, over time, the interest in local government elections and the number of people participating.

The Hon. M. PARNELL: Just to assist the committee, I might put the Greens' position on this. As I understand it, much of the government's argument revolves around the problem with the low rate of participation, and I accept that the participation rate is too low. The question for us is whether the answer to that low rate of participation is the inclusion of a specific power for our electoral authorities to take on the role of educating the public about the role and function of local government and elected members.

I am not convinced that inserting that role into an electoral act will make the difference. I do accept what the Local Government Association says—that this education role is primarily its role—

but I do not think that we need to get too hung up on this demarcation of responsibility, because I note that, in the amendment, the Hon. Stephen Wade is seeking to strike out paragraph (a) but he is not seeking to strike out paragraph (c), and paragraph (c) makes it the job of the returning officer to encourage voting at elections.

Inevitably, a campaign to encourage people to vote at elections will talk about why elections are important and what people are being asked to do by voting in a local council election. There will, inevitably, be material which talks about the importance of local council elections, and the campaign will, no doubt, highlight the important things that councils do. So, many of the things that are referred to in paragraph (a) will, inevitably, also be part of paragraph (c).

For the reasons that the Hon. Stephen Wade and local government has given, I do not think we need to entrench our electoral authorities with the primary role—and this is paragraph (a), after all—of educating the public about local councils. If the low participation rate is a problem, then increasing the overall spend by our electoral authorities on matters such as paragraph (c), encouraging voting at elections, could well make an improvement.

That is not to say that local councils themselves cannot do more. I think the Local Government Association representatives who are following this debate will have picked up that there is some concern in this chamber about the variable performance of different councils, where some do not put a lot of effort into education, but I think that can be dealt with in a different way. I do not think that we need paragraph (a) in this clause of the bill.

The committee divided on the amendment:

AYES (11)

Brokenshire, R.L.	Dawkins, J.S.L.	Hood, D.G.E.
Lensink, J.M.A.	Lucas, R.I.	Parnell, M.
Ridgway, D.W.	Schaefer, C.V.	Stephens, T.J.
Wade, S.G. (teller)	Winderlich, D.N.	

NOES (8)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Wortley, R.P.	Zollo, C.	

Majority of 3 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 7.

The Hon. S.G. WADE: I move:

Page 4, lines 13 to15 [clause 7, inserted paragraph (a)]—Delete 'person is enrolled as an elector for the House of Assembly in respect of a place of residence within the area or ward; and' and substitute:

person—

(i) is enrolled as an elector for the House of Assembly in respect of a place of residence within the area or ward; or

(ii) is a ratepayer in respect of rateable property within the area or ward and is the sole owner of that rateable property; or

(iii) is a ratepayer in respect of rateable property within the area or ward, is the sole occupier of that rateable property, and is not a resident in respect of that rateable property; and

Honourable members may have noted that there are a number of consequential amendments hanging on this clause. The Liberal opposition seeks to retain voting rights for ratepayers who do not live in a district, without the need for four-yearly application. The Liberal Party opposes the change proposed in this bill because it believes that, if it is democratic for people to get a vote, their democratic rights should not be subject to hurdles to which other voters are not subject. Apparently, the government considers that some votes are not a right but a conditional privilege; if

you do not use them you lose them. Under this bill, you need to keep reaffirming your right to a vote to retain it.

The opposition believes that, if it is democratic for certain ratepayers to have a vote, they should not be discouraged from exercising that right. Requiring them to continually reapply is a discouragement. After all, in a voluntary voting regime they vote with their feet by not voting, and that should be true for all ratepayers.

In relation to the last clause, we saw how central to the minister's arguments was the need to increase voter turn-out numbers. However, one really has to ask: if 19 per cent (which I understand is the voter turn-out for this second class of voters) is so low that it justifies a purge of the roll, what is so magical about the next 12 per cent, which takes us to 31 per cent? Should we not put on them some sort of punishment? Clearly, the government has a prejudice against this class of voters.

I think it would be helpful if I quoted some correspondence I have received to remind honourable members of the sort of objectionable people with whom the government is trying to deal. The Southern and Hills Local Government Association has written to me in the following terms:

> The government proposes this change as a strategy to raise the voter participation rate in local government elections, purging those who now have a vote but may not exercise it from the roll. By requiring this class of electors to undergo a commitment test prior to each election, the strategy is that only the very interested will complete the registration and then vote. The argument is that there will be less cost than maintaining the roll in the current manner. These provisions will impact on those councils that have a high proportion of shacks and holiday homes in the area. There are several member councils that would be affected by these proposed changes. This association is opposed to these changes as certain ratepayers will be required to separately register to vote, thus creating two classes of ratepayers. It should also be noted that some councils affected have completed their representation reviews based on their current electoral roll should the representation provisions be enacted and a reduction in registration result. As planned by the government, the outcome will be variants of greater than 10 per cent of representation that could continue for eight years should Part 2 of the bill also be enacted.

I remind the committee of the constituent councils of the Southern and Hills Local Government Association. They are: the Adelaide Hills Council, Alexandrina Council, Barossa Council, Kangaroo Island Council, the District Council of Mt Barker, the Rural City of Murray Bridge, City of Victor Harbor, and the District Council of Yankalilla. What these councils share in common is that they have a significant 'seachange' element, for want of a better word. People choose to holiday there, and for many people, particularly Adelaide people, they choose to retire there. The fact that they are currently not residents does not mean that they do not have a real stake in how those communities develop. The fact that they should be treated as second-class voters and be required to renew every four years, as the association highlighted, is offensive. Whilst I have not been able to verify the following statistics, I understand that Yankalilla, Kangaroo Island and Robe have 46 per cent, 54 per cent, and 60 per cent non resident ratepayers respectively.

Much of the government's argument is based on the administrative burden of compiling a separate voters' roll, compared to the relative ease of using only the House of Assembly electoral roll. However, anyone who does not reside in the district and has an entitlement to vote would need to register prior to every local government election.

I make the point to the committee that councils will already have to maintain the ratepayers' list for this class of voters in any event. I am sure they are not going to say, 'Well, we're going to take your vote away, but, don't worry, you don't have to pay rates any more.' Renewals, I would also suggest, are a significant administrative burden. An automatic purging adds the cost of needing, for those people who do choose to renew, to renew them; whereas, if you do not purge, you do not have that cost. In this regard, I quote another letter that I received as follows:

> The rationale for this reform as presented in the explanatory guide is that the administrative task of compiling this additional component of the voters' roll is considered to be an unnecessary use of scarce resources. In our view this argument is seriously flawed. Considering councils generally appear to have no trouble with maintaining a database of landlord details for the purpose of sending rates notices to argue that it is too much of a burden to include these same people on the supplementary roll does not hold true. We view this proposal as a backdoor attempt to disenfranchise many, which, in the context of the shared goal to improve democratic participation in local government, runs counter to state government policy.

I thought that was an interesting observation. If the goal is to increase democratic participation, why try to throw people off the roll? If the goal is not merely to get up a stat but to actually foster democratic participation in community government, the opposition submits that this would be seen as a negative proposal. I urge members to support my amendment.

The Hon. G.E. GAGO: The government does not support this amendment. Amendments 3 to 15 and amendments 17 and 21 on file in the name of the Hon. Stephen Wade reflect a single policy position, and these 15 various amendments reflect the honourable member's view that something very close to the status quo should prevail in respect of property franchises and the electoral roll.

The honourable member's amendments would ensure that property franchisees would continue to be sent ballot papers in the mail without their needing to enrol for elections. These amendments would thwart the central recommendations of the independent review and undermine one of the central purposes of this bill. I remind honourable members that the independent review's overall thrust and major fundamental reform to be affected by this bill would be, in the words of the independent review:

> To divert resources away from what the review sees as unnecessarily administrative tasks associated with compiling a separate voters roll and towards activities that heighten awareness of the role of local government and elected members, its elections and individual candidates for election.

The honourable member's amendments would ensure that these unnecessary administrative tasks continue. The honourable member's amendments, if they were to be successful, would lead to the unnecessary demise of many trees. These trees would need to be pulped to produce ballot papers to send to tens of thousands of people who have historically shown that they do not want the ballot papers and will not return them even if we do post them out to them. It would perpetuate an anomaly that South Australia is the only state where this entitlement to automatic enrolment still exists.

In 2007, considerable research was undertaken on this topic by the independent review, and the results of that research are published on pages 76 to 82 of the review's interim report. I do not know whether the honourable member has acquainted himself with that research. Before local government elections in 2006 and previously, the council had to ensure that its voters' roll was up to date and that the roll of property franchisees did not contain any names that were also on the roll as residents. The process of checking for and removing duplicate names is not a simple task. The independent review attempted to estimate the administrative cost of updating the property franchisees' roll and the voters' roll, as required.

The independent review carried out a survey on the topic, and the results of the survey were published in the form of a graph, on page 81 of the review's interim report. The data leads to obvious questions, as follows. Why should councils take so much time and trouble to enrol people who do not care about voting? Why should they do this when it does not happen in other states and what is the point? Why is this money effectively wasted before every local government election? Surely, it would be more practical and efficient to allow those who want to enrol to do so and leave the others undisturbed.

The independent review recommended this reform, and the government accepted the recommendation. The LGA is strongly in favour of this reform. In fact, when I have visited councils—and I have visited a large number of councils, both metropolitan and country—I have been overwhelmed by councils congratulating the government on such a sensible amendment. Although I know there are some councils that do not agree with this, the overwhelming majority do support it and see it as a release from an unnecessary burden.

The other issue is that, arguably, it is simply unfair to allow the status quo to continue. If we look more closely, property franchise is a voting entitlement that is unique to local government, in addition to any voting entitlement of a resident. Its existence represents a departure from the principle of one person, one vote.

Nowhere else—not state elections, commonwealth elections or anywhere else—does a property owner in an electorate get a second vote in that electorate. In any other level of government it is one person, one vote. Just because you hold property or some other investment in another electorate does not entitle you to a second vote. It is an anomaly.

To acknowledge and claim this very special additional entitlement, it is appropriate that in an election year an entitled person or body corporate or group is invited to indicate an interest in and continued eligibility to vote in a local government election. That is a fair and reasonable thing to put in place. It is compulsory for resident Australian citizens to enrol for commonwealth elections; once you are on the commonwealth roll, the general rule is that you will be automatically enrolled for state elections and also for local government elections. The point is that no-one gets a vote in either commonwealth or state elections without enrolling for that purpose.

It is an anomaly that, under the Local Government Elections Act, property franchisees (in contrast to residents) do not need to take action to enrol. They have an additional privilege, but they do not need to take any extra action to claim it. This bill provides that, if they want to exercise this privilege, they ought to take action to claim it, and it is not a particularly onerous task.

The honourable member's amendment suggests that ratepayers should keep subsidising the administrative costs of this privilege. That is what he is saying: ratepayers should keep subsidising the administration of that privilege. Why should they? This is not just a matter of cost: it is a matter of fairness and equity and, if you are entitled to this additional vote, you should simply claim it. So, the government will be opposing this series of amendments moved by the Hon. Stephen Wade.

The Hon. S.G. WADE: Picking up on the minister's last comments, did the government consider putting a requirement on property franchisees that they enrol to vote but, once enrolled, for that to be automatically renewed as it is in state and commonwealth elections, if that is the model? Has it considered that option?

The Hon. G.E. GAGO: The assertion that the honourable member makes, I believe, is quite incorrect, because property franchisees are not enrolled in commonwealth or state elections. They do not exist on those rolls. This is an anomaly that occurs only in local government. The advice I have received in relation to that ongoing entitlement is that there is a degree of movement and change in relation to ownership. So, in order to capture and keep those rolls up to date, it is fair and reasonable that those property owners enrol before each election. It keeps the roll up to date.

The Hon. S.G. WADE: The minister keeps flipping between vague comments against the legitimacy of the property franchise, which she seems to imply is illegitimate, and the appropriate processes to maintain enrolment for those property franchisees. Is it the government's view that property franchises are an anachronism that should be removed? If so, why hasn't the government moved to remove them?

The Hon. G.E. GAGO: The honourable member is just being silly. That does not deserve an answer, because he is just being silly. I know that he is better than this in terms of his debate. The government has enshrined in legislation a right for property franchisees. If we did not believe they were entitled, we would not have included them in the legislation. They are there. We are saying they do have a right, but they have to claim their right; it is fair and reasonable that they do claim their right, and it is not fair and reasonable that ratepayers continue to subsidise those who do not even bother to vote, who stay on the roll but do not vote. I think it is about 19 per cent or something; the rate is abysmal. That is an enormous cost impost for ratepayers. Why should they subsidise that level of cost?

The Hon. M. PARNELL: I will not enter the debate on the desirability—

The Hon. G.E. Gago: The silliness of the opposition.

The Hon. M. PARNELL: I disagree with the minister that it is a silly debate. I am no big fan of the property franchise, but I do accept the minister's argument that the cross-subsidy between residents and other absentee property owners, for example, who historically do not vote, can be addressed through the government's amendments to this bill. I do not support going back to the status quo, and therefore I will not be supporting the Hon. Stephen Wade's amendments, of which I note there are very many which effectively relate to this same topic.

The Hon. DAVID WINDERLICH: I will be supporting the government, although with some reluctance. My reluctance comes from the fact that, if a class of voters has a right to vote, they should be treated like any other voter, and therefore the same efforts should be made to enrol them and keep them on the electoral roll. However, my main concern is that I just do not think there should be a property franchise. I think it is an archaic, mediaeval notion that we only relatively recently got rid of entirely in terms of state and federal parliaments—and federal parliament for some time now.

We would not consider for a moment at the state level or the federal level that somehow the right to property gave you the right to an additional vote. That would be seen as a completely absurd and old-fashioned idea. I think what we have here is probably a government that perhaps, in its heart of hearts, holds this view but is reluctant to take action on it and so takes this administrative route. I think there are some dangers when we start—

The Hon. G.E. Gago interjecting:

The Hon. DAVID WINDERLICH: I am suggesting a loss of nerve as you approach the finish line. I think what we have here is an electoral fossil, which is the property franchise.

The Hon. S.G. Wade: Don Dunstan is turning in his grave.

The Hon. DAVID WINDERLICH: Don Dunstan is spinning like one of those little X-Lotto machines.

Members interjecting:

The Hon. DAVID WINDERLICH: I think it was directly related to the philosophy of the amendment. I believe that this is very archaic and that the government should have gone further and moved to abolish the property franchise and bring local government into the 20th century, if not the 21st century. However, as one small step towards chipping away at this illegitimate old fossil of the electoral system, I suppose this amendment represents some very small measure of progress.

The committee divided on the amendment:

AYES (7)

Dawkins, J.S.L.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W.	Schaefer, C.V.	Stephens, T.J.
Wade, S.G. (teller)		

NOES (12)

Bressington, A.	Brokenshire, R.L.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hood, D.G.E.	Hunter, I.K.	Parnell, M.
Winderlich, D.N.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Lawson, R.D.	Darley, J.A.

Majority of 5 for the noes.

Amendment thus negatived.

The Hon. G.E. GAGO: I move:

Page 5—

Line 13 [clause 7(8), inserted subsection (3c)]—After 'enrolment' insert:

in respect of an area or ward

Lines 20 and 21 [clause 7(8), inserted subsection (3c)(b)(i)]—Delete 'by virtue of another entitlement in an area or ward' and substitute:

for the area or ward by virtue of another entitlement to vote

Lines 25 and 26 [clause 7(8), inserted subsection (3c)(b)(ii)]—Delete '(whether as a designated person or under' and substitute:

for the area or ward (whether as a designated person or by virtue of

Although there are three amendments for this clause in my name, all three deal with the one matter. Taken together, the three amendments merely seek to clarify what has been identified as an apparent ambiguity within the bill. Clause 7(8) as is currently worded would seem to prevent a property owner with land in more than one ward from being enrolled in an additional ward or wards of a council area. This was not the government's intention and it would be inconsistent with the provisions in clause 7(1). Therefore, these amendments merely clarify the policy that each ward is a separate election, and that having a property franchise entitlement in one ward does not disqualify a person from having a separate property franchise entitlement in another ward.

The Hon. S.G. WADE: The opposition supports the amendments.

Amendments carried; clause as amended passed.

Clause 8.

The Hon. S.G. WADE: I move:

Page 6, after line 20—Insert:

(14a) A person is entitled, on payment of the fees fixed by the council, to a copy of the voters' roll in printed form.

This amendment seeks to retain the provisions for any person to purchase a printed copy of the roll. The opposition agrees with the government that an electronic roll need not be provided in relation to local government elections. The view has been put to the opposition that provision of an electronic roll would facilitate direct mailing, but the opposition is concerned that local government needs to stay local, and facilitating mass communications in this way could well put local government elections and service beyond the ability of citizens of lesser means. We believe that it is appropriate, however, to maintain the established practice of access to the printed roll.

The Hon. G.E. GAGO: The government opposes this amendment. The amendment seeks to make the voters' roll available in printed form to any member of the public. This is the current situation and this amendment therefore seeks to maintain the status quo. The government has taken the view that it is not appropriate for the voters' roll to be available potentially to marketing companies and others for purposes that may be entirely unrelated to elections. There is a perception of abuse which we need to deal with here. A ratepayer would not expect that, once they went onto it, the roll would be used for anything other than election purposes.

Making it available to any member of the public increases the chances that that roll could be used for other purposes. The Electoral (Miscellaneous) Amendment Bill proposes amendments to restrict the availability of the electoral roll to the public. It would be futile to restrict the availability of the electoral roll under the Electoral Act 1985 if the same voters' roll was also available for a fee under the Local Government Elections Act 1999. Therefore, this bill makes complementary amendments to restrict the supply of the voters' roll to election candidates.

The honourable member wants to keep making the roll available to marketing companies and potentially anyone who walks off the street. We do not find this acceptable and therefore we will oppose the amendment.

The Hon. S.G. WADE: I think we might be treading on standing orders here because we are referring to an act that has not been passed yet. However, my understanding of the electoral bill before the committee is that, amongst other purposes, those rolls can be made available only for certain purposes. In fact, the relevant clause provides:

...the distribution of matter calculated to affect the result of a state, commonwealth or local government election or purpose relating to the holding of such elections is excluded from misuse.

In other words, you are permitted to use it for those purposes. Considering that the minister is suggesting that the government's concern is abuse of the roll, surely that provision is overarching; and if people are using the printed roll available under the Local Government Act for a purpose other than local government elections they would be guilty of an offence under the state Electoral Act.

The Hon. G.E. GAGO: The advice I have been given is that, under the Electoral Act, those provisions would apply only if the roll was given under that act.

The Hon. S.G. WADE: Can the minister inform us whether there have been any complaints of abuse of a local government roll?

The Hon. G.E. GAGO: Only anecdotally. Members of the public hold a perception that the rolls could be abused. It is only anecdotal but, certainly, given the degree of junk mail that comes through people's letterboxes, they wonder where their names and addresses are coming from and are suspicious that the electoral roll could be abused. However, as I said, it is only anecdotal.

The Hon. S.G. WADE: I would also indicate my concern that, if a printed roll is not available to members of the public, we would have the situation where it is very difficult to challenge the quality of the roll. If the roll is available to members of the public, they can check whether dead people are still there and do the sort of roll cleansing that can be done through public scrutiny of the roll, and not making it available to the public is a risk.

The Hon. G.E. GAGO: That is not the role and function of the general public. Those candidates are able to perform that function as well. My understanding is that it is the role of the

Electoral Commission to keep that roll up to date for the House of Assembly. So, the Electoral Commission does its enrolment drives and cleans up the roll in the lead-up to state elections. It is funded to carry out that role and I think it performs it quite well, and it is that role that forms the integrity of the local government roll, except of course for property owners.

The Hon. M. PARNELL: This is really the same debate that we had when we were dealing with the state electoral laws. We went to some length in that debate to make sure that electoral rolls were used primarily for electoral purposes and that they were not used by insurance companies or real estate agents or anyone else to spam us with unwarranted material.

I think the situation would exist if the Hon. Stephen Wade's amendment were to pass where it would undo the amendments we either have already made or may soon make to the state electoral laws, whereby anyone who was caught using an electoral roll for improper commercial purposes would simply say, 'Well, I got mine through the local government election act; I didn't get it through the state election act,' and therefore it would undermine what we have been trying to do.

I think there are other issues around candidates and prospective candidates being able to have access to the roll. We will deal with those amendments later on. However, for now, I am not convinced that making the roll available to anyone who wants to buy it is in fact the way to go in an era where people have more rights to protect their privacy. Someone might have gone to great lengths to keep themselves out of the phone book—for example, they might have signed up for the Do Not Call Register. There is a range of things that we are putting in place and yet we could undo it with one simple motion by allowing anyone who has the money to pay for it to find out exactly our full name and address. I am not inclined to support the amendment.

The Hon. DAVID WINDERLICH: I indicate that I will not be supporting the amendment, for all the reasons outlined by the Hon. Mark Parnell and others.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 6, lines 21 to 26 [clause 8(4), inserted subsection (15)]—

Delete inserted subsection (15) and substitute:

(15) At any time between the close of nominations and polling day for an election, a nominated candidate for the election is entitled to obtain from the relevant council—

(a) a copy, in printed form, of the voters roll for the area (and he or she may, during that period, obtain further copies, in printed form, of the voters roll from the council on payment of the fees fixed by the council); and

(b) a copy, in electronic form, of that part of the voters roll for the area that sets out particulars of enrolled voters who are not resident at a place of residence in the area.

This is very similar to the issue we have just been discussing, which is about the availability of the electoral roll. My amendment proposes that that part of the roll that relates to non-resident voters should be made available to candidates. The rationale for that is that, if a person wants to contact all voters, the people who live there can be doorknocked but the people who do not live there cannot be contacted in any other way, reasonably, other than by writing to them. If we allow candidates to write to them, we might as well provide the roll in electronic form.

I describe this amendment as a fallback. I understand that the Hon. Rob Brokenshire proposes that the whole of the electoral roll be made available to candidates in electronic form, and I support that as well. So, having stated my position clearly, I would not like the debate to proceed in such a way that the passage of my amendment somehow precluded Mr Brokenshire's, because I support his amendment but, if his was unsuccessful, I would like mine to remain as the fallback position.

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

Page 6—

Line 23 [clause 8(4), inserted subsection (15)]—After 'printed' insert:

or electronic

Line 25 [clause 8(4), inserted subsection (15)]—After 'printed' insert:

or electronic

I thank the Hon. Mark Parnell for his comments and, certainly, as a fallback position, Family First supports the Hon. Mark Parnell's amendments. These are really consequential amendments and, simply, enable the provision of an electronic copy of the council voters roll to candidates. There is also the check and balance of a significant penalty for misuse of information in the roll to overcome the sorts of issues that the minister raised with respect to the previous amendment of the Hon. Stephen Wade.

From the point of view of state and federal candidates, one way or another, they have access to not only a hard copy but also an electronic copy. We are arguing that we should be increasing voter turnout from about 33 per cent to at least 50 per cent, and I suggest that a committed candidate who wants to engage in modern opportunities with technology should be given the opportunity to go out and communicate their messages to the voters. The point is that sometimes these candidates do not get a chance to nominate or make a decision to nominate until close to the council elections, and trying to go through the very tedious situation of getting a hard copy and putting that onto a database to communicate with ratepayers, I think, is unfair.

Why do we have the privilege in both the state and the commonwealth arena, yet this clause prevents it for candidates for local government? If we have three tiers of government, then we should give fair and reasonable opportunity to all the candidates for each tier of government, and therefore I strongly support these amendments.

The Hon. G.E. GAGO: In relation to the amendment of the Hon. Mark Parnell allowing candidates to receive an electronic copy of the roll that relates to non-residents, we believe it creates a distinction between those on the roll as residents and those as non-residents. Residents will receive some protection from potential misuse of the roll on which they appear as a result of the fact that candidates can only get a printed copy of the roll.

However, the same protection will not be available for those people and organisations who are entitled and who have enrolled to vote but who are not residents. No clear purpose is served by that particular amendment. The Hon. Robert Brokenshire's amendments address the provision of the roll in electronic form to residents, and that is not supported by the government. These amendments have the potential to allow for a much wider distribution of the roll and therefore greater potential for misuse.

There is a much greater number of local government candidates than there are candidates for a state election. For instance, in 2006, there were 1,236 candidates for the local government election. In contrast, there were only 323 candidates for the state government election. Clearly, the potential for distribution of the roll for non-authorised purposes is much greater when you look at those numbers. As I said, it is the perception of the community that their information is not being as closely managed as they would like.

The Hon. S.G. WADE: The opposition agrees with the government, and we will not be supporting either sets of amendments.

The Hon. M. Parnell's amendment negatived; the Hon. R.L. Brokenshire's amendments negatived; clause passed.

Clauses 9 and 10 passed.

Clause 11.

The Hon. S.G. WADE: I move:

Page 7, lines 17 to 24 [clause 11, inserted section 19A(2)]—Delete subsection (2)

This amendment relates to the publication of candidates' statements. It is the view of the opposition that the LGA should be supported to establish a statewide website to publish candidates' profiles on the internet. However, it should not be required by legislation to do so. Essentially, the proposal is that a statewide website be established where the public can look up details of a candidate in any council district to find out more about them and their policies, and the candidates can choose to provide a link to their own website.

The proposal is that the LGA would manage the website. The LGA is open to that service but is concerned about the financial impost. At present the government has not committed to assist in funding, and I note that there is a subsequent amendment which would require the minister to engage in a funding arrangement. This amendment simply lets clause 11 facilitate the website, but does not require it.

The Hon. G.E. GAGO: The effect of this amendment is to leave publication as a matter of discretion for the LGA. One of the reasons identified for low voter turnout at previous local government elections is the perceived difficulty that some voters have in finding out information about candidates who are standing for election. The independent review of local government elections recommended setting up a system under which any voter anywhere could read information about any candidate by visiting a central web portal and following links.

The LGA is concerned about the cost of this proposal. However, the state government in its official response to the recommendations of the independent review agreed with the review's recommendation that the government through OSLGR would provide 'cash and/or assistance in kind i.e. web servers and the temporary services of administrative officers for web publishing'. The honourable member's statement that we have given no commitment is incorrect. In fact, that commitment is documented on record.

We have also indicated that we are prepared to consult further with the LGA in relation to the resources needed to implement this in an efficient and effective way. Indeed, it would thwart the intent of this clause of the bill if this amendment were carried and the LGA could then simply decline to provide the service. For those reasons, we will be opposing the amendment.

Amendment negatived.

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

Page 7, after line 37 [clause 11, inserted section 19A]—Insert:

(6A) The minister must, in consultation with the LGA, develop a plan for the provision of funding to the LGA for the purposes of carrying out its functions under this section.

When it comes to developing websites, clearly there are costs involved. The thrust of this bill is to get more people to vote and, in order to do that, they need to know the candidates for whom they are voting. If the LGA is able to carry out its duties professionally and responsibly (as I know it will) with cooperative intent on getting more ratepayers to vote in local government elections, then in a modern society with technological availability we should be seeing a good website developed for the candidates. I believe that the state government needs to be a contributor to this process, so I ask my colleagues to look at this amendment favourably.

The Hon. G.E. GAGO: As I put on the record in my previous answer, the government has committed to contribute to this website. I have already indicated that we intend to provide the LGA with cash and/or in-kind support to establish a website for candidates' profiles. This amendment seeks to restrict that support to funding. Already I have given an assurance that I will provide support and I have committed to consult with them to develop a plan for that to occur.

The Hon. R.L. BROKENSHIRE: Can the minister indicate what sort of financial support she will be looking at providing to the LGA?

The Hon. G.E. GAGO: I have indicated that we will consult with the LGA to develop a plan for the implementation of the system. That is yet to be done, and the final resources required will depend on that plan.

The Hon. M. PARNELL: The amendment proposes to enshrine the obligation on the minister to develop a plan for funding. The minister has put on the record that her intention is to provide not only funding but in-kind and other support services which she has suggested could include the provision of computer servers or space on some government server for this material to be included.

I am happy to accept the minister's assurance that that is what she intends to do. If it turns out after the next election that the Local Government Association feels dudded and has not been supported sufficiently with either funds or in-kind resources, I would be happy to revisit it, but for now I am happy to accept the minister's assurance.

The Hon. S.G. WADE: The opposition does not support the amendment.

Amendment negatived; clause passed.

Clauses 12 to 19 passed.

Clause 20.

The Hon. R.L. BROKENSHIRE: I will not be proceeding with my amendment No. 6. I move:

Page 10, line 7 [clause 20, inserted 91A(8) definition of designated decision, (c)]—After 'understanding' insert:

(other than a prescribed contract)

This is to assist local government in getting on with the job during issues around caretaker mode at election time. I believe that we need to be responsible and ensure that local government can function properly for its ratepayers during those periods just the same as state government has a caretaker role to ensure that it and the state government bureaucracy can continue to deliver for South Australians. I believe that this amendment is necessary.

The Hon. S.G. WADE: Can I just clarify whether the Hon. Mr Brokenshire was moving just amendment No. 7 or amendments Nos 7 and 8?

The CHAIRMAN: He has only moved amendment No. 7 at the moment.

The Hon. R.L. BROKENSHIRE: I give notice that I will be moving my amendment No. 8 in an amended form whereby the following words are struck out: 'and in relation to which a call for tenders was made'.

The CHAIRMAN: The minister has an amendment in between those two amendments.

The Hon. G.E. GAGO: I realise that, but it does make sense to address both issues now, because I do not think my amendment affects his foreshadowed amendment. It is quite independent of that, so I do not think that it will complicate things.

The government opposes both these amendments. These amendments introduce the concept of a prescribed contract, which the honourable member proposes that the council would be permitted to enter during a caretaker period. It is apparent that this amendment opens up the possibility that a council could enter a potentially very controversial contract during a caretaker period. That would, of course, be contrary to the intent and purpose of the caretaker period. Controversial decisions should be postponed during the caretaker period and left to the incoming council to consider.

The problem with the honourable member's amendment is in the loose definition of 'prescribed contract'. This amendment is relaxing the restrictions that are in the bill on what type of contract a council may enter into in the caretaker period. It is, in effect, watering down the whole point of a caretaker period. One needs to examine carefully the words chosen by the honourable member to define what is to be permitted, namely, 'the provision of goods, services or any other matter that has been included in an annual business plan and budget of the council'. So, it could pertain to any related contracts; for instance, I would imagine that any hiring of staff would be captured by that. We know that the hiring of staff during caretaker periods can be very controversial indeed.

The honourable member intends that this relaxation of the rules is to apply in relation to very large contracts, ones that would otherwise be prohibited by the caretaker period. It is not too difficult to think of circumstances in which the entering of a large contract during an election campaign might be very controversial, notwithstanding that the proposal was in the annual business plan and budget.

Imagine, for example, that a council has two or three tenders to build a library, sports hall or civic centre, where millions of dollars may be involved. One tender is from a local builder, another is from a builder from a town some distance away, and a third is from a builder from interstate. Perhaps one builder has a good reputation but is more expensive, another builder might have a dubious reputation but is cheaper, and the third builder might have a previous history with the council. This is all conjecture, of course.

The decision of which builder to choose might become an election issue. Various candidates might pledge their support for one or other option, and these are obviously the sorts of scenarios that the introduction of a caretaker period is clearly trying to avoid, and so they should be avoided. The only appropriate thing to do in these circumstances is to delay such decisions and allow the voters to choose their new council and let the incoming council decide. The honourable member's amendment would permit this controversial decision to be made during an election period by an outgoing council. This is not acceptable to the government and would defeat the purpose of the caretaker period.

The government is mindful that the concept of a caretaker period should not disrupt the normal uncontroversial business of local government during an election campaign, and we

proposed an amendment to make that more manageable. However, it is very important to define carefully the scope of any exceptions to the caretaker rules. The government proposes to enter discussions with the LGA so that a sensible dividing line may be drawn up, permitting routine matters to go ahead while preserving the general intent and purpose of the caretaker period. This dividing line has not been drafted yet. When a sensible version has been defined, hopefully, we will have the support to have it prescribed in the regulations.

The honourable member's amendments fall short of a practical and sensible option. They leave a large loophole that will render the caretaker period virtually ineffective and, for those reasons, we will be opposing this amendment.

The Hon. S.G. WADE: If I could make some comments on the minister's response to the honourable member's amendment. She refers to the possibility of staff appointments being made under this clause. That is clearly not possible; you would not see a staff appointment made on an annual business plan and budget of council.

Secondly, the minister talks about controversial decisions being made under this clause. Well, so be it. Under the Local Government Act an annual business plan and budget are subject to consultation with the community, so if there has been consultation with the community the controversy has been had, and the community has made its decision through its democratically elected council. Why should that democratically elected council not have the opportunity to implement its plans?

The minister needs to explain to the committee why the relatively small number of decisions that would be prescribed by an annual business plan or budget should not be permitted, as this amendment foreshadows. The opposition believes it is a sensible initiative to try to make the caretaker provisions workable. We certainly support the caretaker provision and, from what the minister has said, see no reason not to support the Hon. Robert Brokenshire on this amendment.

The Hon. R.L. BROKENSHIRE: I thank the minister and the shadow minister for their comments. I ask the committee to have a very careful look at this, because I cannot understand the rationale of the minister, on behalf of the government, on this. What the Hon. Stephen Wade said is exactly right: the council has to go out and consult with the community. It is very transparent when it comes to the budget. They are elected people.

From memory, when it comes to local government the budget comes out in May or June. Tenders are called. You can have a series of tenders when doing a project, and the government could cost ratepayers an enormous amount of money by not agreeing to this clause, because they have to halt the project at a time of the year when part of that tender process is already through. All these staff are being paid, who are then held up because they cannot implement all the work that has been passed, in a very transparent and democratic way, with the ratepayers.

The final point is that, by the time the new council comes in, goes through the Christmas period and then starts to frame the next budget, you could lose six months. You could then have a massive increase in the cost of the project. I ask the minister: what is different about infrastructure, management, process and operations of state and commonwealth government compared to local government? To me there is no difference at all; work must go on.

Finally, as the Hon. Stephen Wade said, there is no way that they could be hiring staff during the caretaker period. This is specifically about carrying on with works that are approved in the annual business plan and budget.

The Hon. G.E. GAGO: The honourable member is right: there is no difference between state and local governments. State government is required to have a caretaker period for exactly the sorts of protections I have outlined; all we are doing is applying a similar standard to local government. That is the point. We are not requiring a different set of standards; we are requiring the same standard of local government. State government, commonwealth government, every other level of government, including many other jurisdictions around Australia, have caretaker periods for local government. It is a common, reasonable standard to protect those interests.

In relation to the Hon. Stephen Wade's claims of protections around annual business plans, the issue around local council business plans and budgets is that they cover just about all activities of local council. So, it would mean that just about any activity would be exempt or would bypass the caretaker requirements. That would also include, for instance, the acquisition and disposal of land, and large contracts—and I have outlined a scenario where, quite clearly, the outcome of that large

contract could become a significant election issue. It is for those reasons that the government opposes this amendment.

The government has an amendment on file that does make some changes to the caretaker period to make that period more operational and to allow routine business to take place, unless disruptions occur. We have consulted with the LGA about that. Those amendments will make the day-to-day business more simple for local governments. We understand that local governments have to get on with their day-to-day business but, in terms of standards around caretaker periods and the potential for conflicts and influencing elections in ways they should not, we are only opposing a standard that applies to other jurisdictions.

The Hon. S.G. WADE: I take it that when the minister talks about modifications to allow the normal business of council to proceed she is referring to the proposed insertion of regulations.

The Hon. G.E. GAGO: Yes.

The Hon. S.G. WADE: That being the case, I will just quote from the minister's letter to Mayor Felicity-Ann Lewis, as President of the LGA, dated 3 September. It states:

> I am considering the possibility of a government amendment to modify clause 20 so that routine council operations need not be disrupted during the caretaker period. The extent of any exceptions might be prescribed in regulations and officers from the Office of State/Local Government Relations to be discussing with the LGA a form of words that would allow the regulations to distinguish between routine commitments and those proposals which should be postponed until after an election.

Clearly, the minister knows that this provision is unworkable. In the context of the work that is referred to in the letter, can the minister advise what words have currently been drafted which are intended in the regulations she is foreshadowing?

The Hon. G.E. GAGO: There has been no drafting of any regulation to date. We have committed to consult with the LGA in relation to matters that should be considered in those regulations.

The Hon. S.G. WADE: I just reiterate that the opposition has consulted with the LGA. The LGA believes that this provision would make the normal business of councils more manageable in a caretaker period. We believe that is appropriate. We will be supporting the Hon. Mr Brokenshire.

The Hon. M. PARNELL: Just so that I can understand the length of time of the caretaker period, the words are 'election period', and that means 'the period commencing on the day of the close of nominations for the election', which, in most cases, will finish at the conclusion of the election. What period we talking about? How long will that period normally be?

The Hon. G.E. GAGO: I am advised that it is around 50-odd days, depending on how the days fall, so it could be 52 or 55, but it is about that.

The Hon. M. PARNELL: I am trying to work out what this would mean in practice. My guess is that, if the provisions were passed in the way that the government intends, when a council is doing its business it would have those 50 days basically marked out on its yearly planner as having no big contracts to be signed in this period. The council would have to manage its affairs so that decisions were made before that period, otherwise they would be delayed some considerable time. I understand that it can be made to work.

My concern about the Hon. Mr Brokenshire's amendments is that, as I understand it, he is proposing that, if a council has gone through the process of having put something in its annual business plan or its budget, that effectively overrides the caretaker period. My concern is with those words, considering cases such as the Walkerville situation not that long ago, where the election was fought over controversial contracts.

In fact, I ask the minister whether any of those contracts were entered into in what would now be regarded as the caretaker period. My recollection of that election is that the council effectively turned over. The people who did not like those contracts were elected, and they were then faced with the position of having to give effect to contracts they did not want. They were even threatened with legal action for not complying with the terms of those contracts. Can the minister shed any light on whether the Walkerville situation would have been covered by this caretaker period?

The Hon. G.E. GAGO: I do not have that information to hand, but we can check that. I have my suspicions, but they are not adequate to put on the record. However, I will stress that the government's view is that business plans and budgets are so broad in scope that they just about

cover all business matters, so it really makes the whole notion of a caretaker period null and void, because it excludes from the caretaker period just about every matter.

Clearly, this amendment attempts to circumvent the protections that we believe should be in place in relation to a caretaker period. As I have said, it is a similar standard to other levels of government, that is, state and commonwealth levels of government. These are is not new and novel concepts. Other local governments in other jurisdictions cope quite well with caretaker periods, once they are put in place.

I draw members' attention to the fact that this is currently a four year term of office. The longer the term, the easier it is to plan ahead for an election caretaker period. Two or three year terms of office make that far more disruptive. We have a four year term of office and pretty well a fixed date for elections, so everyone knows roughly when an election will be held, and councils are able to plan well in advance in terms of their business priorities.

My understanding is that, if a contract is signed, it is able to be progressed through a caretaker period. We intend, as foreshadowed in our amendment to clause 20, to work with the LGA to identify any other provisions the LGA believes are necessary to ensure the ongoing day-to-day operations of local councils.

The Hon. R.L. BROKENSHIRE: As a point of clarification for the minister, I will briefly paint a picture, and I am mindful of the late hour. In relation to the state situation, we also have a fixed term; so the same argument can apply. However, what happens in practice with the state situation is that often, at the cabinet meeting before the premier goes to the Governor, a massive number of cabinet submissions are rushed through, often with capital expenditure, so that marginal seats are looked after during the election period. That is something that happens regularly, irrespective of the colour of the government.

The local government situation, by and large, is quite a bit different in that local government puts its budget together and it does not have the opportunity to make political decisions just before the commencement of the caretaker period. That is one point.

The second point is that the minister says 'if the contract is signed.' In the state situation—and I will use DTEI as an example—if a tender has been advertised and has been partly processed, my understanding is that that tender can be finalised during the caretaker period if that department has had approval from cabinet for the tender process and the appropriation has occurred. I cannot understand the minister's argument, because it does not stop that government project from continuing, nor does it become an impost on the department or the state. Minister, by opposing my amendment, you are proposing a real impost in delivery of services, outcomes, times and cost to ratepayers and councils.

The Hon. G.E. GAGO: To suggest that councils are not able to make political decisions because their business plans and budgets are in place is outrageous; of course they can. The breadth and scope of their business plans and budgets are such that they could very well do that. The honourable member also knows that, if this bill were to succeed, councils would know exactly when caretaker periods were going to begin and end and be able to anticipate that in advance. It is nonsense to say that a business plan and budget will protect councils from making political decisions. It is absolute nonsense.

The CHAIRMAN: We have been a while on one amendment.

The Hon. M. PARNELL: I have been listening to the debate very carefully, Mr Chairman. I am about to make a decision.

The CHAIRMAN: I am very glad about that. I was about to make one, too.

The Hon. M. PARNELL: I am listening carefully to this debate and it seems to me that the minister has committed to negotiating with the LGA to exclude some types of decisions—and we do not know what they will be yet—from that definition of 'designated decision'. I guess time will tell whether the types of decisions that are excluded are, in fact, regarded as the routine business of councils.

I also note that there is a provision for a council that considers that there are extraordinary circumstances to be able to make those decisions during a caretaker period. My understanding of caretaker conventions is that, in a parliamentary-type setting where you have an official opposition and a government, the caretaker period usually means that the government consults with and gets the agreement of the opposition to make controversial decisions. It is not a prohibition on making

those decisions. If the major parties all agree, then the decisions still get made, even in a caretaker period.

However, at the end of the day, I can see in this arrangement that the term of the local council will be roughly 1,400 days and the last 50 of those will have some restrictions on some types of contract, and that is the proposal for the caretaker period. I am prepared to accept the minister's amendment that she will revisit the definition of 'designated decision' by adding some extra exclusions in the regulations, so I will not be supporting the honourable member's amendment.

The committee divided on the amendment:

AYES (9)

Brokenshire, R.L.	Dawkins, J.S.L.	Hood, D.G.E.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	Winderlich, D.N.

NOES (8)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Wortley, R.P.	

PAIRS (4)

Darley, J.A.	Lawson, R.D.
Schaefer, C.V.	Zollo, C.

Majority of one for the ayes.

Amendment thus carried.

The Hon. G.E. GAGO: I move:

Page 10, after line 14 [clause 20, inserted section 91A(8), definition of designated decision—

After paragraph (d) insert:

other than a decision of a kind excluded from this definition by regulation;

This arises from discussion with the LGA about the effect of the proposed caretaker period. One of the purposes served by the introduction of the caretaker period is to prevent an outgoing council from binding an incoming council after an election, especially in regard to large or controversial projects or contracts. On the other hand, the caretaker period is not intended to prevent a council from undertaking normal, uncontroversial works in accordance with its business plan.

There are occasions when a large contract may, nevertheless, be described as routine and no purpose would be served by delaying the signing of such a contract for the duration of the caretaker period. The government accepts this basic principle but has not yet reached an understanding with local government about how to draw the line between the large contracts that may be regarded as routine and large contracts that should properly be left to an incoming council.

The amendment proposes that this dividing line may be drawn in regulation, and I intend to consult with the LGA over the next number of months to consider a regulation that might properly make that distinction.

The Hon. S.G. WADE: I indicate that, even in the light of the amendments successfully moved by the Hon. Mr Brokenshire, the opposition still sees this as a sensible provision to allow flexibility in dealing with the implementation of this act over time.

Amendment carried.

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

Page 10, after line 21 [clause 20, inserted section 91A(8)]—Insert:

Prescribed contract means a contract for provision of goods, services or any other matter that has been included in an annual business plan and budget of the council.

I remind the committee of the in-house amendment whereby the following words are struck out from my original amendment:

and in relation to which a call for tenders was made.

The committee divided on the amendment:

AYES (9)

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

NOES (8)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Wortley, R.P.	

PAIRS (4)

Lawson, R.D.	Darley, J.A.
Schaefer, C.V.	Zollo, C.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

New clause 21.

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

Page 10, after line 21—Insert:

21—Amendment of section 93—Regulations.

Section 93—after subsection (2) insert:

(3) The minister should consult with the LGA before a regulation is made under this act.

The clause is straightforward. My understanding is that this is consistent with the current provisions in the Local Government Act. Given that this will obviously involve many issues relating to local government, I believe this amendment would streamline things. It would also make things a lot better if the LGA was consulted before a regulation came into this place. It may then save us some work in terms of having to disallow a regulation, because if there has not been consultation we receive representation.

The Hon. G.E. GAGO: The government believes that this amendment is totally unnecessary. We have given a commitment to consult, and there are certain provisions where we are required to consult. However, we do not intend to oppose the amendment, because we have given that commitment anyway.

New clause inserted.

Schedule and title passed.

Bill reported with amendments.

Bill read a third time and passed.

STATUTES AMENDMENT (RECIDIVIST YOUNG OFFENDERS AND YOUTH PAROLE BOARD) BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:38): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill arises from the Government's concern about the harm done by a small number of young offenders who persist in serious crime despite our best attempts at diversion and rehabilitation. They are few in number but cause disproportionate harm.

Members will recall the amendments made in 2003 to the *Criminal Law (Sentencing) Act 1988*, providing for the courts to declare an adult offender to be a 'serious repeat offender'. If a declaration is made, then the principle of proportionality in sentencing no longer applies and any non-parole period must be at least four-fifths the length of the sentence of imprisonment. A declaration can only be made against a person who has, on 3 separate occasions, committed a serious offence as defined, resulting in imprisonment (or, in the case of the most recent offence, the prospect of imprisonment). In the case of sexual offending against a child under 14, only 2 separate offences are needed. A declaration is in the discretion of the sentencing court.

The Government believes that we should apply this same principle to recidivist young offenders and this Bill would do that. The Bill proposes that a court sentencing a youth for a serious offence, where the required criminal history exists, would have to consider whether the youth ought to be declared a 'recidivist young offender'. If a declaration were made, then, in sentencing the youth, proportionality would not apply and a sentence of detention could be imposed without a finding that a non-custodial sentence would be inadequate. Further, the present rule permitting conditional release after the youth has served two-thirds of the sentence would be varied for these offenders. The youth would have to serve at least four-fifths of the sentence of detention before becoming eligible for release.

The Bill also proposes that the work of reviewing the progress of a recidivist young offender, and the decision about his or her conditional release, would fall, under the *Young Offenders Act 1993* to the Training Centre Review Board constituted as the Youth Parole Board. That is, the Board would be so constituted as to include a police officer or former police officer and a person with skills and experience in matters relating to the effect of crime on victims. The Bill proposes to spell out the factors that the Youth Parole Board must consider in deciding about conditional release without limiting consideration of any other relevant factor. Public safety is to be the paramount consideration, over and above all else. The Board must also consider the youth's behaviour on any previous release from detention, given that the youth will have been previously detained, as well as any reports that have been written about the youth and the circumstances into which the youth is being released. Further, the Bill directs the Board to consider the effect of conditional release on any registered victim and his or her close relatives.

Accordingly, the Bill also proposes to establish a Victims' Register, by analogy with that already operating in the adult jurisdiction under the *Correctional Services Act 1982*. If an offender is sentenced to detention, then anyone who has been injured, whether mentally or physically, as a result of that offence will be entitled to have his or her details added to the register. If the Board is to consider the conditional release of the youth, it will notify the registered victim, who may make submissions. Those submissions will be weighed in deciding whether to release the youth or not.

In keeping with the Victims' Register, it is proposed to amend the *Young Offenders Act 1993* to allow for the release of certain information about detainees. Section 64 will be amended to allow disclosure of information about a detainee's sentence, release from custody, detention centre transfers, as well as any escape, to an eligible person (as defined). It is also proposed to amend section 37 to allow for the release of the terms of a condition of licence to a victim where those terms relate to a victim. These amendments are to be reflected in new section 41A to be inserted in the Act in relation to the conditions of release of a detainee.

The Bill recasts the provisions of the *Young Offenders Act 1993* dealing with the work of the Training Centre Review Board. In most cases, these changes are for clarity, however, there is 1 change of substance. Where a youth is believed to have breached the conditions of release, and is brought back before the Board for it to consider whether the youth should be returned to detention, the Bill proposes that the Board will be entitled to consider any breach of a condition of release, not only the particular breach that led to the application. For instance, a youth who is served with a breach application might abscond, which could constitute a further breach. The Board should be able to take into account any breach of the release conditions.

The Bill makes other, more minor changes to the law. It clarifies the operation of section 32(5a) of the *Criminal Law (Sentencing) Act 1988* to remove a possible ambiguity. That is, it makes quite clear that, if there is a global sentence under section 18A, and 1 or more of the offences encompassed in the global sentence is an offence that attracts a mandatory minimum non-parole period, the non-parole period that is applied to the global sentence must be a period not less than the greater of any such mandatory period prescribed. The amendments also clarify the backdating of a sentence to a specified date in accordance with the principles in PNJ v The Queen [2009] HCA 6. These amendments are in response to comments made by the Supreme Court in the 2008 case of *R. v Dundovic* indicating that to interpret the provision otherwise would work hardship to the offender.

The Bill also, incidentally, makes a technical amendment to these provisions, which are, at some points, cast in terms of offences against particular Acts, Parts of Acts or sections. In some cases, the behaviours prohibited by those named provisions may have been unlawful also under predecessor laws. Accordingly, the amendments

make clear that corresponding offences under previous enactments can also be taken into account as serious offences.

Further, the Bill would amend section 6(3) of the *Young Offenders Act 1993*, which is about the recording of informal cautions. It is clear that, when Parliament passed that section, it did not intend that nobody, anywhere in government, could write down anything about an informal caution. Rather, it intended that the informal caution should not become part of a youth's criminal record and could not be taken into account in any future sentencing. It was not to count against him. The Bill proposes to amend the Act to make clear that routine records can be made and kept within government showing that a youth has been informally cautioned, but that such a record is not to be disclosed as part of a criminal-record check (that is, a police clearance such as might be required, for example, for work or volunteering purposes) and cannot be used in any court proceedings about the youth without his or her consent. For avoidance of doubt, the provision is retrospective.

There is also an amendment to the *Criminal Law Consolidation Act 1935* to make clear that the supervisory powers of the Minister and the Parole Board over a mentally-incompetent person can be delegated. This will permit, in particular, the delegation of supervisory powers over a youth who is unfit to stand trial or who has been found mentally incompetent to have committed an offence, to an appropriate officer of the Department for Families and Communities, or some other suitable person or body to exercise supervision over youths.

Finally, the Bill provides for a review by the Attorney-General, in consultation with the Commissioner for Social Inclusion, within 3 years of operation and requires that the report of the review be laid before the Parliament.

This Bill is directed at the small number of young offenders who refuse to learn from experience. Those few present a danger to the public that the Parliament cannot ignore. They require longer detention, both so that they understand how seriously society views their conduct and also to keep the public safe. That is not to say that these youths cannot be rehabilitated. We hope they can, and we are carrying out the recommendations of the 'To Break the Cycle' report to that end. We cannot, however, jeopardise the public for the sake of the individual.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 269V—Custody, supervision and care

It is proposed to insert 2 additional subsections after subsection (3) of section 269V. Those subsections will allow for the Minister responsible for the administration of the *Mental Health Act 1993* or the Parole Board (as the case may be) to delegate a power or function under the section—

- to a person for the time being performing particular duties or holding or acting in a particular position; or
- to any other person or body that, in the delegator's opinion, is competent to perform or exercise the relevant functions or powers.

Any such delegation—

- must be by instrument in writing; and
- may be absolute or conditional; and
- does not derogate from the ability of the delegator to act in any matter; and
- is revocable at will by the delegator.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

5—Amendment of heading to Part 2 Division 2A

The heading to Division 2A will be amended to reflect the proposed inclusion in this Division of provisions dealing with both adult offenders and recidivist young offenders.

6—Amendment of section 20A—Interpretation and application

The current definitions of *serious drug offence*, *serious offence* and *serious sexual offence* are to be amended so as to include similar offences committed in other jurisdictions and offences against corresponding previous enactments that are substantially similar. Current subsection (2) is to be deleted as a consequence of the inclusion in this Division of provisions relating to recidivist young offenders. Substituted subsections (2) and (3) provide for the application of this Division.

7—Amendment of section 20B—Declaration that person is serious repeat offender

These proposed amendments are related to the inclusion in this Division of provisions relating to recidivist young offenders and the amendments proposed by clause 6 to the definitions used in this Division.

8—Insertion of section 20C

New section 20C is to be inserted after section 20B.

20C—Declaration that youth is recidivist young offender

This new section is substantially similar to section 20C with minor changes to accommodate limitations imposed by the *Young Offenders Act 1993* on the sentencing powers of the Youth Court.

9—Amendment of section 23—Offenders incapable of controlling, or unwilling to control, sexual instincts

This amendment proposes to insert a paragraph in the definition of *relevant offence* that will include in the definition a substantially similar offence against a corresponding previous enactment.

10—Amendment of section 32—Duty of court to fix or extend non-parole periods

This proposed amendment clarifies the position in respect of the fixing of a non-parole period where a court sentences a person under section 18A to the 1 penalty for a number of offences and a mandatory minimum non-parole period is prescribed in respect of any of those offences. In that situation, any non-parole period that is to be fixed by the court—

- must be a period not less than the mandatory period prescribed in respect of the relevant offence; and
- if there is more than 1 such offence in respect of which a mandatory period is prescribed—must be a period not less than the greater of any such mandatory period; and
- must be commenced or be taken to have commenced on the date specified by the court (which may be the day on which the person was first taken into custody or a later date specified by the court that occurs after the day on which the defendant was taken into custody but before the day on which the person is sentenced).

Note—

See PNJ v The Queen [2009] HCA 6

11—Amendment of section 33—Interpretation

This amendment proposes to insert a paragraph in the definition of *serious sexual offence* that will include in the definition a substantially similar offence against a corresponding previous enactment.

Part 4—Amendment of *Young Offenders Act 1993*

12—Amendment of section 4—Interpretation

The amendments proposed to this section will insert a number of definitions required as a result of inserting provisions relating recidivist young offenders and constituting the Training Centre Review Board from time to time as the *Youth Parole Board* to deal with any such young offender. In particular, a *recidivist young offender* is defined as a youth who is declared under Part 2 Division 2A of the *Criminal Law (Sentencing) Act 1988* to be a recidivist young offender.

13—Insertion of section 5A

It is proposed to insert this section after section 5.

5A—Victims Register

New section 5A provides for the keeping of a Victims Register for the purposes of the *Young Offenders Act 1993*. This provision is based on a similar provision in the *Correctional Services Act 1982* and its purpose is to enable victims to be notified about and make representations before relevant proceedings of the Training Centre Review Board. Provision is also made for the confidentiality of information in the Register.

14—Amendment of section 6—Informal cautions

Subsection (3) of this section currently provides that no official record may be kept of an informal caution. That subsection is to be repealed and 2 new subsections are to be inserted. The effect of the first amendment will be that a record (made or kept before or after the commencement of this proposed subsection) of an informal caution given to a youth will not constitute a criminal record of the youth and may not be referred to for the purposes of a criminal record check or in judicial proceedings. The second proposed subsection will provide that any record of an informal caution made and kept before the commencement of these amendments will be taken to have been legally made and kept.

15—Amendment of section 23—Limitation on power to impose custodial sentence

The amendment proposed to this section is consequential on the proposal to have a power for a court to declare that a youth is a recidivist young offender. Currently, a sentence of detention must not be imposed for an offence unless the court is satisfied that a sentence of a non-custodial nature would be inadequate because of the

gravity or circumstances of the offence or the offence is part of a pattern of repeated offending. The amendment would also allow for a custodial sentence where the youth is a recidivist young offender.

16—Amendment of section 37—Release on licence of youths convicted of murder

The first amendment proposed to this section will insert a new subsection (1a) after current subsection (1). New subsection (1a) makes provision for the matters which the Supreme Court must consider when determining an application for the release on licence of a youth serving a life sentence for murder. The paramount consideration of the Court in the case of a recidivist young offender should be the safety of the community. With regard to any other youth, the Court should have regard to the balance to be achieved between the protection of the community and the rehabilitation of the youth. In all matters, the Court should also take into consideration—

- any relevant remarks made by the court in passing sentence;
- the impact that the release of the youth on licence is likely to have on any registered victim and the registered victim's family;
- the behaviour of the youth while in detention;
- any reports provided to the Court as required by the Court;
- the probable circumstances of the youth after release from detention;
- any other matters that the Court thinks are relevant.

It is proposed to insert new subsections into the section that will provide that if a youth is to be released on licence subject to a condition that relates to the victim or the victim's family, the Training Centre Review Board must notify the victim of the terms of the condition. The Board is not, however, required to notify the victim if the victim does not wish to be so notified, or if the Board is satisfied that it is not appropriate, in the circumstances of the case, to notify the victim.

Other proposed amendments to this section will substitute references to a justice of the peace with references to the Youth Court for the purposes of warrant procedures.

17—Insertion of heading to Part 5 Division 3 Subdivision 1

Division 3 of Part 5 makes provision for the release of youths from detention. It is proposed to divide the Division into Subdivisions, the first to be entitled 'Training Centre Review Board'.

18—Amendment of section 38—Establishment of Training Centre Review Board

It is proposed to vary the constitution of the Training Centre Review Board (the *Board*) by adding 2 persons with appropriate skills and experience in victimology and, instead of the present requirement for 2 currently serving police officers, allow for these persons to be currently serving or retired police officers. It is also proposed to delete current subsections (9) and (10) (see clause 19).

19—Substitution of section 39

Current section 39 provides for reviews of detention by the Board. It is proposed to repeal that section and substitute a new section that will clarify the procedures of the Board.

39—Reviews, etc and proceedings of Training Centre Review Board

The Training Centre Review Board has the following functions in respect of a youth who has been sentenced to detention in a training centre:

- to conduct a review of the progress and circumstances of the youth while in the training centre—
  - (1) at intervals of not more than 6 months; and
  - (2) at any other time on the request of the Chief Executive;
- to hear and determine any other matter relating to the youth assigned to the Board under this Act.

The section then makes provisions relating to proceedings before the Board, including the constitution of the Board, notification of proceedings and representation.

The section also provides that if a period of detention to which a youth has been sentenced will extend past the youth's 18th birthday, the Board must, at the last periodical review before that birthday, consider whether the youth should be transferred to complete the period of detention in a prison (and, if the Board does so determine, the youth will be transferred to prison on or after his or her birthday in accordance with the Board's determination).

20—Insertion of heading to Part 5 Division 3 Subdivision 2

The second subdivision is to be headed 'Leave of absence'

21—Substitution of section 41

It is proposed to repeal section 41 and substitute it with a new Subdivision 3 headed 'Conditional release from detention' (comprising new sections 41 to 41C inclusive).

41—Application and interpretation of Subdivision

New section 41 provides that Subdivision 3 does not apply to a youth—

- who has been dealt with as an adult and is serving a sentence or part of a sentence of imprisonment in a training centre; or
- to whom Division 2 applies; or
- who is serving a sentence of detention of less than 2 months.

It is also proposed that in this Subdivision, if a reference to the *Training Centre Review Board*, or the *Board*, is made in relation to a youth who is a recidivist young offender—

- the reference will be taken to be a reference to the *Youth Parole Board*; and
- in carrying out any function assigned to the Training Centre Review Board under this Subdivision, the Board must be constituted as the Youth Parole Board in accordance with section 39(2)(b).

41A—Conditional release from detention

New section 41A makes provision for the release of a youth from detention in a training centre.

Before releasing a youth (other than a recidivist young offender) from detention, the youth must have completed at least two-thirds of the period of detention in a training centre and the Board must be satisfied that the youth behaved satisfactorily while detained and there is no undue risk of re-offending if released. The release will be subject to the following conditions:

- a condition that he or she not commit any offence;
- a condition that he or she be under the supervision of an officer of the Department and that the youth obey the directions of that officer;
- any other condition that the Board thinks fit.

The following particular matters apply to the release from detention of a youth who is a recidivist young offender:

- the recidivist young offender must have completed at least four-fifths of the period of detention in a training centre;
- in determining whether the recidivist young offender should be released from detention—
  - (i) despite any other provision of this Act, the paramount consideration of the Youth Parole Board must be the safety of the community; and
  - (ii) the Youth Parole Board must also take the following matters into consideration:
    - (A) the likelihood of the recidivist young offender re-offending if released from detention;
    - (B) the likelihood of the recidivist young offender complying with the conditions of release;
    - (C) if, in relation to an offence for which the recidivist young offender was sentenced to a period of detention in a training centre, there is a registered victim—the impact that the release of the recidivist young offender is likely to have on the registered victim and the registered victim's family;
    - (D) the behaviour of the recidivist young offender while in detention;
    - (E) the behaviour of the recidivist young offender during any previous release from detention;
    - (F) any reports provided to the Board as required by the Board;
    - (G) the probable circumstances of the recidivist young offender after release from detention;
    - (H) any other matters that the Board thinks are relevant;
- the release of the recidivist young offender must be subject to the following conditions:
  - (i) a condition that he or she not commit any offence;
  - (ii) a condition that he or she be under the supervision of an officer of the Department and that he or she obey the directions of that officer;
  - (iii) any other condition that the Board thinks fit.

The section also provides that if a youth is to be released subject to a condition that relates to the victim or the victim's family, the Training Centre Review Board must notify the victim of the terms of the condition. The Board is not, however, required to notify the victim if the victim does not wish to be so notified, or if the Board is satisfied that it is not appropriate, in the circumstances of the case, to notify the victim.

41B—Release on condition of home detention

This new section substantially re-enacts what is contained in current section 41(5a) and (5b).

41C—What happens if youth fails to observe condition of release

New section 41C provides that if a police office or the Minister considers that a youth has failed to observe any condition imposed by the Board, the police officer or Minister (the *applicant*) may apply to the Board for an order that the youth be returned to a training centre. The section then sets out the procedure for bringing the youth back before the Board and the powers that the Board may then exercise in relation to the youth.

22—Insertion of heading to Part 5 Division 3 Subdivision 4

A new Subdivision 4 heading ('Absolute release from detention by Court') is proposed to be inserted immediately before section 42 of the principal Act.

23—Amendment of section 64—Information about youth may be given in certain circumstances

It is proposed to amend section 64 by adding a number of subsections that provide for the giving of certain information by the Chief Executive about a youth sentenced to detention or imprisonment for an offence to an eligible person, who may be—

- a registered victim; or
- a member of the youth's family or a close associate of the youth; or
- a legal practitioner who represents the youth; or
- any other person who the Chief Executive thinks has a proper interest in the release of such information.

The Chief Executive has an absolute discretion to grant or refuse an application for release of information to an eligible person.

Part 5—Review of *Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act 2009*

24—Review of Act

This clause provides that the Attorney-General must, within 3 years after the commencement of this measure, in consultation with the Commissioner for Social Inclusion, cause a review of the Act to be undertaken, with a report of the outcome of the review being tabled in Parliament.

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

HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

STATUTES AMENDMENT (ELECTRICITY AND GAS—INFORMATION MANAGEMENT AND RETAILER OF LAST RESORT) BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:39): I move:

That this bill be now read a second time.

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

Leave granted.

The Technical Regulator has various powers and functions under the *Electricity Act 1996* and the *Gas Act 1997* (the Acts), related mainly to the monitoring and regulation of safety and technical standards with respect to the electricity and gas supply industries.

The Bill includes amendments to remove barriers in section 11 of the *Electricity Act 1996* and section 11 of the *Gas Act 1997* to the provision, by the Technical Regulator of information gained in the course of performance of the Technical Regulator's functions under the Acts, to other parties, and to extend the existing Retailer of Last Resort (RoLR) regime for a further five years to 2015.

Section 11 of each Act requires the Technical Regulator to preserve the confidentiality of information that could affect the competitive position of an electricity or gas entity or another person, or is commercially sensitive for

some other reason. The only disclosure of such information that is expressly allowed is between persons engaged in the administration of the Acts, including the Essential Services Commission of South Australia (ESCOSA).

As worded, there is doubt as to whether the Technical Regulator is permitted to pass confidential information to a range of other authorities, such as the Crown Solicitor's Office for purposes of the administration or enforcement of the Acts that the Technical Regulator administers. Similarly, there is doubt as to whether confidential information may be provided to the Commissioner for Consumer Affairs, who is responsible for the licensing of electrical and gas contractors, electricians and gas fitting workers under the *Plumbers, Gas Fitters and Electricians Act 1995* and disciplinary proceedings for its enforcement. The Bill will, in specified circumstances, enable the Technical Regulator to pass information to the Crown Solicitor's Office and the Commissioner for Consumer Affairs to assist in the proceedings, as well as to ESCOSA and the Minister.

The Bill also enables, again in defined circumstances, the Technical Regulator to pass information to South Australian, interstate or Commonwealth government bodies to assist them with the administration and enforcement of other laws. This applies when, for example, persons who are the subject of an investigation for non-compliance with safety requirements under the Acts move interstate to continue such activities.

The Bill also permits confidential information to be provided to other Government agencies for purposes related to the performance of their functions. This enables the Technical Regulator to be involved in schemes such as the auditing of insulation rebates on behalf of the Commonwealth. The laying of insulation is covered by Standards, compliance with which is required by regulations under the *Electricity Act 1996*.

The Bill also clarifies that information may be provided with the consent of the person who provided the information, or to whom the information relates, as required by a court or Tribunal, and enables it to be provided as authorised by the Minister.

The Bill also deletes a reference in section 11 of the *Gas Act 1997* to the repealed *Gas Pipelines Access (South Australia) Law* and substitutes a reference to the current *National Gas (South Australia) Law*.

Retailer of Last Resort

A Retailer of Last Resort (RoLR) scheme is intended to ensure that electricity customers continue to receive supplies in circumstances where their existing retailer is unable to continue to provide that supply. This may be because the retailer ceases to be licensed to sell electricity or because it is unable to access electricity in the wholesale market to supply its customers.

ETSA Utilities is the current South Australian electricity RoLR. The requirement to provide RoLR services to cover a failed electricity retailer is imposed under section 23(1)(n)(ix) of the Electricity Act, with the Act specifying that this requirement continues until 30 June 2010.

The Bill extends ETSA's responsibility as the RoLR until 30 June 2015, pending resolution of a national RoLR framework, which will not occur until after 30 June 2010.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Electricity Act 1996*

4—Amendment of section 11—Obligation to preserve confidentiality

This clause substitutes a new subsection (1a) into the *Electricity Act 1996* that provides the Technical Regulator with additional authority to share otherwise confidential information.

Proposed paragraph (a) provides that the Technical Regulator may share confidential information as reasonably required in connection with the administration or enforcement of the *Electricity Act 1996* or otherwise related to the performance of the Technical Regulator's functions under any other Act.

Proposed paragraph (b) provides that the Technical Regulator may share confidential information to a person concerned in the administration of another law of the State, or a law of the Commonwealth or another State or a Territory of the Commonwealth, for purposes related to the administration or operation of that other law.

Proposed paragraph (c) provides that the Technical Regulator may share confidential information to a government agency or instrumentality of this State, the Commonwealth or another State or Territory of the Commonwealth for purposes related to the performance of its functions (or to a person acting on behalf of such a government agency or instrumentality).

Proposed paragraph (d) provides that the Technical Regulator may share confidential information with the consent of the person who gave the information or to whom the information relates.

Proposed paragraph (e) provides that the Technical Regulator may share confidential information as required by a court or tribunal constituted by law.

Proposed paragraph (f) provides that the Technical Regulator may share confidential information as authorised by the Minister.

5—Amendment of section 23—Licences authorising operation of transmission or distribution network

Section 23 creates the retailer of last resort requirement that applies to a licence authorising the operation of a distribution network by an electricity entity. Currently, that requirement is to operate until 30 June 2010. This clause proposes to extend the operation of the retailer of last resort requirement until 30 June 2015.

Part 3—Amendment of *Gas Act 1997*

6—Amendment of section 11—Obligation to preserve confidentiality

This clause substitutes a new subsection (2) into section 11 of the *Gas Act 1997* that provides the Technical Regulator with additional authority to share otherwise confidential information.

Proposed paragraph (a) provides that the Technical Regulator may share confidential information as reasonably required in connection with the administration or enforcement of the *Gas Act 1997*, the *National Gas (South Australia) Law* or otherwise related to the performance of the Technical Regulator's functions under any other Act.

Proposed paragraph (b) provides that the Technical Regulator may share confidential information to a person concerned in the administration of another law of the State, or a law of the Commonwealth or another State or a Territory of the Commonwealth, for purposes related to the administration or operation of that other law.

Proposed paragraph (c) provides that the Technical Regulator may share confidential information to a government agency or instrumentality of this State, the Commonwealth or another State or Territory of the Commonwealth for purposes related to the performance of its functions (or to a person acting on behalf of such a government agency or instrumentality).

Proposed paragraph (d) provides that the Technical Regulator may share confidential information with the consent of the person who gave the information or to whom the information relates.

Proposed paragraph (e) provides that the Technical Regulator may share confidential information as required by a court or tribunal constituted by law.

Proposed paragraph (f) provides that the Technical Regulator may share confidential information as authorised by the Minister.

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

NATIONAL GAS (SOUTH AUSTRALIA) (SHORT TERM TRADING MARKET) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:40): I move:

That this bill be now read a second time.

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

Leave granted.

A key energy commitment of the Ministerial Council on Energy (MCE) is being delivered through new legislation to increase transparency and improve efficiency in the Australian gas market, for the benefit of South Australians and all Australians.

In April 2004, the MCE agreed to a gas market reform program that would accelerate the development of a reliable, competitive and secure gas market which would further increase the penetration of natural gas. In December 2004, MCE approved a set of Principles for Gas Market Development as a basis for developing the Australian gas wholesale market.

The MCE subsequently established the Gas Market Leaders Group (GMLG) as a key industry forum to develop a Gas Market Development Plan that is consistent with the MCE Principles for Gas Market Development. The GMLG was established with an Independent Chair and broad representation from all sectors of the natural gas market, including;

- gas producers;
- gas transmission and distribution network owners and operators;
- gas retailers;
- gas retail and wholesale market operators (eg, Vencorp, REMCo or GMCo); and
- gas users.

The GMLG's Gas Market Development Plan was completed in June 2006. Included as part of the Development Plan was a recommendation to establish a single national gas market operator as well as three initiatives focussed on improving information disclosure and market transparency:

- the Natural Gas Services Bulletin Board;
- the Gas Statement of Opportunities; and
- a Short Term Trading Market (STTM) for wholesale gas.

The single national gas market operator was established as part of the Australian Energy Market Operator (AEMO) following the passage of enabling legislation earlier this year. AEMO assumed responsibility for both the gas and electricity markets on 1 July 2009.

The Natural Gas Services Bulletin Board was established in 2008 with the commencement of the new National Gas Law (NGL) and is now administered by AEMO. The legislation supporting the Gas Statement of Opportunities came into force with the establishment of AEMO in July and the first Gas Statement of Opportunities will be published by AEMO in December this year. The amendments to establish the STTM complete the implementation of the Gas Market Development Plan's initiatives to improve information disclosure and transparency in the gas market.

The GMLG has provided an important ongoing forum for stakeholders to participate in the development of these important reforms, with the MCE at its most recent meeting expressing their appreciation to the GMLG and its independent Chair, Mr Ted Woodley, for their significant contributions to the STTM design and other gas reform initiatives over the past four years.

Objectives

The STTM establishes a mandatory price based balancing mechanism for gas delivered to, and withdrawn from market hubs that will replace existing mechanisms between retailers, self-contracting users and shippers. The STTM will initially operate in South Australia and New South Wales at hubs around Adelaide and Sydney. The market has been designed to allow additional hubs in all jurisdictions to be added in the future.

The proposed trading market will not replace bilaterally negotiated long term contracts which will continue to form the basis of gas markets. Rather, it integrates long term contracts with current market conditions through a more flexible, responsive exchange system that provides opportunities to both new and established players.

The STTM will provide clear market signals to existing participants, potential entrants and consumers. These signals should encourage more informed investment and risk management decisions while facilitating secondary trading between shippers and users as well as for gas-fired power generators and for trading over interconnecting pipelines. In addition, the STTM is designed to facilitate greater demand side response by users, particularly at times of supply constraints while enhancing market liquidity.

The STTM, with its integration of long standing contracting framework and new competitive mechanisms, will provide a solid foundation for the next phase of gas market reform as it continues to evolve and expand across Australia. It also builds upon the existing achievements of the National Electricity Market (NEM) and continues the convergence between Australian energy markets.

Subject to the passage of the enabling legislation, it is intended that the STTM commence in winter 2010.

The NGL Amendments

These amendments to the NGL contain the key provisions that provide the legislative framework for the STTM. This framework provides for the operational provisions of the STTM to be detailed in dedicated chapters of the National Gas Rules (NGR) and in a new set of Market Procedures. The changes to the NGL and NGR were developed by MCE in consultation with GMLG. The successful partnership between industry and jurisdictions has been a hallmark of gas market reform and has been critical in the development of the STTM.

The NGL provisions have been guided by the wider MCE legislative framework that has developed over the past five years. Where appropriate, provisions have been prepared with reference to similar provisions for the Victorian wholesale market and retail markets and precedents in the NEM.

The amendments to the NGL were released for public consultation in the first half of 2009, followed by the amendments to the NGR in August-September 2009.

The main elements of the NGL amendments are outlined below:

Application of the STTM

The STTM is intended to operate initially in New South Wales and South Australia in clearly defined hubs within the metropolitan areas, which will be specified in the NGR. To facilitate this process, the new s91BRA provides that the STTM provisions will only apply in jurisdictions which have legislated to adopt them. South Australia is adopting the STTM as part of this package and it is anticipated that New South Wales will adopt the provisions prior to the start of the market. Other jurisdictions may choose to adopt the STTM in the future.

AEMO's Statutory Functions

Amendments to s91A empower AEMO to perform its 'STTM Functions'. These are defined at a high level in the new s91BRB which permits AEMO to operate and administer the STTM and to make Procedures covering the operation of the market. The detail of how AEMO will perform these functions will mostly be dealt with in the NGR.

Market Participation

The new Subdivision 2 of Division 2A provides support for Rules governing registration to participate in the STTM and prohibits the injection of gas into a hub by a person who is not registered. These provisions are modelled on the market participation provisions being placed in the NGL for the Victorian wholesale market and the retail markets. They provide high level support for registration while leaving the detail of the registration process in the NGR.

STTM Procedures

Subdivision 3 of Division 2A allows AEMO to make the STTM Procedures. It is modelled on the procedure making powers for the Victorian wholesale market and the regulated retail markets. The process for making Procedures in Part 15B of the NGR will apply to these Procedures.

STTM Information

Section 91FEA obliges the following classes of people to provide information to AEMO if required by the Rules:

(a) an STTM trading participant;

(b) a service provider;

(c) a storage provider;

(d) a producer; and

(e) another person who is prescribed by the Regulations.

Failure to provide information under this provision will attract a civil penalty while providing false or misleading information is an offence under s91FEC.

AEMO will not be empowered to use market information instruments to gather information for the STTM.

Title to and Quality of Gas

The new ss91BRF and 91BRG requires any Registered Participant delivering gas to a hub to demonstrate that they have title to that gas and that the gas meets any applicable quality standards. The Rules will specify how title to gas is transferred in the STTM and which gas quality standards apply.

Urgent Rule Change

The definition of 'urgent rule' in s290 of the NGL has been amended to allow urgent rules to be made if failure to make the rule would threaten or prejudice the operation of a regulated gas market. This change makes this provision consistent with its equivalent in s87 of the *National Electricity Law*.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation by proclamation.

3—Amendment provisions

This measure will amend—

(a) the *National Gas Law*, as set out in the *National Gas (South Australia) Act 2008*; and

(b) the *National Gas (South Australia) Act 2008*.

Part 2—Amendment of *National Gas Law*

Division 1—Short term trading market amendments

4—Amendment of section 2—Definitions

This clause provides new definitions for the definition section (section 2) of the *National Gas Law*.

5—Amendment of section 3—Meaning of civil penalty provision

This clause amends section 3 of the *National Gas Law* to add to the meaning of civil penalty provision.

6—Amendment of section 4—Meaning of conduct provision

This clause amends section 4 of the *National Gas Law* to add to the meaning of conduct provision.

7—Amendment of section 74—Subject matter for National Gas Rules

This clause allows the AEMC to make Rules governing the operation of the Short Term Trading Market (STTM).

8—Amendment of section 91A—AEMO's statutory functions

This clause amends AEMO's statutory functions to allow it to operate the STTM.

9—Insertion of Chapter 2 Part 6 Division 2A

This clause inserts a new Division governing the operation of the STTM.

Division 2A—Short term trading markets

Subdivision 1—Preliminary

91BRA—Application of this Division

This section provides for the adoption of this Division by jurisdictions.

91BRB—AEMO's STTM functions

This section lists AEMO's STTM functions.

Subdivision 2—Short term trading markets

91BRC—Market participation

This section lists participants in the STTM.

91BRD—Registration required for market participation

This section requires participants in the STTM to register.

91BRE—Certificates of registration etc

This provision allows AEMO to issue certificates certifying that a person is registered to participate in the STTM.

91BRF—Title to gas

This section prohibits participants from delivering gas to an STTM hub unless they hold title to the gas.

91BRG—Gas supplied to STTM hub must meet quality specifications specified in the Rules

This section prohibits participants from delivering gas to an STTM hub unless the gas meets applicable gas quality standards.

Subdivision 3—STTM Procedures

91BRH—STTM Procedures

This section enables AEMO to, in accordance with the Rules, make STTM Procedures.

91BRI—Nature of STTM Procedures

This section outlines the requirements around making the STTM Procedures.

91BRJ—Compliance with STTM Procedures

This section outlines the need for AEMO and applicable parties to comply with a STTM Procedure.

10—Insertion of new Subdivision heading in Chapter 2 Part 6 Division 6

This clause inserts a new Subdivision heading.

11—Insertion of Chapter 2 Part 6 Division 6 Subdivision 2

This clause inserts a new Subdivision into the law concerning STTM information.

Subdivision 2—STTM information

91FEA—Obligation to give information to AEMO

This section requires certain classes of people to provide information to AEMO for the operation of the STTM.

91FEB—Person cannot rely on duty of confidence to avoid compliance with obligation

This section prevents parties from relying on duties of confidence to avoid complying with a request for information.

91FEC—Giving to AEMO false and misleading information

This section provides a criminal penalty for providing false or misleading information.

91FED—Immunity of persons giving information to AEMO

This section provides immunity for persons giving STTM information to AEMO unless they act negligently or in bad faith.

12—Insertion of section 294B

294B—South Australian Minister to make initial Rules related to AEMO's declared STTM functions

This clause allows the South Australian Minister to make initial Rules governing the STTM.

13—Amendment of Schedule 1—Subject matter for the National Gas Rules

This clause makes various amendments to Schedule 1 to allow Rules concerning the STTM.

14—Amendment of Schedule 2—Schedule applies to statutory instruments

This clause makes minor technical amendments to Schedule 2.

15—Amendment of Schedule 3—New Part 12

This clause amends Schedule 3 to allow AEMO to make the initial STTM Procedures.

Division 2—Other amendments

16—Amendment of section 2—Definitions

This clause inserts a definition of *market operator service*.

17—Amendment of section 91A—AEMO's statutory functions

This clause amends section 91A to allow AEMO to conduct market trials.

18—Insertion of Chapter 2 Part 6 Division 11

This clause inserts a new section.

Division 11—Other matters

91KD—Disclosure of information for purpose of market trials

This section allows disclosure of information for the purposes of a market trial.

19—Amendment of section 290—Definitions

This clause inserts a new definition of *urgent Rule*.

Part 3—Amendment of *National Gas (South Australia) Act 2008*

20—Insertion of section 23

The new provisions relating to the short term trading market will only apply in relation to a particular jurisdiction if the law of that jurisdiction so provides. This clause will apply the provisions to South Australia.

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

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3129.)

The Hon. T.J. STEPHENS (22:43): I am pleased to speak on behalf of the opposition on this bill which, as all members are aware, is an extremely important measure. Every member of parliament wants the best outcome possible from this bill so it has been good to see the high level of community feedback. This bill has involved a lot of work and consultation between the houses, and I am certain that that work will only serve to improve this legislation—again, can I say, a further endorsement for the retention and powers of the Legislative Council. This is a piece of legislation that obviously follows some tragic events, and we have sensed a real desire from people in the community to have some involvement in the legislation to make it better.

It was a legislative requirement for this act to be reviewed after two years of operation. Hence, on 1 October 2007 John Murray commenced the review which resulted in 49 recommendations. Additionally, amendments are proposed as a result of the recommendations of the Ministerial Bushfire Management Review in South Australia and the coronial inquest into the Wangary fires. As lead speaker for the opposition in this council, I indicate that we are, of course, very supportive of most of these amendments, but I will touch on some of the concerns that I have, as will some of my colleagues.

Our shadow minister for emergency services has met with the chief officers of the MFS, CFS and SES, held discussions with MPs with electorates in areas of high fire risk, and spoken at

length with CFS volunteers and residents who live in bushfire risk areas. These individuals have all provided sensible feedback which has helped our party room make decisions on which parts of the bill we support (and I have to say that we support the majority of the amendments) and those parts that need some extra work.

As far as amendments are concerned, I will give members some details to help them understand why we are progressing with these amendments. The opposition notes that the SAFECOM board is to be expanded to nine members from the current eight, all with voting rights. The member for Stuart in the other place has indicated in our party room discussions that he would like to see an amendment to include a landowning SAFF representative also on the board. I will proceed with that amendment on his behalf in this place as it is a sensible amendment, and the member for Stuart detailed his reasons in the other place. He, along with the members for Schubert and Hammond, explained that there must be a farmers' representative on the board to represent our farmers who own such vast areas of land in our state. Given that this legislation affects the farming community, it would be a commonsensical move.

Our second amendment is to include a subclause to clause 35, part 4A, to minimise the threat to human life on the land from fire. This amendment comes from the member for Waite in the other place who has held public meetings about this legislation and who had a lot of feedback from constituents in his electorate which, of course, extends into the Hills and will affect these people. His reasoning is to reflect that this legislation is about protecting human life, and so it makes sense to us that this subclause be included.

Our third amendment is to provide for a review after two years. This is a sensible amendment proposed by our shadow minister for emergency services. I trust all members will support this. It is the Liberal Party's opinion that this bill should have provisions for a further formal review to take place so that we do not just leave it up to the whim of the government of the day to implement a review. The Hon. John Dawkins will also move an amendment relating to commonwealth land.

We oppose the clauses in respect of moving industrial disputes from the District Court to the Industrial Relations Commission. Liberal members in the other place have put on the record that our party finds this move to be both unnecessary and inappropriate. The shadow attorney-general has stated that, in relation to the transfer of litigation to the industrial court, she was not satisfied on anything she read, including the review document, as to why it is necessary or appropriate. The Liberal opposition will not support this move.

Lastly, we thank the members of the LGA who met with us to discuss the amendments, in particular Ms Wendy Campana, who has shown great leadership on behalf of her organisation. The member for Mitchell in the other place spoke to these amendments and supported the majority of them. We are only concerned about the member for Mitchell's third amendment in the other place relating to the establishment of bushfire management areas. I understand that the Hon. Robert Brokenshire will move some of these amendments and we look forward to lending our support to them.

I commend the bill and thank our shadow minister for emergency services (the member for Kavel) for the work he has put in and look forward to the Legislative Council working together constructively to further improve this bill.

The Hon. J.S.L. DAWKINS (22:48): I rise briefly to indicate my support for the bill. I commend the Hon. Mr Stephens for his remarks on the bill and also the member for Kavel in another place for his stewardship of the bill for the opposition. A number of weeks ago, the government provided a couple of briefings on this bill. I attended one of them with the chief officers of both the MFS and the CFS, as well as the chief executive of SAFECOM. During the briefing, much information was provided about the way in which this bill would allow those bodies to handle undue fire risk on various categories of property.

When we were discussing crown land, I raised the question about commonwealth land. The answer has come back that, as a state government, we cannot direct the commonwealth to do anything with its land. However, I believe that we ought to try to do the most we can to urge the commonwealth to treat its fire risk as we would on any other land in this state. Particularly in my role as the shadow minister for the northern suburbs, I am well aware of the significant landholdings that the commonwealth has in that area, particularly around the Edinburgh RAAF base and also the Defence and Science Technology Organisation at Salisbury.

They are significant landholdings, and quite a lot of the land is still in open country. While it has generally been kept in reasonable shape, there is the opportunity for fire risk in close proximity to significant housing. Certain other significant areas in this state are owned by the commonwealth, including all the land under the control of the commonwealth at Woomera in the Woomera Prohibited Area and some of the Army holdings at Murray Bridge, Port Wakefield and other places.

I also acknowledge the interest in this matter shown by the member for Davenport in another place. With his experience as a minister in a former Liberal government, he made some suggestions. I have asked parliamentary counsel to draft an amendment to provide that the chief officer of the relevant fire service, whether it be the Metropolitan Fire Service (if it was around that land I was talking about in the northern suburbs) or the Country Fire Service (if it was outside the metropolitan area), if they become aware of an undue fire risk on commonwealth land, to make the person in control of that commonwealth land aware of the fire risk and the reasons for that concern by the chief officer of that particular fire service.

I will speak more about that when I move the amendment, but I urge members to consider it. While we cannot require the commonwealth to do anything, I think we would be negligent if we did not do everything we can to make them well aware of a risk in relation to fire. As the fire season approaches, as a result of higher rainfall this year and the present growing period, the fire risk around areas close to the metropolitan area is quite significant.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:57): I thank the Hons Terry Stephens and John Dawkins for their contributions to this bill. I also indicate that the Hon. Mr Brokenshire and the Hon. Ms Zollo wanted to contribute to this bill but, by agreement, they will be making contributions when we get to the committee stage on another day.

I thank all members for their indications of support, particularly in facilitating this bill's speedy passage. We hope we can complete debate this week because the fire season is imminent and, as the Hon. Mr Dawkins has just said, given recent conditions, there is the prospect of its being a particularly challenging year.

Last year was challenging enough, particularly in Victoria. This state faced a situation in February where we were extremely fortunate to miss out on a disaster such as that which occurred in Victoria. Of course, the lessons learned from that particular event have driven us all to re-examine our attitudes in a lot of areas towards fire and how we deal with fire.

It is vitally important that we consider this legislation in a speedy manner. I am sure a number of other issues will be dealt with in other legislation that will be introduced in the future as we learn more from the findings of the Victorian Bushfires royal commission. I thank members for their contributions and look forward to dealing with this bill in the committee stage later this week.

Bill read a second time.

At 22:58 the council adjourned until Wednesday 23 September 2009 at 14:15.